

# GEMS FROM CALIFORNIA'S LEGAL HISTORY AT LA LAW LIBRARY

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## INTRODUCTION

**L**A Law Library, initially authorized by the state legislature and established in 1891 as the Los Angeles County Law Library, currently operates as an independent local government agency pursuant to the California Business and Professions Code.<sup>1</sup> For more than 125 years, the library has provided access to legal information and materials for legal professionals, government officials, the business community and the general public.<sup>2</sup> Over that time, the nature of legal resources has changed dramatically and the library has likewise evolved to serve multiple roles and functions.

Within the legal community, LA Law Library is known for its protection and preservation of rare and historical legal resources; the collection

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<sup>1</sup> § 6300, *et seq.*

<sup>2</sup> Cal. Bus. & Prof. Code § 6360, subd. (a) (the law library “shall be free to the judiciary, to state and county officials, to members of the State Bar and to all residents of the county”). With nearly 1,000,000 volume equivalents (print, media, microfilm and microfiche), LA Law Library is second only to the Law Library of Congress in its role as the largest public law library in the United States.

is immense and comprehensive.<sup>3</sup> Among those striving to close the justice gap — defined by the American Bar Association and the Legal Services Corporation as “the difference between the civil legal needs of low-income Americans and the resources available to meet those needs”<sup>4</sup> — LA Law Library is known for its extensive efforts to educate and assist those who cannot afford representation in using the collection to understand their legal rights and responsibilities and navigate the judicial system. The latter task is challenging, not only because self-represented individuals span a broad range of educational backgrounds, language capacities, skill levels and mental, intellectual and emotional resource sets,<sup>5</sup> but also because California law is complex, obscure and ever expanding.

The following brief, general description of LA Law Library’s collection and selected exemplars from it are intended to pique the reader’s interest in the jewels and marvels of that collection, but also to demonstrate the relationship between the evolution of that collection and the evolution of the role of LA Law Library and public law libraries in general. The selections offered were chosen to illustrate at once the depth and breadth of the collection, the magnitude of the problem of providing public access to a body of materials that is simultaneously rich, diverse and often obscure, and the expansion of that problem over time as the law itself has exploded in volume and complexity.

## ABOUT THE LA LAW LIBRARY COLLECTION

The Law Library strives to provide a collection that is authoritative and comprehensive and to acquire and retain resources that adhere to the standards set forth in statements from the American Library Association and

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<sup>3</sup> Gail H. Fruchtman, “The History of the Los Angeles County Law Library,” *Law Library Journal* 84 (1992): 698.

<sup>4</sup> Legal Services Corporation, *The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-income Americans*, prepared by NORC at the University of Chicago for Legal Services Corporation (Washington, D.C.: LSC, 2017), 9.

<sup>5</sup> Judicial Council of California, *Handling Cases Involving Self-Represented Litigants: A Benchguide for Judicial Officers* (San Francisco: JCC, April 2019), 1-9-1-10. Natalie Anne Knowlton et al., *Cases Without Counsel: Research on Experiences of Self-Representation in U.S. Family Court* (Denver: Institute for the Advancement of the American Legal System, May 2016), <https://iaals.du.edu/publications/cases-without-counsel-research-experiences-self-representation-us-family-court> (as of September 3, 2019).

the American Association of Law Libraries.<sup>6</sup> As long as print versions of the core collection of primary materials are available, LA Law Library acquires and selectively preserves print copies of these titles; if digital availability exists, the library endeavors to make these resources available to its users as well. Most subject areas, in particular subjects of special interest, expand and contract according to demand among the library's users for resources in these areas.

LA Law Library's comprehensive collection of California, federal and other domestic law is both current and historical in nature. It consists of primary law and secondary sources for United States federal, state, and territorial jurisdictions. Secondary materials include practice guides, form books, and bar association materials. As part of its commitment to serve users beyond the confines of its physical location, the library provides access to the electronic versions of U.S. legal materials via links provided in its online catalog and database subscriptions.

### *California Historical Materials*

LA Law Library maintains a comprehensive collection of the statutes, session laws, and judicial opinions and decisions of California. The library also acquires and preserves a wide array of California, multi-jurisdictional, and subject-specific substantive treatises covering most legal subject areas in California law. LA Law Library is a selective depository for California government documents, including legislative history resources, such as Assembly and Senate journals, bills and analyses, and hearings and committee prints. LA Law Library is a depository for the California appellate courts, receiving, maintaining and, more recently, digitizing, the most complete collection of California appellate briefs in the country from 1858 to the present.<sup>7</sup> The library's collection of California ballot propositions and voter

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<sup>6</sup> American Library Association, *Library Bill of Rights* (June 19, 1939; latest amendment, January 29, 2019), <http://www.ala.org/advocacy/intfreedom/librarybill> (as of Aug. 30, 2019). American Association of Law Libraries, *County Public Law Library Standards* (April 2015), <https://www.aallnet.org/about-us/what-we-do/policies/public-policies/county-public-law-library-standards> (as of Aug. 30, 2019).

<sup>7</sup> LA Law Library also serves as a depository for the U.S. Court of Appeals for the Ninth Circuit.

ballot pamphlets, which includes materials from 1908 to the present, is likewise unique and comprehensive.<sup>8</sup>

### *Los Angeles Historical Materials*

LA Law Library acquires the local codes and ordinances for numerous cities and counties in California in accordance with demand and availability. The library collects and retains Los Angeles County legal newspapers, including the *Metropolitan News-Enterprise* and the *Los Angeles Daily Journal*; this collection dates from 1945 and is maintained in hard copy through the present, and in microform from 1888 to 2013. A diverse selection of materials from local agencies and organizations has been collected since the library's founding in 1891 and includes everything from materials concerning the desegregation process by the Los Angeles School Monitoring Committee to the crime and arrest statistics of the Los Angeles County Sheriff's Department.

