

THE FIRST CALIFORNIA STATUTE:

Legal History and the California State Archives

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INTRODUCTION AND CONTEXT

Nineteenth century statutes rarely appear in California's historical literature. Most have long been superseded, and they are seldom examined unless they deal with contentious contemporary issues such as extending civil rights. The first statute of the first California legislature should be lauded, however, as it required the Secretary of State to "receive . . . all public records, registers, maps, books, papers, rolls, documents, and other writings . . . and the titles to bonds within the territory, or to any other subject which may be interesting, or valuable as references or authorities to the Government, or people of the State . . . and to classify, and safely keep, and preserve the same, in his office."

With that law, the archives of the fledgling state were initiated, the first legislature recognizing the enduring importance of key documents to the state's governance. What was to become the California State

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THE PUBLIC RESEARCH ROOM OF THE
CALIFORNIA STATE ARCHIVES, SACRAMENTO.

Archives was thereby created, eventually ensuring the preservation of vital state historical documents and assembling the collection of what is now an unparalleled resource for the study of the state's legal history.

From the outset, the legal history of the state was intertwined with themes of great national import, including such matters as the extension of slavery, intercontinental communication and transportation, immigration, urban development, water rights and distribution, and a wide variety of other issues. To the extent law was involved — drafting it, enacting it, implementing it and interpreting it — records of those actions are found in the State Archives. The legal history of the state begins with the Constitutional Convention of 1849, assembled without a clear warrant of authority as Congress dithered over the question of California's admission to the Union. A vast national rift over extending slavery to formerly Mexican territories threatened to halt new states' admission.

The convention met in a climate of considerable urgency. The previous Roman-law based Spanish-Mexican legal system was regarded as arbitrary and un-American by the large numbers of sojourners from the eastern United States who pursued the lure of California gold to attain their dreams of riches and a better life. The state was nominally under

military governance in the aftermath of the Mexican-American War, but that was only considered temporary and there were too few troops remaining to have much effect.

Indeed, the system had been overwhelmed by the large number of migrants streaming into California from all corners of the world. In the gold-producing areas where most people headed, there had been little or no Mexican or military presence anyway. As a result, miners crafted their own community codes, generically called Miners Laws, to provide a semblance of order. But these only operated locally, and a statewide process of governance was becoming vitally necessary. Military governor Bennett Riley called for the convention in late 1849.

The 1849 California Constitution was centered in Anglo-American common law, in accord with the background of the delegates, principally from eastern states. It borrowed liberally from the constitutions of other states, but also incorporated a few suggestions of the small number of representatives of Mexican descent, such as permitting married women to own separate property and publishing government enactments in both English and Spanish.

Written and put into effect quickly, it went into effect by necessity in January 1850 even though Congress had still not acted on admission. An entire session of legislation followed, framing the structure and operation of California, which finally became an official state in September, after Congress reached the Compromise of 1850. The reader who wishes to more fully understand the early political and governmental development of California is encouraged to examine *Taming the Elephant: Politics, Government and Law in Pioneer California* (University of California Press, 2003) edited by John F. Burns and Richard Orsi.

The records of the first constitutional convention and its successor convention in 1879 can be considered the legal history foundation of the state. The constitutional records in the State Archives, along with thousands of cubic feet and millions of pages of other records, are an extraordinary resource for studying California's legal history. These papers and other material are primarily related to the process and results of legislation, the work of the executive branch in putting that legislation into practice, and the state courts' efforts to sort out disputes about it.

Yet knowledge about the extent and availability of these collections is not widespread, and research projects that beg to be initiated and that would extend understanding of the state's legal evolution have yet to be undertaken.

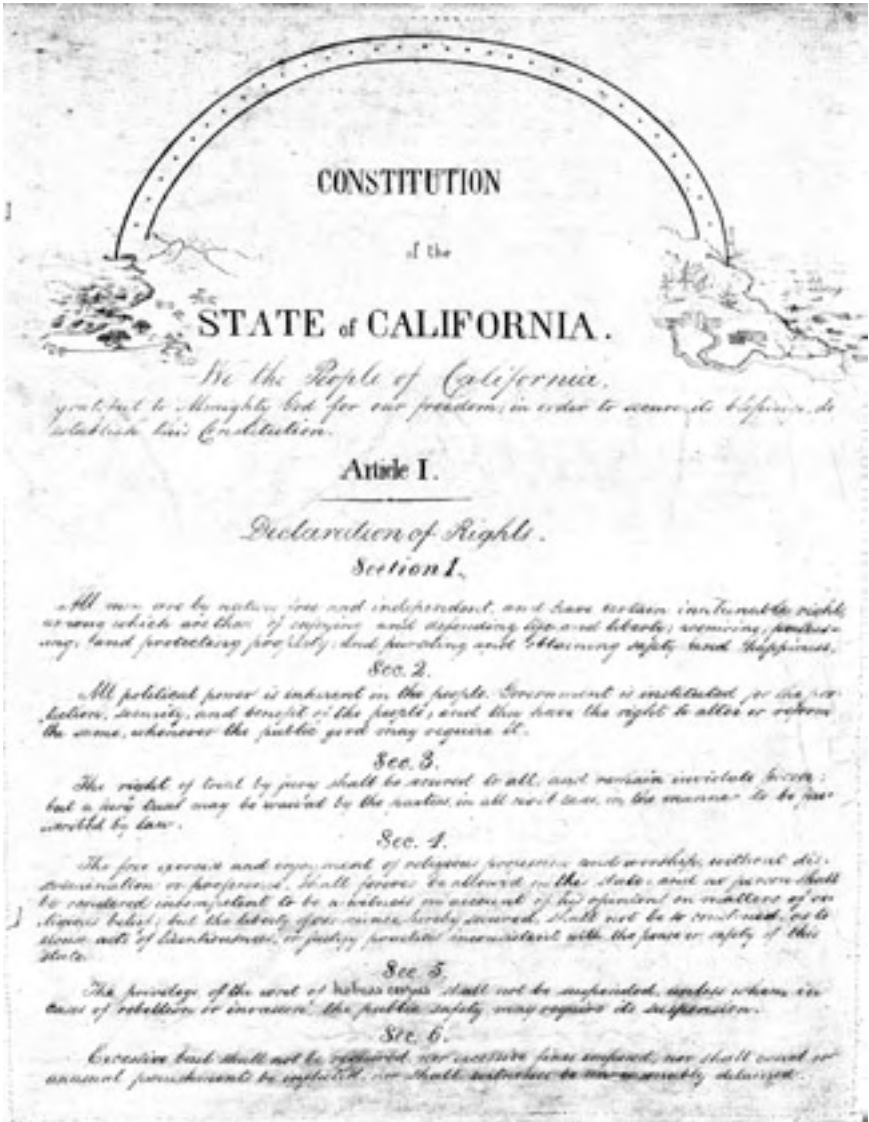
What follows in this article is a fairly expansive discussion of certain documents and other materials in the State Archives, but it is far from a comprehensive treatment. To write an entire and explicit guide to the State Archives holdings would take thousands of pages and be immediately outdated, as new collections are constantly added. What this article intends to accomplish is to highlight some of the most important and interesting record groups in the Archives, to provide some inkling of the breadth of subject matter that is represented, and to discuss research opportunities.

