GEMS FROM CALIFORNIA’S LEGAL HISTORY AT LA LAW LIBRARY

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INTRODUCTION

LA 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.¹ 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.² 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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¹ § 6300, et seq.

² 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. 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” — 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, 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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the American Association of Law Libraries.\textsuperscript{6} 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.

\textit{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.\textsuperscript{7} The library’s collection of California ballot propositions and voter


\textsuperscript{7} 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.\(^8\)

**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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\(^8\) 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).
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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. 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.

**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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10 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
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.\(^\text{11}\)

*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.\(^\text{12}\) 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,

\(^{11}\) 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.

\(^{12}\) 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.\textsuperscript{13}

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.

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**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.\(^{14}\)

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.\(^{15}\)

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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\(^{14}\) Op. NS2761.

\(^{15}\) Op. 7272.
may serve as a member of the board of directors of the local fire protection district.\textsuperscript{16}

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* (bound volumes kept up to date by official advance sheets, 1943–present, 105 vols., with indexes).

\textbf{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 tobacco.

\textsuperscript{16}__ 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).
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.”17

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”18), 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.19

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.
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.\(^{20}\)

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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\(^{20}\) 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.
upon the successful conclusion of their “arduous labors.” 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

Mexico, May 22, 1834 establishing circuit tribunals and district courts. 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.

- **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.).

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- 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.).
- 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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