### *Rare Books*

As a result of its size, scope, and development, LA Law Library has obtained rare book materials that address the establishment of the continental United States, its colonies, individual states, and territories, with a special emphasis on the early history of California law, both before and after statehood. Also found in the library's Rare Book collection are documents that record the history and development of the legal community and the practice of law in Southern California. These items include such rarities as the criminal trial transcripts of defendant David Caplan, who was convicted of helping to bomb the *Los Angeles Times* newspaper building in 1910, and the subsequent trial of legendary attorney Clarence Darrow for attempting to bribe jurors in the case of Caplan's co-defendants, the McNamara brothers; a 1922 illustrated directory of members of the Los Angeles County bench and bar published by the *Los Angeles Daily Journal* newspaper, which includes attorney Clara Shortridge Foltz, the first woman to practice law in California; and a Spanish-language edition of the first

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<sup>8</sup> LA Law Library participates in the California State Depository Library Program. Under the California Library Distribution Act, the library is required to keep basic legal state documents, including legislative bills, legislative committee hearings and reports, legislative journals, statutes, administrative reports, the California Code of Regulations, annual reports of state agencies, and other materials (Cal. Gov. Code § 14909).

16

BENCH AND BAR OF LOS ANGELES COUNTY

without right to do so. Convicted violators of injunctions of contempt of court in later cases, *L. A. Shipbuilding and Dry Docks Co. vs. Metal Trades Union* before Justice Lewis F. Powell. Mr. Forrest entered the law office of Gilman, Thrack, and Co. in Los Angeles in June 1909 as an office boy, later studied law in their office, and was admitted with the same firm after the death of Walter J. Thrack, until 1925, when he opened offices for himself.



MORRIS M. FERGUSON

Morris M. Ferguson with offices at 714 Fay Building, the son of Isaac H. Ferguson and Mary A. Ferguson was born in East St. Louis, Ill., June 16, 1887. After attending the common schools in Ill., he finished his education at the Chicago Business Law School in 1914. Was admitted to the bar in Springfield, Ill., in 1914; came to Los Angeles the year of 1920. Mr. Ferguson is a married man and a member of East Coast B. P. O. A. M.; Court E. G. 37<sup>th</sup> Forester Security Benefit Association; Union League Club, Esperanza Chapter 147 Eastern Star; Lincoln Heights Club, Phoenix Club; Public School teacher 13, Ill. for 12 years; Justice Judge in Jackson, Ill. 10 years; Assistant States Attorney in Madison, Co. Ill. two years. Professor of real property, personal property, abstracts, and real estate law for American Extension University; also a member of this faculty. Public speaker and lecturer as a four minute man speaker during the war.



W. J. FORD

W. J. Ford was born in Oakland, California, August 2, 1871. Now maintains offices at 412 H. W. Hillman Building. He is the son of John J. and Mary E. Ford, attended the Public and High Schools, Los Angeles, also the University of California, Berkeley, was admitted to the bar October 1905, 1898. Came to Los Angeles from Oakland, April 1931. Mr. Ford is a member of L. S. War Veterans; N. S. G. W.; L. A. Athletic Club; Epitaphs Club; Brewsters Country Club; American Bar Association; Calif. Bar Association; Los Angeles County Bar Association; Benevolent Protective Order of Elks; University of California Alumni Association; Private. Company H, 8th California Infantry, 1883. Secretary Senate Judicial Committee, 1927. Deputy City Prosecutor, 1907, 1908; Deputy District Attorney, 1908-1911; Chief Deputy District Attorney, 1911-1924. Counsel for: People vs. McNamara; People vs. Darrow; People vs. Sebastian; People vs. Eastford; People vs. Driggs; Burton vs. Esmann; Film Co. Homonymy vs. Buryer; Executor Estate Mary Egan; Walker vs. J. Garbino Carson; Executor Estate Alpha O. Carson; Doane vs. L. A. T. & Sav. Bank; Executor Estate Laura E. Hughes; Franklin vs. Irvine; Earl vs. Foster; Earl vs. Los Angeles Record; Stevens vs. Stark (Santa Barbara Evening News); Monach vs. Pollster.



J. FRIEDLANDER

J. Friedlander, Assistant City Prosecutor, at 205 N. City Calif. is the son of Joseph Friedlander and Rosa I. Friedlander. He was educated in the New York City public schools and graduated from the N. Y. University. Was admitted to the bar in Los Angeles in January, 1921, and to practice the same year. Mr. Friedlander is a married man, coming here in 1921 from New York City. Is a member of Elmer Firth Lodge and Union League Club. He was counsel in sustaining the validity of the state tenement and lodging house act, the maintaining of quarantine by the City Health Department. Appointed Deputy Prosecutor in 1935; Chief Deputy in 1935, and Assistant City Prosecutor in 1925.



J. M. FURSE

J. M. Furse with offices at 1202 Pacific Mutual Building, the son of William and Getta Crossman Furse, was born in N. York City, New York, Aug. 22, 1888. He attended the N. Y. City, Cleveland, Ohio, High School Class President, Eastern Univ., Cleveland, Ohio, and graduated from the Univ. of Southern California. Was admitted to the bar at Sacramento, July 18, 1913. Came to Los Angeles Christmas Day, 1915 from Cleveland, Ohio. Mr. Furse is a married specialist in corporation Law Damage.