We have chosen to utilize descriptions of several important collections in some depth, rather than simply provide a long, and likely boring, list of short entries. Much of the information here is gleaned or directly excerpted from State Archives finding aids available at <http://www.sos.ca.gov/archives/>, and researchers are strongly urged to explore the site, which includes much more information than space permits us to describe here. Moreover, a substantial number of new collections or additions to existing collections are acquired and prepared for research use every year. That information is added to the Archives' online catalog, Minerva, so the site is highly dynamic.

STATE CONSTITUTIONS

Constitutional records are at the forefront of the state's legal history. The original 1849 and 1879 State Constitutions have been housed in the Archives along with constitution convention working papers since they were created. The working papers of the 1878-1879 Constitutional Convention are now available on the State Archives web site, with a user's guide, finding aid, and indices for searching by subject and type of material. Digitization of the working papers was accomplished thanks to a grant from the California Supreme Court Historical Society.

Constitutional revision efforts are also documented in the Archives. In 1959 the Legislature directed the Citizens' Legislative Advisory



**THE FIRST CALIFORNIA CONSTITUTION,
ADOPTED IN 1849.**

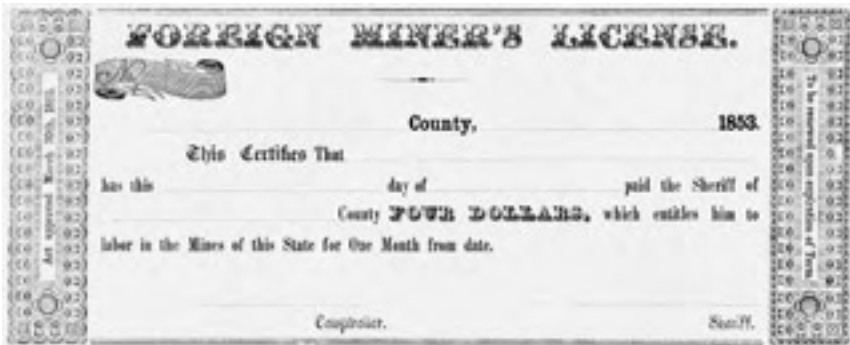
Commission to study the techniques and procedures necessary to secure a revision of the State Constitution. The Commission's final report recommended that the California Constitution be amended so that the Legislature could submit to the people a revised constitution, or a revision

of any part, and that a commission be established by statute to make recommendations for a total or partial revision.

Ultimately a Constitutional Revision Commission was created and these records are in the Archives. Papers of the Constitutional Revision Commission, comprising some twenty cubic feet, include meeting files, with transcripts and minutes of full Commission meetings and minutes of committee meetings about specific articles; committee files relating to their activities and recommendations about article revision; administrative files, with documentation relating to the activities of the Commission's staff; biographical data on Commission and staff members and their selection and/or appointment; and legislative files documenting the placement of revision proposals on the ballot for submission to the electorate.

As this essay is being written, calls for a new constitutional convention have become more frequent and the idea is gaining media attention. It would be prudent for those undertaking investigations into that subject to carefully examine the records of past constitution-making and revising to look at how this critical state governance issue was handled in the past.

Apart from statutory enactments and Supreme Court records, there are only scattered other documents associated with the Gold Rush and constitutional era in the State Archives' holdings. Government was very small and retained only official filings. Private diaries, letters and other materials of the period are found in the State Library in Sacramento, Bancroft Library at UC Berkeley, and the Huntington Library in San Marino. One particularly interesting series in the State Archives are records



A BLANK RECEIPT FOR PAYMENT OF THE CALIFORNIA FOREIGN MINER'S LICENSE TAX FOR THE YEAR 1853.

related to the Foreign Miner's License Tax, an onerous levy imposed primarily on non-white miners from other countries, especially China and Mexico. It was intended strictly to preserve access to the goldfields for white Americans only.

STATE LEGISLATURE

Legislative records are one of the most significant groups in the State Archives, and legislative intent research is the most dominant type of research currently undertaken at the Archives. California is one of only a few states where the courts have given weight to determination of the intent of the Legislature when a particular bill was enacted. The working bill files of state legislators, legislative committees and caucuses are a heavily used resource; also available are videotapes of selected floor sessions and committee hearings from the Senate and Assembly, as well as the Governors' Chaptered Bill Files.

This type of research illustrates the application of recent history. The bill files provide information about the problem a particular piece of legislation was intended to solve and the history of the bill. Typical bill files include bill analyses, reports, background information, press releases, newspaper clippings, and letters of support and opposition. Often when there is a legal dispute over some aspect of legislation, researchers will use the bill files to resolve the dispute. Legislative staff members have also relied on the bill files when seeking to amend existing legislation or when introducing new legislation.

The files of 231 assembly and senate committees have been deposited in the Archives. A few detailed examples of especially interesting material follow:

California Un-American Activities Committees Records, 1935-1977

The California Un-American Activities Committees (CUAC) files represent one of the most significant collections for studying modern California history and politics in respect to civil liberties. Indeed, given the scope and breadth of the materials, the collection has importance for

both American and world history. One might note that California's attention to un-American activities predates McCarthyism by a decade. As the files reveal, however, there was a close and ongoing relationship between state and federal efforts. The research potential and significance of this collection is enormous, and it is an untapped resource since the last restrictions on public access to the records were lifted in 2008.

The collection contains the investigative files, hearing transcripts, and working papers of several committees (Assembly Relief Investigating Committee on Subversive Activities, Joint Fact-Finding Committee on Un-American Activities in California, and Senate Fact-Finding Committee on Un-American Activities) created by the California Legislature to investigate subversive activities.

CUAC records span the period 1935-1977 and consist of 80 cubic feet. Over this period, the Committees produced or received thousands of documents, including fifteen published reports, unpublished reports and studies, newspaper clippings, photographs, hearing transcripts, correspondence, publications (books, magazines, and pamphlets), depositions and audio tapes and Dictaphone discs, with approximately 125,000 index cards tracking an estimated 20,000 individuals or organizations.

The files are especially rich in certain subjects. Topics of major focus include: labor and labor unions; public schools and education; Hollywood and the motion picture industry; civil rights; universities and colleges, in particular, the University of California-Berkeley, the University of California-Los Angeles, and San Francisco State University; political parties, including the California Democratic Party, the American Communist Party, the Los Angeles County Communist Party, and the Black Panther Party; the Soviet Union and Soviet-American relations; communism in China and Vietnam; fascist and Nazi movements in America; and the anti-war and peace movements.

Particular events that attracted the Committees' attention include the Alger Hiss trial, the Watts riots, the King, Ramsey, and Connor cases, and the Sleepy Lagoon event. Substantial attention was lavished on a number of ethnic and occupational groups in society, including students, teachers, scientists, women, African Americans, lawyers, clergy, musicians, writers, actors, Jews, Hispanics, Japanese, reporters, union activists, and public

employees. Well-known people are found throughout the files, including Cesar Chavez, Henry Wallace, Harry Bridges, Paul Robeson, Richard Nixon, Martin Luther King, Jr., and Earl Browder.

Other significant elements include records that relate to the development of the American labor movement and its activity in party politics, the role of the motion picture industry in shaping public perceptions, the growth of militant activities in universities during the 1960s, in particular as related to protests against the Vietnam War, the development of the farm labor movement in California, life in the Soviet Union in the 1950s and Soviet-American relationships during the Cold War, the emergence of civil rights politics as a response to the investigations, and the evolution of anti-Semitic thought and practice and its relationship to public perceptions of Jewish life and culture.

Unfortunately, little is known about the structure of the Committees and how they operated. In addition to legislators, two other figures dominated the work of the Committees for most of the period of activity. Richard E. Combs, chief counsel, directed the investigations and conducted most of the questioning during depositions and public and non-public hearings. Thomas L. Cavett, chief investigator, was the “eyes and ears” of the body, and gathered information from a wide network of local operatives, mostly unnamed.

Senate Public Safety Committee, 1997-2006

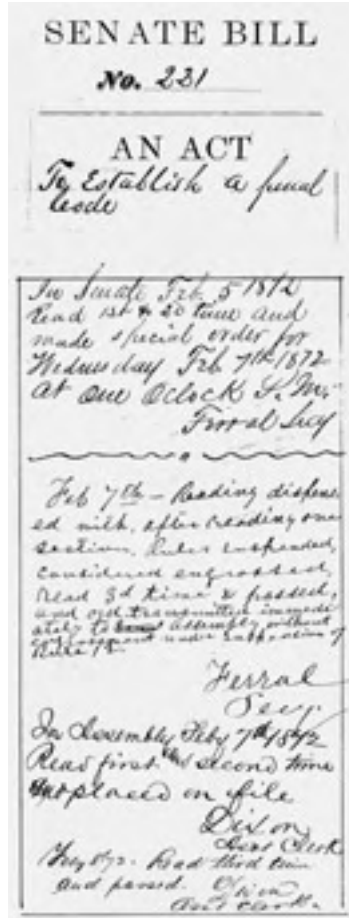
The Senate Public Safety Committee Records consist of 64 cubic feet of bill files covering the years 1997-2006; hearing files, 1997-2006; and subject files, 1999-2005. The bill files pertain to criminal law and general public safety issues, including drug enforcement, sex crimes, and “three strikes” laws. This committee received many sex crime bills, including recidivism, child molestation enhancements, Jessica’s Law, Megan’s Law, Internet pornography, child pornography, predator activity, and stalking. Many sex crime bills were concerned with child safety and the Internet.

The Senate Public Safety Committee heard several bills on identity theft and privacy in the late 1990s and early 2000s. Bill and hearing topics included Social Security number protection, limiting credit card

solicitations, and criminalizing identity theft. This committee and the legislature as a whole struggled over privacy, gang membership and public safety issues. In order to curb the influence of gangs, the committee saw many bills relating to gang membership and association, gangs in prisons, and sentence enhancements for committing a crime while associated with a gang. Freedom of association and community-level approaches to gang reduction often conflicted with traditional approaches to policing, such as mass arrests and profiling, in the bills the committee reviewed.

The California Department of Corrections and Rehabilitation (CDCR) and the Division of Juvenile Justice (DJJ), formerly known as the California Youth Authority (CYA), occupied much of the Senate Public Safety Committee’s time. Specific issues include prison reform, prisoner rehabilitation and recidivism, overcrowding, the building of new prisons and private prisons, free speech and press access to prisons, prisoner abuse, holding prison guards accountable, medical care for inmates, gangs in prison, racial discrimination, and county jail regulations.

Victims’ rights became both a national and California concern in the 1990s. The Public Safety Committee heard numerous bills concerning victims’ rights, from integrating video conferencing into criminal hearings to increasing access to restitution funds. The status of victims in the criminal process was controversial as the state



“AN ACT TO ESTABLISH A PENAL CODE” — NOTES BY THE SECRETARY OF THE SENATE AND ASSISTANT CLERK OF THE ASSEMBLY RECORDING THREE READINGS AND PASSAGE OF THE BILL BY EACH HOUSE, FEBRUARY 1872.

struggled to ensure that both the victim and the accused were represented equally in court.

Gun control was often a contentious issue in the committee. Bill topics included gun shows, assault weapon categories, pistols and “Saturday night special” quality regulation, bullet serial numbers, concealed firearms permits, and sentencing enhancements for crimes committed with a firearm. One emphasis was on finding a cost-effective method of regulating firearms and preventing criminals and children from acquiring illegal and dangerous firearms. After the September 11, 2001 attack, terrorism became a national concern, and the committee received bills and held hearings pertaining to protection against terrorism.

Contemporary research projects related to the formulation of public safety and incarceration policy would be well served through careful examination and use of these files. The subjects are volatile and generate substantial public and media response. As such, they open a window into some of the seamier aspects of our current civilization, and how as a society we attempt to balance protection of vulnerable individuals, the rights of those accused, and the greater good of the people.

Senate Business and Professions Committee, 1962-2004

The Senate Business and Professions Committee Records consist of 71 cubic feet of records reflecting the activity of the committee in handling legislation related to the California Business and Professions Code. The records cover the years 1962-2004, with the bulk from 1970-2004, and are composed of bill files, hearing files, subject files, investigation files, chronological correspondence files, and office files. Although the committee began in 1940, records from the first twenty years are lacking in the Archives' holdings.

A strength in the collection is information regarding the California Department of Consumer Affairs and the professional boards and other entities administered by this agency. Of particular interest to the researcher are files concerning licensing and treatment of foreign medical school graduates and complaints about people masquerading as licensed doctors. Inconsistent licensing practices for qualified doctors led to an ongoing committee investigation of the Board of Medical Quality

Assurance (BMQA). Hearing files, bill files, and subject files all offer insight into this problem and proposed solutions. As a whole, the records clearly demonstrate how constituent concerns can directly impact legislation, and they offer a view of the practices involved in the process of reviewing and creating legislation.