CLARA SHORTRIDGE FOLTZ

Clara Shortridge Foltz, one of the best known and most prominent women in California and the first woman in California, the daughter of Elias W. and Talitha Cami Shortridge, has a

suite of offices at 929 South Broadway. Her early education was with private tutors and the public schools; then two years at Hastings College of Law, University of California. She was the first woman admitted to the California bar on the Pacific Coast, the first woman deputy District Attorney in the country, the first woman member of the Board of Trustees of the State Normal School, at the Columbia Exposition in Chicago, Ill., in 1925. She was present as the representative of the California Bar. Mrs. Foltz is a widow, a member of the State Bar Association, L. A. Bar Association, Friday Morning Club and the Womens Press Club. Engaged in general and miscellaneous litigation wherever possible and the author of numerous women's organizations throughout the state. Her judgment is sound and her counsel worth while. She was the means of obtaining chairs and stools for women clerks in stoves and elsewhere.

successfully handled ciled roads patent litigation as one of the attorneys for various cases and cases of Wilson & Berkel in Spanish American War with California Infantry. Now President of L. A. Chamber of Commerce. She entered private practice January, 1915, with the firm of Fredericks and Hanna, and has been retained in a number of actions of local interest.



(Courtesy Murillo Studio)

ODA FAULCONER

Mrs. Oda Faulconer, being the daughter of August and Mary E. Hunt, maintains offices at 1210 Lower State Building. She graduated from the U. S. C. L. A. College and was admitted to the Bar of L. A. 1923. Came to Los Angeles from Portland Ore. in 1920; Mrs. Faulconer is a widow, a member of the Friday Morning Club; Professional Women's Club, Free-Schoolmen's Club, Woman Lawyer's Club; Republican Study, L. A. Co. Federation of Business and Professional Women's Club; Co. and State Bar Assoc. and Amer. Bar Assoc. Also a member of Republican County Central Committee, and Executive Committee of Republican State Central Committee. Admitted to practice in all State and Federal Courts of Calif. and the Supreme Court of U. S.



JOHN L. FLEMING

John L. Fleming who has offices at 5 Van Nuys Bldg., being the son of J. P. and Mary E. Fleming was born at Downey, Calif. Nov. 1, 1876. Educated in the Public Schools of L. A. County, Woodbury Business College and L. A. Law School. Admitted to the Bar at L. A. April 1900. Mr. Fleming is a married man; a member of Hollenbeck Blue Lodge Masons; East Gate Royal Arch Chapter; Ramona Parlor Native Sons; Past Patron Hollenbeck Chapter O. E. S.; Past Royal Patron Ramona Chapter; Past Patron City Club, Chamber of Commerce, and Pres. Calif. Country Club. Was Counsel for Arroyo Ditch and Water Co. cases; determining the right to the use of the waters of the San Gabriel River for irrigation purposes; acted as Judge Pro Tem in many cases. Has had appeals from decisions by the Bar at L. A. School. Practiced law in California, Wyoming, Colorado, and Montana. Rides a mule from N. Carolina to California.

E. L. FOSTER

E. L. Foster with offices at 1209-10 Pacific Mutual Building was born July 8, 1871, at Brighton, Illinois. He is the son of Craville F. Foster and Mary J. Foster. Educated in the schools of Mass. and California and Harvard College. Was admitted to the bar of California June 1906; Mr. Foster came here Sept. 1921 from Bakerfield, Cal. He is a married man.

HERBERT PRESTON

Herbert Preston son of Arthur W. Preston and Annie S. Preston, with offices at 594 Pacific Finance Building, Los Angeles was born in Kansas City, Mo. April 3, 1886. He attended the elementary and high schools of Kansas City, Mo. and Phoenix, Ariz., coming to Los Angeles September 1912 and graduated from the U. S. C. College of Law in 1915. He was admitted to the bar July 23, 1911. Mr. Preston is a single man, a member of the Delta Theta Phi Nat. Law Fraternity, L. A. City Club, Union League Club, Los Angeles Athletic Club, and California Country Club. He was a Lieutenant Air Service (Aviation Section) U. S. Army during the world war, and is a member of firm of McCarthy, Nolan and Preston.

JOHN D. FREDERICKS

John D. Fredericks who now has offices 1126 Pacific Mutual Building, Los Angeles, was born in Burgetstown, Pa., Sept. 18, 1865. He is the son of Rev. James T. Fredericks and Mary Patterson. He attended the public schools of Burgetstown and Trinity Hall Military Academy, Washington, Pa. He came to Los Angeles in 1890 and was admitted to the bar in California in 1895. Mr. Fredericks married Alice M. Blackley in 1896, is a member of the California Club, Los Angeles Country Club, Union League Club, and L. A. Athletic Club. He was District Attorney from 1902 to 1914. Directed the prosecution of many important cases during that period, including the famous "dynamite case" and the bribery cases incident thereto. Suc-

1922 ILLUSTRATED DIRECTORY OF MEMBERS OF THE LOS ANGELES COUNTY BENCH AND BAR PUBLISHED BY THE LOS ANGELES DAILY JOURNAL NEWSPAPER.  
BOTTOM ROW: ATTORNEY CLARA SHORTRIDGE FOLTZ, THE FIRST WOMAN TO PRACTICE LAW IN CALIFORNIA.

California session laws of 1850–1851, the preface of which explains that the translation was ordered by the secretary of state, due to the lack of distribution of certain laws in Spanish, and that the translator was to be paid an amount not to exceed fifty cents per page.<sup>9</sup> The library's Rare Book Room is climate controlled and, in keeping with its California location, the shelving is designed to prevent books from falling in case of an earthquake.<sup>10</sup>

## EXEMPLARS

### *California Codes Annotated, 1872*

California's statutes were first codified in 1872, and the first annotated versions of the codes were published the same year. The codes originally included four titles: Civil Code, Code of Civil Procedure, Political Code, and Penal Code. Annotations were provided by Creed Haymond and John C. Burch of the California Code Commission and included cross-references to other code sections, case notes, and historical background, providing historical insight into the intent and purpose of the laws as adopted. For example, this 1872 note for Penal Code section 714 on hearings for persons charged with making criminal threats can be found in the original annotations:

These proceedings are provided for securing a more perfect respect for the law than their mere existence carries to the person upon whom they are intended to operate. Every one [sic] is presumed to know the law, but in many instances, as a matter of fact, the existence of the law is unknown. By these proceedings, therefore, an actual breach of the law may be prevented where an ignorant violation would be punished.

In the nearly 150 years since their original publication, the California codes have grown to include twenty-nine titles, including Education, Labor, Harbors and Navigation, Streets and Highways, and Water.

The contrast between Haymond and Burch's annotated version of 1872 and the annotated codes of today is a striking illustration of the expansion

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<sup>9</sup> *Leyes del Estado de California* (20 vols., 1850–1878), vol. 1 (Sacramento: Impresor del Estado, 1851), v.

<sup>10</sup> Fruchtman, 700.

of California law. While the 1872 version included only seven volumes and requires only about one foot of shelf space to house, *Deering's California Codes Annotated* currently runs to over 200 volumes at nearly 35 feet of shelf space, and *West's Annotated California Codes* is more than 400 volumes, spanning over 55 feet of shelf space.

Interestingly, despite frequent code revisions, some sections have remained unchanged since 1872, such as Civil Code section 3821 on damages: "Every person who suffers detriment from the unlawful act or omission of another, may recover from the person in fault a compensation therefor [sic] in money, which is called damages." Meanwhile, hundreds, if not



TODAY, *WEST'S ANNOTATED CALIFORNIA CODES* (ON SHELVES AT LEFT) INCLUDES MORE THAN 400 VOLUMES, SPANNING OVER 55 FEET OF SHELF SPACE, WHILE THE 1872 VERSION OF THE CALIFORNIA ANNOTATED CODES (ON SINGLE SHELF AT RIGHT) INCLUDES ONLY 7 VOLUMES, REQUIRING ONLY ABOUT ONE FOOT OF SPACE.

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thousands, of additional laws have been added, including such things as the California Public Records Act, the California Environmental Quality Act and, most recently, the California Consumer Privacy Act of 2018 (AB 375), which will go into effect January 1, 2020 and provides Californians with greater control over the personal information they share with businesses.

- The original, annotated 1872 California Codes, and over 1,000 subsequent annotated and unannotated editions of California's twenty-nine code titles, are available at LA Law Library.<sup>11</sup>
- *The Civil Code of the State of California* (2 vols.), *The Code of Civil Procedure of the State of California* (2 vols.), *The Penal Code of California* (1 vol.), *The Political Code of the State of California* (2 vols.; annotated by Creed Haymond and John C. Burch, 1st ed., 1872).

### *Municipal Code of the City of Los Angeles, Replaced Pages, 1955–Present*

The Los Angeles Municipal Code was enacted by Ordinance No. 77,000, codifying all penal and regulatory ordinances, and went into effect November 12, 1936. Then and today, it is compiled and codified under the direction of the Los Angeles city attorney.<sup>12</sup> The first edition of the code covered nine subjects: zoning, business regulations, health and sanitation, public welfare and morals, public safety, public works, public utilities and transportation, traffic, and building regulations. Today, it covers twice as many subjects, including chapters on rent control, airports, water conservation, and environmental protection. Over the years, the format of the text and even the shape and size of printed volumes have changed according to the technologies and needs of researchers at the time, evolving from smaller, bulky volumes published in the 1950s that could be shelved in a standard bookcase to larger letter size pages more suitable for faxing and copying in 2002. Digitized versions are not archived by the publisher,

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<sup>11</sup> LA Law Library retains all superseded volumes of *Deering's California Codes Annotated* and *West's Annotated California Codes*, as well as annual desktop editions for selected California code titles.

<sup>12</sup> Official City of Los Angeles Municipal Code: Ordinance No. 77,000: Effective November 12, 1936 As Amended Through June 30, 2019 / Compiled, Edited and Published Under the Direction of Michael N. Feuer, City Attorney.



making access to superseded code sections sometimes difficult to obtain, even for relatively recent dates.<sup>13</sup>

Fortunately, LA Law Library maintains a treasure trove of historical research materials relating to the Los Angeles Municipal Code. The collection includes complete print sets of the first through the sixth (current) editions, chronicling the expansion of the code from a single 2.5 x 10.5-inch volume in 1936 to a six-volume 1.5-foot x 11.5-inch set today. Since 1955, the code has been published in loose-leaf format, which requires that every time a fresh set of revised pages is released by the publisher, superseded pages must be removed from the loose-leaf binders and replaced with new pages. Most subscribers of this set would typically discard those out-of-date pages; the library has retained and organized them numerically and chronologically for ongoing public access.