Assembly Transportation Committee, 1956-2004

The Assembly Transportation Committee records consist of 116 cubic feet of records reflecting the committee's activities studying and analyzing transportation-related legislation and general transportation issues. The standing committee, as well as interim and subcommittees, are included.

The bulk of the collection consists of bill files, which date from 1968 through 2004. Second in size to the bill files are the hearing files, which make up a substantial portion of the collection, covering 1956-1987. The collection's large volume and date range of hearing files provide researchers with strong insight into the concerns and issues being addressed by the committee and its predecessors throughout their history. Transportation is an integral part of California culture and American society. The legislation addressed by this committee materially affects everyone, from large industries and government agencies to small businesses and citizens.

A wide range of agencies, boards, commissions, and industries interact with the Transportation Committee. Some of these groups are the California Air Resources Board, California Energy Commission, California Highway Patrol, California Department of Transportation (CalTrans), California Transportation Commission, Department of Motor Vehicles, various transportation districts, and the trucking industry.

The records reflect the close involvement of the committee in a variety of important subjects. They document the committee's involvement in and continuing commitment to mass transportation, its efforts to combat transportation-related pollution and smog, efforts to improve vehicle and traffic safety through regulation, cell phone use in vehicles, and driver licenses for illegal aliens.

Because of its far-reaching scope of influence on society and the role it often plays as leader in the field of transportation related solutions,

the legislation before the Assembly Transportation Committee captures the attention of a large variety of groups and individuals. The interest of not only state residents in California's transportation, but also Americans and the world community, makes these records valuable to those researching California's transportation history and its transformative influence. The records might also be helpful to those elsewhere looking for guidance on the future of their own transportation endeavors.

Assembly Environmental Safety and Toxic Materials Committee, 1980-2004

The Assembly Environmental Safety and Toxic Materials Committee Records consist of approximately 40 cubic feet of textual records and audio-visual materials. The records cover the years 1980-2004 and are composed of bill files, hearing files, subject files, and correspondence.

These records may be of considerable interest to researchers looking at environmental regulation in the 1980s and 1990s. When environmental failures like the Love Canal, Chernobyl, and the Exxon Valdez oil spill gained global attention, California's legislative response reflected different approaches to growing concerns about chemicals and their awesome potential for damage to natural resources.

The majority of records consist of bill files that cover the years 1980-2004. Committee hearing files spanning 1980-2000, and subject files from the years 1993-2000 that contain records on specific toxic materials like asbestos and polychlorinated biphenyls, compose the balance of the collection. Files also deal with toxic material storage, transportation, and cleanup, Superfund sites, standards for industries, especially those involved in fire protection, pipeline safety, and waste disposal, marine pollution, toxic air contaminants, ground use for hazardous waste storage, and the Wilco dump site in Los Angeles.

Legislators' Papers

A growing number of legislators deposit their papers in the State Archives. There are now almost 400 of these collections. A few that are representative of the more extensive collections and that offer examples of what these papers can contain are:

Randolph Collier Papers, 1939-1976

Senator Randolph Collier's papers offer one example of the extent of legislative papers. Collier's papers document his career in the State Senate. He focused on the concerns of the constituents he represented as well as the interests of the general public. Many of the bills he drafted were preceded by extensive background research and hearings. They are arranged in three parts: 1) Author Bill Files, 2) Subject Files, and 3) Highway and Transportation Files.

Among the legislation in the Author Bill Files is the Collier-Burns Highway Act of 1947. It provided revenue to meet critical highway deficiencies by taxing the user on the basis of the user's demands on the highway system. It further defined the administrative functions for street and highway work by the state's counties, cities and counties, and cities.

One of the research strengths in the Subject Files pertains to water. A highly controversial issue of supply and demand developed between the less populated areas in the north which had 70 percent stream flow and the heavily populated urban areas in the south. After a ten-year study, the California Water Plan was proposed in 1957 by the California Water Resources Board. It became the largest American program ever undertaken to deliver water to central and southern California. The plan also fostered many water development projects along the Eel and the Klamath Rivers. These projects provided water for domestic, industrial and agricultural use in addition to flood control, water quality, hydroelectric power generation, recreation and enhancement of fish and wildlife habitat.

The Highways and Transportation Files contain information on transportation policy, regional plans, rapid transit, toll crossing, weight and size limitations for trucks. An underlying issue is the process of obtaining and distributing transportation funds.

Patrick Johnston Papers, 1973-2000

The Patrick Johnston Papers consist of 38 cubic feet primarily representing Johnston's activities during his service in the California State Legislature. The records contain bill files, subject files, savings and loan law regulation files, Delta Protection files, Japanese redress files, and correspondence.

The Savings and Loan Law Regulation Files primarily contain information related to the 1989 Lincoln Savings and Loan scandal, junk bond investments, and real estate speculation that led to a comprehensive bill increasing regulation of state chartered savings and loan associations. The Delta Protection Files contain a significant amount of data on the Sacramento-San Joaquin Delta related to the Delta Protection Act of 1992.

The Japanese Redress Files largely consist of papers created by the State Personnel Board between 1942 and 1946 and used as background material to enact legislation making California the first state to grant Japanese-Americans redress for actions taken against them during World War II. The series also contains additional files containing information related to the series of bills on Japanese Redress authored between 1982 and 1992.

Jean Moorhead Duffy Papers, 1979-1982

The Jean Moorhead Duffy Papers consist of bill files documenting most of her legislative activity. She successfully sponsored legislation that made reporting child abuse simpler. Foreshadowing the “three strikes legislation,” she was unsuccessful in passing legislation that would have required a life sentence without parole for individuals convicted of three violent crimes. She was successful in obtaining two bills that increased the penalties for drunk driving significantly. Winning passage of the bills resulted, in part, from her working closely with the new organization, Mothers Against Drunk Driving. As chair of the Assembly Committee on Aging and Long-Term Care in 1984, she introduced a number of bills that increased training for caregivers of the elderly and funded research into Alzheimer’s Disease.