This unique collection amounts to thousands of historical pages from the various editions of the Los Angeles Municipal Code, enabling researchers to reconstruct the code as it existed at any particular point in time from 1955 to the present. Today, the library's collection of replaced loose-leaf pages alone fills over eighty volumes and counting.

The library's archival collection also includes compiled ordinances and resolutions of the City of Los Angeles prior to the establishment of the Municipal Code, the oldest of which dates from 1855, five years after the city's incorporation.

- *Municipal Code of the City of Los Angeles* (3rd ed., 1955–1970, 4 vols., accompanied by superseded releases for 1955–1969, 9 vols.).
- *Los Angeles Municipal Code* (4th ed., 1970–1988, revised pages retained and bound in section number order, 25 vols., and release number order, 16 vols.).
- *Los Angeles Municipal Code* (5th ed., 1989–2001, replaced pages filed in release number order, 47 vols.).
- *Los Angeles Municipal Code* (6th ed., 2002–present, replaced pages filed in release number order, 34 vols.).

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<sup>13</sup> Official City of Los Angeles Municipal Code (June 30, 2019), [https://www.amlegal.com/codes/client/los-angeles\\_ca](https://www.amlegal.com/codes/client/los-angeles_ca) (as of September 3, 2019).

*Opinions of the Attorney General of California, 1899–Present*

An opinion of the California attorney general can be requested on any question of law by California government officials. While these advisory opinions of the California attorney general can provide both persuasive authority and historical insight, older issuances can be challenging to locate. More modern opinions from 1982 to the present are available on the California attorney general's website, and opinions from 1943 forward are available in printed book format at various libraries. Prior to 1943, though, opinions were issued individually, in an original series from 1899 to 1936, followed by the "New Series" for the years 1936 to 1943. These early opinions are not available online or in commercially printed sets; fortunately, they are available on microfilm and in the collection compiled by LA Law Library librarians from 1930 to 1943.

A 1940 opinion by Attorney General Earl Warren on the proper filing fee to be paid by candidates for the office of Judge of the Superior Court illustrates the advisory, as opposed to primary, nature of these opinions:

While I know of no decision upon the question, it is my opinion that the filing fee should be one per cent [sic] of the annual salary to be received by the successful candidate, i.e., in this case \$55. . . . While this office has never rendered an official opinion on the subject, this opinion has been expressed unofficially on several occasions in the past.<sup>14</sup>

Notwithstanding the advisory nature of the opinions, they range in length, detail and depth. An attorney general's stated opinion can be perfunctory, as in the opinion by Ulysses S. Webb in 1930 on the civil rights of probationers, the entirety of which reads:

A person released on probation would not be sentenced to state prison, and it is therefore my opinion that there would be no suspension of civil rights.<sup>15</sup>

Others run to the more extensive or even expansive, such as the opinion of April 26, 2019 by Attorney General Xavier Becerra, which runs to seventeen pages with ninety-seven footnotes on whether a mayor of a municipality

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<sup>14</sup> Op. NS2761.

<sup>15</sup> Op. 7272.

may serve as a member of the board of directors of the local fire protection district.<sup>16</sup>

LA Law Library's local print collection is bound in opinion number order while the library's collection of opinions on microfilm is organized by date. Both are available for use by patrons.

- *Opinions* (nos. 1–11,000, Jan. 18, 1899–Oct. 1936; New Series nos. 1–4708, Oct. 1936–Aug. 1943; 1899–1936, microfilm, 42 reels, 16 mm).
- *Opinions* (vols. 1–12 suppl., nos. 7153–10994, June 1930–Oct. 1936; New Series vols. 13–29, nos. 1–5024, Oct. 1936–Aug. 1943, issued individually in mimeograph format by the Office of the Attorney General and compiled by LA Law Library, 1936–1943, 43 vols.).
- *Opinions* (bound volumes kept up to date by official advance sheets, 1943–present, 105 vols., with indexes).

## OPINIONS OF THE LOS ANGELES SUPERIOR COURT APPELLATE DEPARTMENT/DIVISION

The published opinions of the California Supreme Court and Courts of Appeal dating back to 1850 are readily available online and in print, but historical decisions of the Superior Courts can be more difficult to locate, given the changes to the court structure and the spotty nature of publication in the early decades of the courts.

Since the establishment in 1929 of the Appellate Departments of the Superior Court (now known as the Appellate Divisions), reported cases can be found in the “California Supplement” section of *California Appellate Reports*. Decisions issued prior to 1929 can be found in two separate sets published commercially by Henry J. Labatt, a San Francisco attorney, and Rufus Ely Ragland, also a San Francisco attorney and publisher. These volumes are housed in the library's Rare Book Room.

Ragland explains in the Preface to his publication that these volumes include “certain notable cases of general interest,” including those from counties both large (Alameda, Los Angeles, San Francisco) and small (Butte, Siskiyou, Tulare), such as a 1921 ruling on the legality of chewing

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<sup>16</sup> \_\_\_ Ops. Cal. Atty. Gen. \_\_\_ (April 26, 2019; filed Op. 17-1101), 39 (the opinion's conclusion: yes, but only if the mayor is the city's designated appointee and not serving simultaneously in another capacity, such as a public member).

## CALIFORNIA SUPERIOR COURT DECISIONS 73

In the Superior Court of the State of California,  
In and for the County of Los Angeles.

## JUDGMENT

No. 103,571

Charles Chaplin, Plaintiff,

vs.

Western Feature Productions, Inc., a corporation,  
F. M. Sanford, G. B. Sanford, A. J. Xydias,  
C. K. Xydias, Charles Amador, John One,  
John Two and Mary One, defendants.

JOHN L. HUDNER, Judge

Action by Charles Chaplin against Western Feature Productions, Inc., a corporation, and others. Judgment was entered dismissing the action as to the defendants, Western Feature Productions, Inc., a corporation, A. J. Xydias, C. K. Xydias, John One, John Two and Mary One and trial was had against the remaining defendants. Judgment for plaintiff, with costs.

1. INJUNCTION—USE OF TRADE NAME—SIMILAR NAME—UNFAIR COMPETITION.

In a suit by "Charles Chaplin," well known moving picture actor and producer, defendants held guilty of unfair competition and enjoined from selling, leasing, releasing, advertising or exhibiting a picture called "The Race Track," and from using the names "Charles Aplin" or "Charlie Aplin" or any other name similar to that of plaintiff in connection therewith or from advertising, leasing, releasing, selling, exhibiting or offering for sale any pictures in imitation of those of plaintiff and so likely to deceive the public.

This cause came on regularly for trial in the above entitled Court in Department 31 thereof,

LOS ANGELES SUPERIOR COURT APPELLATE DEPARTMENT OPINION  
103,571 FROM 1925. PLAINTIFF CHARLIE CHAPLIN WON AN  
INJUNCTION AGAINST WESTERN FEATURE PRODUCTIONS, INC.  
FOR UNFAIR COMPETITION RELATED TO THEIR RELEASE OF A FILM  
CALLED "THE RACE TRACK" FEATURING "CHARLIE APLIN."

gum vending machines in the City of Vallejo; a 1924 case concerning the location of a so-called “pest house” or “isolation hospital” for the treatment of patients with infectious diseases in the City of Pasadena; and a 1924 decision on searches and seizures of intoxicating liquor in Prohibition-era Los Angeles. One such opinion, from 1925 in Los Angeles County, concerns Charlie Chaplin, described as “well known moving picture actor and producer,” who won an injunction against Western Feature Productions, Inc. for unfair competition, based on their release of a film called “The Race Track” featuring one “Charlie Aplin.”<sup>17</sup>

LA Law Library has also collected the “Memorandum Opinions” of the Los Angeles Municipal and Superior Courts covering the years 1931 to 1990, most of which are unpublished items that cannot be found online or in *California Appellate Reports*. These are originals, mimeographs, or photocopies. Opinions are designated as either civil or criminal by the abbreviations “Civ.A” and “Cr.A.” in the assigned number. One noteworthy item from this collection is an unpublished opinion from 1981 by Judge Florence Bernstein, a longtime Los Angeles Superior Court judge (her campaign slogans included “Go with the Flo” and “Put a Mensch on the Bench”<sup>18</sup>), who went on to become the first woman to serve as presiding appellate judge of the L.A. Superior Court. The case, *People v. Hauntz*, concerns a criminal matter involving a citizen’s arrest, and Bernstein’s opinion illustrates her thoughtful approach:

Private citizens perform a public service in bringing to justice offenders who commit crimes in their presence. But generally, they are unskilled not only in the technicalities of the law but in the methods and procedures for controlling an arrested person, occasionally to their personal harm. We believe it the better policy to encourage private persons to enlist the aid of professional police officers to physically effect an arrest.<sup>19</sup>

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<sup>17</sup> R. E. Ragland, *California Superior Court Decisions: Notable Cases*, vol. 2 (Sacramento: California Law Book Exchange, 1929), 73 (Op. 103,571).

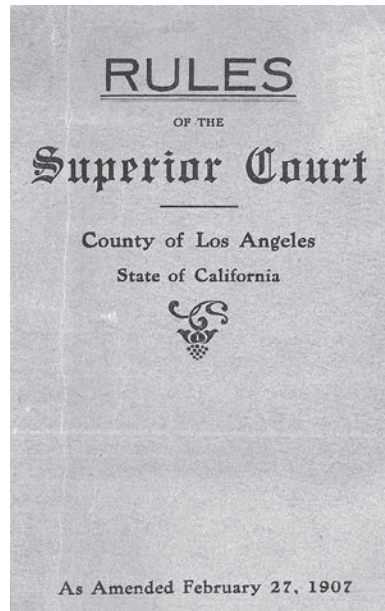
<sup>18</sup> Myrna Oliver, “Florence Bernstein; 1st Woman to Be Presiding Appellate Judge,” *Los Angeles Times* (Dec. 6, 1991), <https://www.latimes.com/archives/la-xpm-1991-12-06-mn-620-story.html> (as of Sept. 4, 2019).

<sup>19</sup> *People v. Hauntz* (App. Dept., Super. Ct. L.A. County, 1981, No. 81-30, Super. Ct. No. Cr.A. 18264), 8.

- *Reports of Cases Determined in the District Courts of the State of California* (Henry J. Labatt, editor, 1857–1858, 2 vols.).
- *California Superior Court Decisions: Notable Cases* (compiled by R. E. Ragland, assisted by Charles E. McGinnis, 1921–1929, 2 vols.).
- *Memorandum Opinions, Civil* (Civ.A. 481–8416, 9586–18493, compiled by LA Law Library, 1932–1990, 25 vols.).
- *Memorandum Opinions, Criminal* (Cr.A. 481–27620, 1959–66 bound with civil opinions, compiled by LA Law Library, 1931–1989, 22 vols., with selective index and citator).