GOVERNOR AND EXECUTIVE BRANCH

Executive branch records are the most voluminous category in the Archives, as they comprise both the records of the governor’s office and those of the incredible array of agencies the governor manages. The records of the governor’s office itself document not only the day-to-day transactions of that office but reflect to a considerable degree the overall

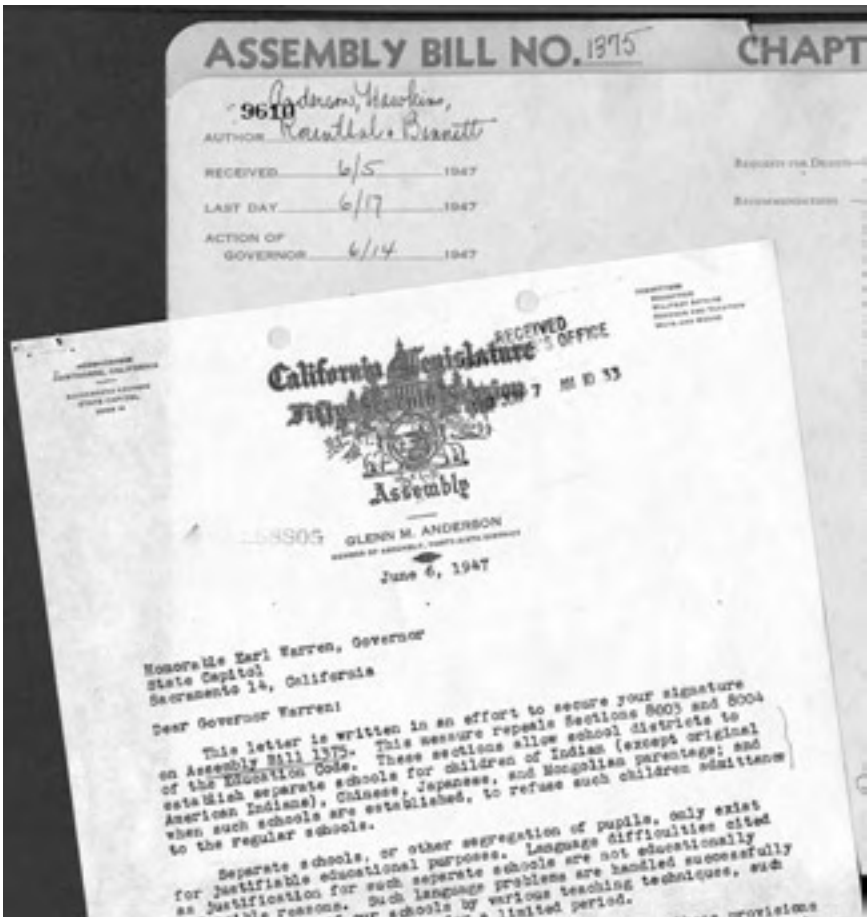
operations of the state government. Only in recent decades, however, have substantially complete collections of governor's office files been preserved, although documentation of the governor's primary official acts has been carefully maintained in its original form throughout the entire period of the state's history.

Until quite recently, California law did not make provision for the disposition of the governor's administrative papers, that is, the correspondence, memoranda, and other records that flow between the governor's office and the other branches of state, federal, and local government as well as to and from the general public. Consequently, the administrative records of many of California's governors have been scattered to various private and public institutions or destroyed.

Despite the haphazard disposition practices of the past, a considerable amount of governor's records do exist in the Archives. Many of these records constitute separate series reflecting specific functions, programs, and operations. Records in such categories include the original laws, appointments and commissions, notary public papers, petitions to the governor, prison papers (including those relating to the pardoning process and extraditions), proclamations, directives, executive orders, and offers of rewards.

Major collections of administrative records remain for only several of California's 38 governors (to date). Hiram Johnson, George Pardee, Culbert Olson, and Pat Brown placed their administrative papers in the Bancroft Library at UC Berkeley; Henry Haight and Henry Markham left theirs to the Huntington Library in San Marino; Earl Warren and Goodwin Knight placed their papers in the State Archives in Sacramento; Jerry Brown sent his papers to the University of Southern California; and George Deukmejian sent his papers to the Hoover Institution Archives at Stanford University. Ronald Reagan's papers from his term as governor initially were given to the Hoover Institution Archives and were later transferred to the Ronald Reagan Presidential Library.

Beginning with the administration of Pete Wilson, the law now requires the placement of all governors' records in the State Archives, although they can be restricted for fifty years. Governors' administrative papers are quite voluminous; even those of Earl Warren, who served in



ENDING LEGALIZED SEGREGATION IN CALIFORNIA'S PUBLIC SCHOOLS — LETTER FROM ASSEMBLY MEMBER GLENN M. ANDERSON SENDING AB 1375 TO GOV. EARL WARREN FOR HIS SIGNATURE, JUNE 6, 1947 (SEVEN YEARS BEFORE THE U.S. SUPREME COURT, LED BY CHIEF JUSTICE EARL WARREN, DECIDED *BROWN V. BOARD OF EDUCATION*).

the mid-twentieth century, encompass about 600 cubic feet. The papers of the last governor to leave office, Gray Davis, grew to 2504 cubic feet, although they are not yet open for public research. It is anticipated that those of Arnold Schwarzenegger may approach 6000 cubic feet.

Prior to 1996 the State Archives was housed in a decrepit printing plant and could not have accommodated and adequately protected the

large volume of important gubernatorial material. The state-of-the-art and commodious Archives building constructed in the mid-1990s solved that problem at the time, although space issues may again become a concern before 2018 if planned improvements for more compact storage are not made to the building.

The myriad operations of state agencies are documented in a vast array of materials in the Archives. Organized by agency, these records demonstrate how units of government attempted to implement legislation. With rare exception, agencies are only permitted to engage in those activities explicitly authorized by legislation. The gamut of human endeavors is reflected in these records, as virtually every type of possible human action is treated at one time or another legislatively, and agencies are obligated to execute the terms of the legislation. Descriptions of some of the most particularly interesting or informative agency record groups follow. Many other notable collections of agency records also exist in the State Archives.

Department of Corrections

The Department of Corrections was organized in 1944 under the Prison Reorganization Act. The department incorporated the former Department of Penology, the State Board of Prison Directors, the Bureau of Paroles and the California Crime Commission. It included State Prisons at San Quentin and Folsom, the California Institution for Men at Chino, and the California Institution for Women, Tehachapi.

The stimulus for the reorganization stemmed from the recommendations of the Governor's 1943-1944 Special Committee on Penal Affairs, which held extensive hearings on California's prison system. Major subsequent changes in the organization and structure of the department included creation of a Correctional Industries Commission in 1947 to aid in the development of work programs, creation of the Youth and Adult Corrections Agency in 1961, creation of a Narcotics Addict Evaluation Authority in 1963, and the expansion, especially in the last twenty years, of the number of state incarceration facilities. Some architectural drawings and blueprints of state prisons are available for study.