### *Pamphlet Collection*

This collection's utility is matched by its charm. This wide-ranging variety of small printed booklets, pamphlets, reports, court opinions, and various legal ephemera includes over 1,200 items related to California and Los Angeles. For library patrons, this collection's special nature and organizational scheme requires the help of the library's reference librarians to locate materials: these items can be found separately by title in the library's catalog, but they were bound *by size* in a generally chronological order, which can create a research challenge for patrons. Included in this collection are a booklet of the Los Angeles Superior Court rules of 1907, which measures only 4 x 5.5 inches and includes only 37 rules, as opposed to over 600 today; a report on the Los Angeles Aqueduct following the year of its completion in 1913 by Dr. Ethel Leonard; and a booklet of short biographies of candidates running to be elected judge of the Los Angeles Superior Court in 1932.



POCKET-SIZE BOOKLET OF  
THE LOS ANGELES SUPERIOR  
COURT RULES OF 1907.  
INCLUDES ONLY 37 RULES.  
TODAY THERE ARE OVER 600.

- *Rules of the Superior Court, County of Los Angeles, State of California* [adopted Aug. 3, 1905, in effect Sept. 11, 1905], *As Amended Feb. 27, 1907* (California Superior Court (Los Angeles County), [1907?], 1 vol.).
- *Report of Sanitary Investigation of the Tributaries and Mountain Streams Emptying into Owens River from the Upper End of Long Valley via Owens River Gorge, Following the Course of Owens River and Los Angeles Aqueduct to Fairmount Reservoir* (by Ethel Leonard; Including the Chemical Sanitary Analysis of the Water by A. F. Wagner, [1914?], 1 vol.).
- *Biographical Sketches of Candidates for Office of the Superior Court of Los Angeles County* (by the Los Angeles Bar Association, [1932?], 1 vol.).

### *California Law Prior to Statehood*

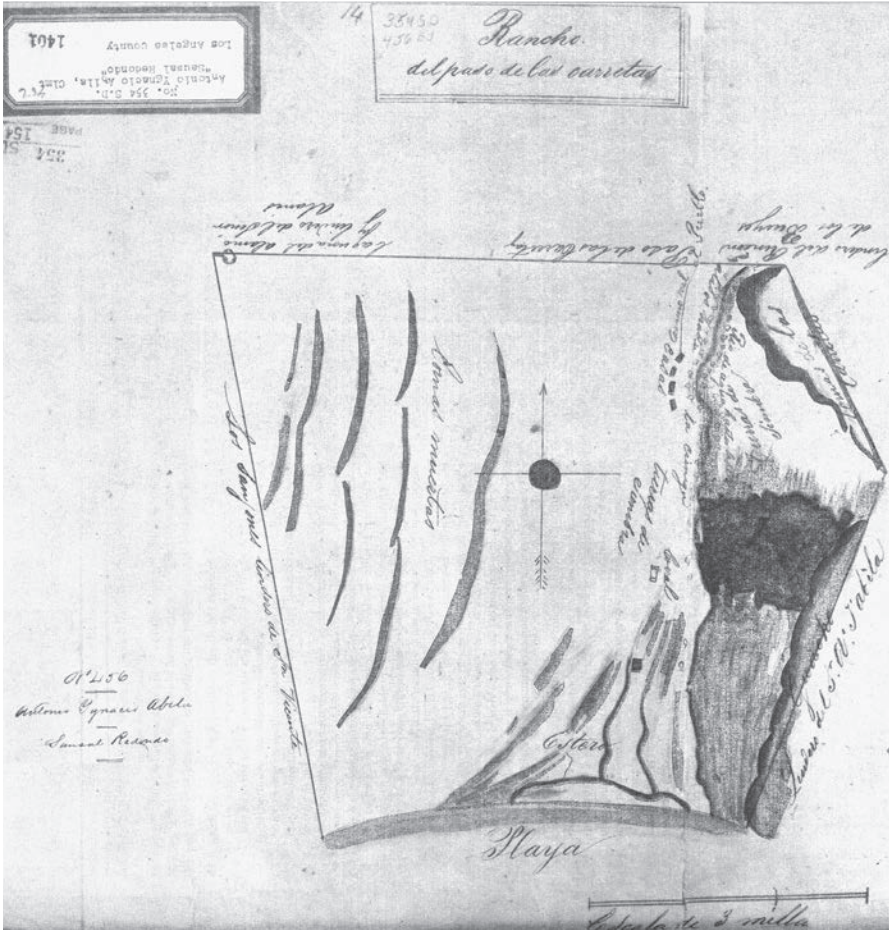
LA Law Library's collection of rare books includes several items from the period when Alta California (Upper California) was a territory of Mexico and later when it was ceded to the United States by the Treaty of Guadalupe Hidalgo, just prior to statehood in 1850. A translation of the Mexican Laws of 1837, still in force in California in 1849, describes the unsettled legal environment of the time:

The Mexican Constitution of 1844, partially adopted in Mexico, was never regarded as in force in California, nor was it known here that these laws were materially modified by any decrees or orders of the Mexican Congress. It will be a question hereafter for the decision of courts, what modifications were legally made by Mexico, and how far they are actually in force under the existing circumstances of the country.<sup>20</sup>

The debates of the Constitutional Convention of 1849 in Monterey, California, which the library has collected in both English and Spanish, include reports by delegates on the advisability of statehood and a final congratulatory speech by the military governor of California, Brigadier General Bennet Riley wishing the participants "happiness and prosperity"

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<sup>20</sup> J. Halleck and W. E. P. Hartnell, *Translation and Digest of Such Portions of the Mexican Laws of March 20th and May 23rd, 1837, as are Supposed to Be Still in Force and Adapted to the Present Condition of California; With an Introduction and Notes* (San Francisco: Office of the Alta California, 1849), 4.