Inmate case files are a rich source of information about criminal activity and criminal law. Case files span the period from 1890-1978. Case files prior to 1958 generally give an inmate's name, aliases, commitment number, crime, county sent from, sentence, date received, age, nativity, education, religion, military service record, family names and addresses, occupation, past employers, habits, health, marital status, number of children, date and place of trials, transcript of proceedings, prior convictions, probation officer's report, type of prison employment, and prison punishment, and they include photographs, statements, reports, letters and newspaper clippings relating to superior court proceedings, applications for parole, and Parole Board action. More recent inmate case files typically include a summary of the sentence and crime, clinical evaluation of the inmate, mug photo, education record, registers of visitors, summary of activities, and movement within the system and discharge certificate.

In addition, many significant records pertaining to correctional institutions are found in the Governor's Prison Papers, which are composed of a number of record series, several of which are duplicated by near-identical series maintained by the Department of Corrections. The record series include: San Quentin and Folsom Prison Registers (1851-1943), Applications for Pardon (1872-1903), Commutation of Sentence (1876-1944), Pardons (1856-1966), Executive Pardons (1872-1903), Prison Discharges (1868-1886), Executive Orders to Release (1883-1891), Restoration to Citizenship (1887-1897), and Extradition Case Files (ca. 1856 to date).

Military Department — Indian Wars

The Indian War Papers, 1850-80, originated in the Adjutant General's Office. Encompassing 2-1/2 cubic feet, the records deal with attempts to suppress Native Americans in California, partially documenting a disturbing element in the state's early history. Local militia groups were usually formed to eliminate what was called "the Indian Menace," and to pacify the frontier in specific areas of the state. This record group includes militia muster rolls, field reports, claims, correspondence and two

volumes of *Expenditures for Military Expeditions Against Indians During the Years 1851-59*.

The first volume, 1850-52, arranged chronologically by date of expedition, contains an alphabetical index of members including warrant number, warrant member's date, name, whether a horse was furnished, military rank, number of horses purchased and amount paid, amount of supplies, amount of service, total amount, to whom delivered, by whom received, receipt number, and remarks. Lists of warrants returned to the Controller's Office and recapitulation for each expedition are also included. The second volume, 1854-59, includes company payrolls and duty rosters in no particular order.

Photographs

The photographic collection of the State Archives constitutes a rich and varied source of information about the history of California state government and of the state as a whole. Portions of the collection have been used extensively, but most of it remains untapped. Descriptive information about photographs, which most often are an integral part of much larger groups of documentary records, is not easily accessed. Familiarity with the structure and functions of state government is often necessary to know where to start looking for photographs. Cataloging of collections by subject, which would allow researchers to locate the specific images they seek, is not extensive.

A guide is available to give users of the State Archives an overview of the photographic collection. The guide gathers together in one place information about photographs which already exists, for the most part, in other State Archives finding aids. Although the guide is not comprehensive, it does include the largest and most significant photographic series in the collection.

The collection consists primarily of twentieth-century, black and white prints and negatives. Its strengths are in the documentation of state highways and state buildings. Some 185,000 images are described, about one third of which pertain in some way to the "public works" theme. But there are many other interesting items, including images documenting the efforts of law enforcement officials to solve crimes and incarcerate

and rehabilitate the guilty, the post-World War II expansion of the state's educational system, the management of the state's natural and agricultural resources, state officials, politicians and political campaigns, and the celebration of the state's bounty at state and local fairs.

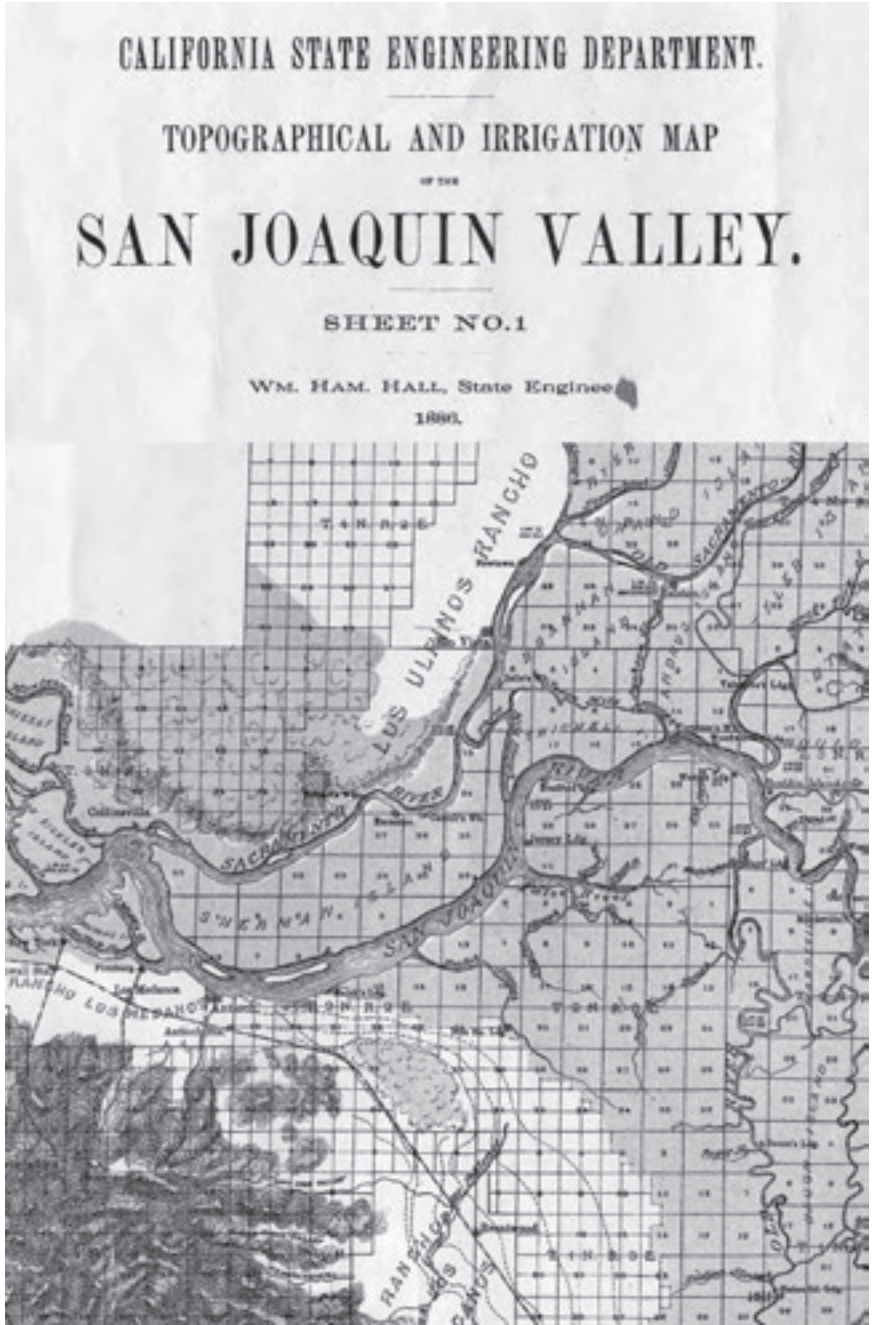
Land Grants and State Lands

The State Archives has two collections of Spanish and Mexican land grant records from the Office of the United States Surveyor General for California. The Spanish Archives collection includes copies of the title papers and sketch-maps found at Monterey that were transcribed and deposited in the Archives in 1871 at the request of the Legislature.

In 1937 or soon after, the State Archives also acquired drafts and copies of 665 maps from surveys by the U.S. Surveyor General between the late 1850s and mid-1880s, covering California's many missions, ranchos, and pueblo lands, together with a few miscellaneous maps, including surveys of Indian reservations and government lands. The maps show the boundaries on land grants as defined in mid- to late 1861, when they were created. The researcher should note that for some of these maps, the boundaries were altered during the final survey of the exact boundaries. Therefore, they should not be presumed to be the official boundaries for the land grant — only boundaries as of 1861.

The Mexican land grant system has had a profound influence on the history of California, shaping settlement patterns and land ownership. These maps are some of the earliest in California, and therefore are invaluable in understanding the complex system of land ownership in the Golden State today.

The State Land Office Records consists of 47 cubic feet of records created and collected by the State Land Office, and arranged into 28 series. The collection reflects the cooperative relationship between administrative bodies in the disposal of public lands and includes records generated by the State Land Office, the Board of Swamp Land Commissioners, the Board of Tide Land Commissioners, the University of California Regents, county boards of supervisors, federal district land offices, and the General Land Office under the U.S. Department of the Interior. In addition there is correspondence created between 1929 and 1932 by the



1886 STATE ENGINEER'S SURVEY
OF THE SAN JOAQUIN VALLEY

Department of Finance, Division of State Lands. This collection represents only a small portion of the records created by the State Land Office. Most of the records of the former State Land Office remain in the custody of the State Lands Commission.

The disposal of state public lands was a significant activity in California's early history. It enabled the reclamation of millions of acres of swamp and overflowed lands, allowing the state to become a national agricultural leader. In addition, the revenues received from the sale of school lands supported the early development of the state's public education system.

Most of the records in this collection were created during the nineteenth century, largely in the 1860s and 1870s, when land sales and legislation concerning land disposal were at a peak. In addition to their historical value, many of the records have legal value, filling gaps that exist in the State Lands Commission's historical records, and are used as evidence in cases related to chains of title.

Department of Agriculture

Agriculture is one of California's principal industries and has been since the Gold Rush. Department records extend from its creation in 1919 to 1973 and comprise over 250 cubic feet. The Department was formed by placing the operation of a number of agriculturally oriented boards, bureaus, and commissions under the jurisdiction of a Director of Agriculture. These agencies included the Commission of Horticulture, the State Board of Horticultural Examiners, the State Dairy Bureau, the State Veterinarian, the Stallion Registration Board, the State Board of Viticultural Commissioners, the Board of Citrus Fruit Shipments, and the Cattle Protection Board.

The duties of the Department were originally divided between two divisions: Plant Industry and Animal Industry. On July 1, 1920, the Division of Chemistry was organized. In 1921, the Legislature changed its name to the Division of Agricultural Chemistry and created the Division of Markets and the Division of Weights and Measures. A major reorganization in late 1939 consolidated departmental activities into

four divisions: Administration, Animal Industry, Plant Industry, and Economics.

Topics covered in the records include a cross-section of some of the most important issues of the early and mid-twentieth century, such as labor boycotts, the Bracero program, the displacement of the Japanese agricultural labor force during World War II, housing for farm laborers, illegal workers, regulation and use of pesticides like DDT, wetlands conversion, fruit fly infestations, loss of agricultural land and water policy.

In 1969, the Department was placed within the Agriculture and Services Agency, and in 1972 its name became the Department of Food and Agriculture. The majority of the surviving records of the Department date from the period after the 1939 reorganization.

Public Utilities Commission

The records of the Public Utilities Commission and its predecessor, the California Railroad Commission contain a large amount of information on the facilities and operations of railroad companies, gas and electric companies, water companies, and telephone and telegraph companies in California. The collection thus bears significantly upon the social and economic history of the state.

A substantial portion of the described material consists of selected formal complaints and formal applications acted on by the commission between 1908 and 1932. Complaint and application files relate to particular companies. They contain correspondence, memoranda, reports, legal documents, statistical data, hearing transcripts, exhibits, and engineers' valuations that often provide in-depth documentation of various aspects of company operations.

Constitutional Officers

California has an uncommonly high number of independently elected constitutional officers — secretary of state, lieutenant governor, controller, treasurer, insurance commissioner, attorney general and superintendent of public instruction. Although not completely free of gubernatorial control over state budgets and personnel, these agencies do have latitude that other agencies do not possess. Most of them have existed since the

nineteenth century and perform very specific functions. All have records to some extent in the State Archives. A particularly strong collection is that of the secretary of state.

From the outset of state government, the secretary of state, as required by the state Constitution, has kept “a fair record” of the official acts of the governor and certifies many of the governor’s official acts and transactions. In the late 1850s and early 1860s the governor’s office itself began to maintain a record of its official acts, but in certain instances both the governor and the secretary of state maintained parallel and sometimes duplicate records, with the surviving records of the secretary of state being more complete as the secretary was also charged with keeping the state’s archives. Historic functions of the secretary include registering corporations and trademarks, but the office is best known for administering state elections.

On August 1, 1849 the first election was held in California, with the purpose of electing delegates to the convention that quickly moved to draft a state Constitution. A second election followed on November 13, ratifying the convention’s labors and electing California’s first governor, lieutenant governor, members of the Legislature, and two members of Congress. Returns from the first two elections, together with the documents and papers of every succeeding election to the present, are filed with the secretary of state and compose the Elections Record Group in the State Archives. This group now consists of over 1,000 cubic feet of primary source materials relating to elections in California.

Election papers have many research values. Election returns reflect local voting patterns, which may or may not be representative of national trends and moods. Statistical or selective sampling of precinct returns can be used to determine voting tendencies of ethnic groups, economic classes, and even the party faithful. Divisions of the electorate along urban and rural lines as well as by geographical sections are also discernible. Election returns further serve as an index to population growth and shifts, and for some periods the precinct lists provide a unique register of contemporary place-names.