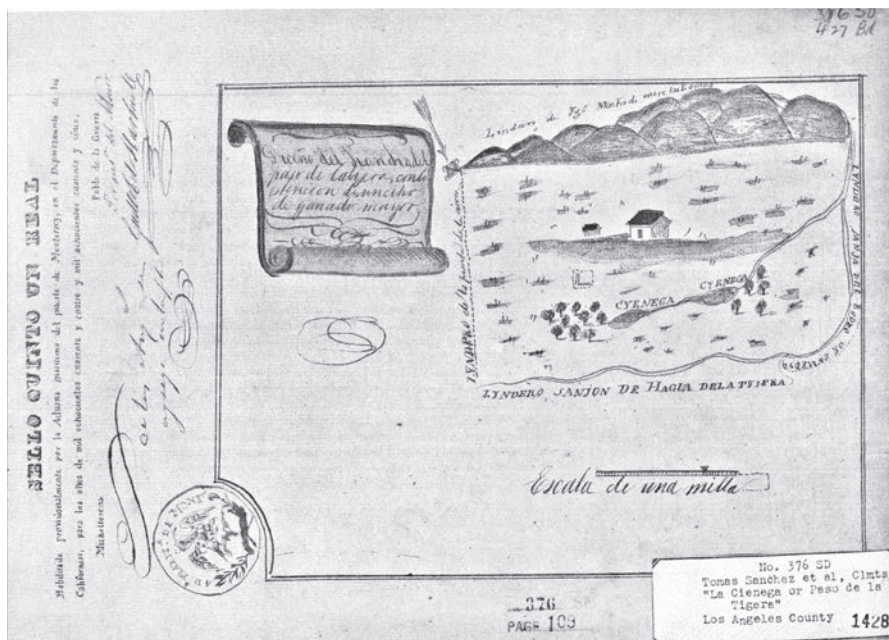


REPRODUCTION OF HAND-DRAWN MAP OF RANCHO LA BALLONA, THE 1839 MEXICAN LAND GRANT IN LOS ANGELES COUNTY, WHICH INCLUDES THE PRESENT-DAY WESTSIDE CITIES OF SANTA MONICA AND CULVER CITY, AND THE BALLONA WETLANDS ECOLOGICAL RESERVE.

upon the successful conclusion of their “arduous labors.”<sup>21</sup> The collection also includes several twentieth-century publications of early California legal documents, including rules and regulations for the *presidios* (military bases) on the frontier line of New Spain, ordered by King Carlos III of Spain in a decree of September 10, 1772, and the decree of President Santa Anna of

<sup>21</sup> J. Ross Browne, *Report of the Debates in the Convention of California, on the Formation of the State Constitution, in September and October, 1849* (Washington: 1850), 477.





REPRODUCTION OF HAND-DRAWN MAP OF RANCHO LA CIENEGA O PASO DE LA TIJERA, THE 1843 MEXICAN LAND GRANT IN LOS ANGELES COUNTY, WHICH INCLUDES THE PRESENT-DAY NEIGHBORHOODS OF LEIMERT PARK AND BALDWIN HILLS, AND THE KENNETH HAHN STATE RECREATION AREA.

Mexico, May 22, 1834 establishing circuit tribunals and district courts.<sup>22</sup> An oversized volume of illustrated color maps of the California *ranchos* from 1822 to 1846 brings to life the early California landscape, both geographic and political, under Mexican rule.<sup>23</sup>

- *Translation and Digest of Such Portions of the Mexican Laws of March 20th and May 23rd, 1837, as are Supposed to Be Still in Force and Adapted to the Present Condition of California; With an Introduction and Notes* (by J. Halleck and W. E. P. Hartnell, government translator, 1849, 1 vol.).

<sup>22</sup> John Galvin, ed., *The Coming of Justice to California: Three Documents*, translated from the Spanish by Adelaide Smithers (San Francisco: John Howell Books, 1963).

<sup>23</sup> Robert H. Becker, *Diseños of California Ranchos: Maps of Thirty-Seven Land Grants, 1822-1846, From the Records of the United States District Court, San Francisco* (San Francisco: The Book Club of California, 1964).

- *Report of the Debates in the Convention of California, on the Formation of the State Constitution, in September and October, 1849* (by J. Ross Browne, 1850, 1 vol.).
- *Relación de los Debates de la Convención de California, Sobre la Formación de la Constitución de Estado, en Setiembre y Octubre de 1849* (by J. Ross Browne, 1851, 1 vol.).
- *The Coming of Justice to California: Three Documents*, translated from the Spanish by Adelaide Smithers, edited by John Galvin (1963, 1 vol., with appendices).
- *Diseños of California Ranchos; Maps of Thirty-Seven Land Grants, 1822–1846, From the Records of the United States District Court, San Francisco* (by Robert H. Becker, 1964, 1 vol., with folded color maps).

## CONCLUSION

Those who revel in the intricacies, obscurities and complexities of California legal history, will find virtually endless opportunities to delve into that history in the LA Law Library collection. For those simply trying to put a best foot forward in understanding and advocating for their own legal rights, the scope and depth of the collection will be a sobering reminder of how daunting a task they face. In either circumstance, the support and assistance of the able librarians at LA Law Library will make the journey more manageable and, hopefully, rewarding.

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