For many years the major television networks have employed selective sampling of key precincts to develop profile analyses in order to

predict the outcome of specific races. For the individual researcher, a key to this type of voting analysis is the availability of precinct maps. Legislation passed in 1971 established in the State Archives a precinct map library, with official filings commencing as of the 1972 general election. Precinct maps for the entire state are thus available in one depository.

An area of increasing research and political interest is the candidates' and committees' campaign statements of receipts and expenditures. Campaign statements reflect many of the costs of political campaigns and show, to a degree, the sources of receipts. The complex operations of a large campaign are often reflected in the number and variety of committees set up to handle campaign finances. The long-term trend of federal and state laws in this area is in the direction of ever more detailed reporting, providing even greater data for researchers to explore.

Ballot measures are valuable sources for study of prominent and often volatile public issues at a particular time. Important to an understanding of such issues are the ballot arguments prepared in support of or in opposition to the measures and filed as part of the official record.

STATE COURTS

Supreme Court

The 1849 California Constitution provided for a Supreme Court consisting of a chief justice and two associate justices, any two of whom would constitute a quorum (Constitution of 1849, art. VI, sec. 2). On February 14, 1850, the first Legislature passed an act to organize the Supreme Court. The act incorporated the relevant provisions of the Constitution, specified the terms of the justices, and outlined the Court's powers. The Supreme Court was given appellate jurisdiction in all cases where the matter in dispute exceeded \$200; in all cases wherein the legality of any tax, toll, or impost, or municipal fine was in question; and in all criminal cases amounting to felony, on questions of law alone. Original jurisdiction was limited to the power to issue writs of habeas corpus.

In 1862, by constitutional amendment, the membership of the Court was increased to a chief justice and four associate justices. The same law

1850 225

To amend an act to organize the Supreme Court of California. The people of the State of California, represented in Senate and Assembly do enact as follows. *Section* The eighth section of the act entitled an act to organize the Supreme Court of California, which is in the following words, viz: There shall be held at the City of San Francisco on the first Monday of March next a special term of the Supreme Court, and thereafter there shall be held two regular terms at the seat of Government in each year, severally to commence on the first Monday of June and December, and to continue until the eighth Saturday thereafter inclusive, unless all causes and proceedings ready for hearing be sooner heard. The terms may however be continued until the first day of the next succeeding term, if the Court deem such continuance necessary; and the said Court shall have power at any time during the term, to adjourn for any number of days not exceeding ten; it be so amended, so that the same shall read as follows, viz: There shall be held at the City of San Francisco on the first Monday of March next a special term of the Supreme Court, and the first two regular terms thereafter shall all be held at the said City of San Francisco,

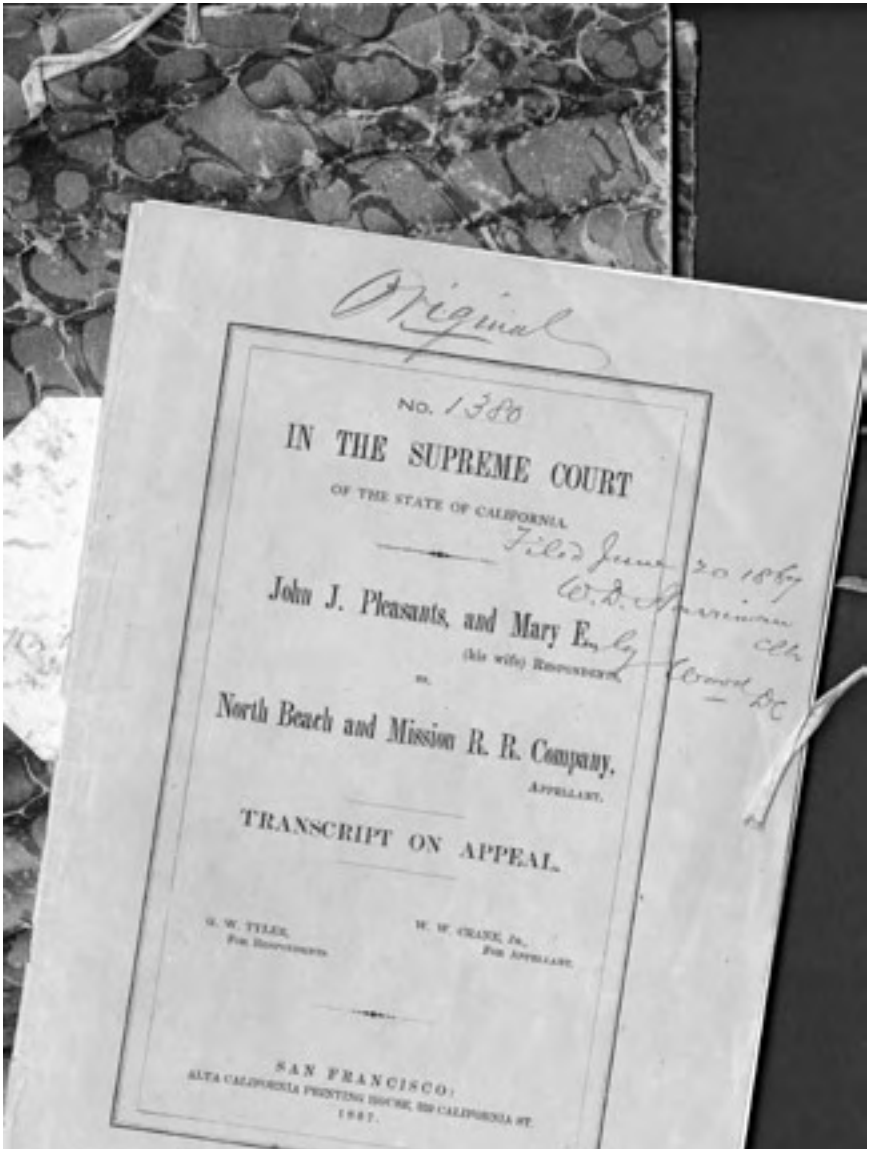
CALIFORNIA SUPREME COURT —
 TO CHANGE THE DATES FOR SUPREME COURT SESSIONS
 SPECIFIED IN THE FIRST ORGANIZING ACT (FEB. 14, 1850),
 THE LEGISLATURE ADOPTED A REVISED ACT ON APRIL 13,
 1850, TITLED: "AN ACT TO AMEND 'AN ACT TO ORGANIZE
 THE SUPREME COURT OF CALIFORNIA.'"

provided that the justices be elected at a special judicial election. The 1879 Constitution increased the number of justices to seven, at which number it has remained. In addition, the court was empowered to sit either in department or en banc. The two departments, designated Department 1 and Department 2, were each composed of three associate justices. The use of departments allowed the Court to handle the increasing work load.

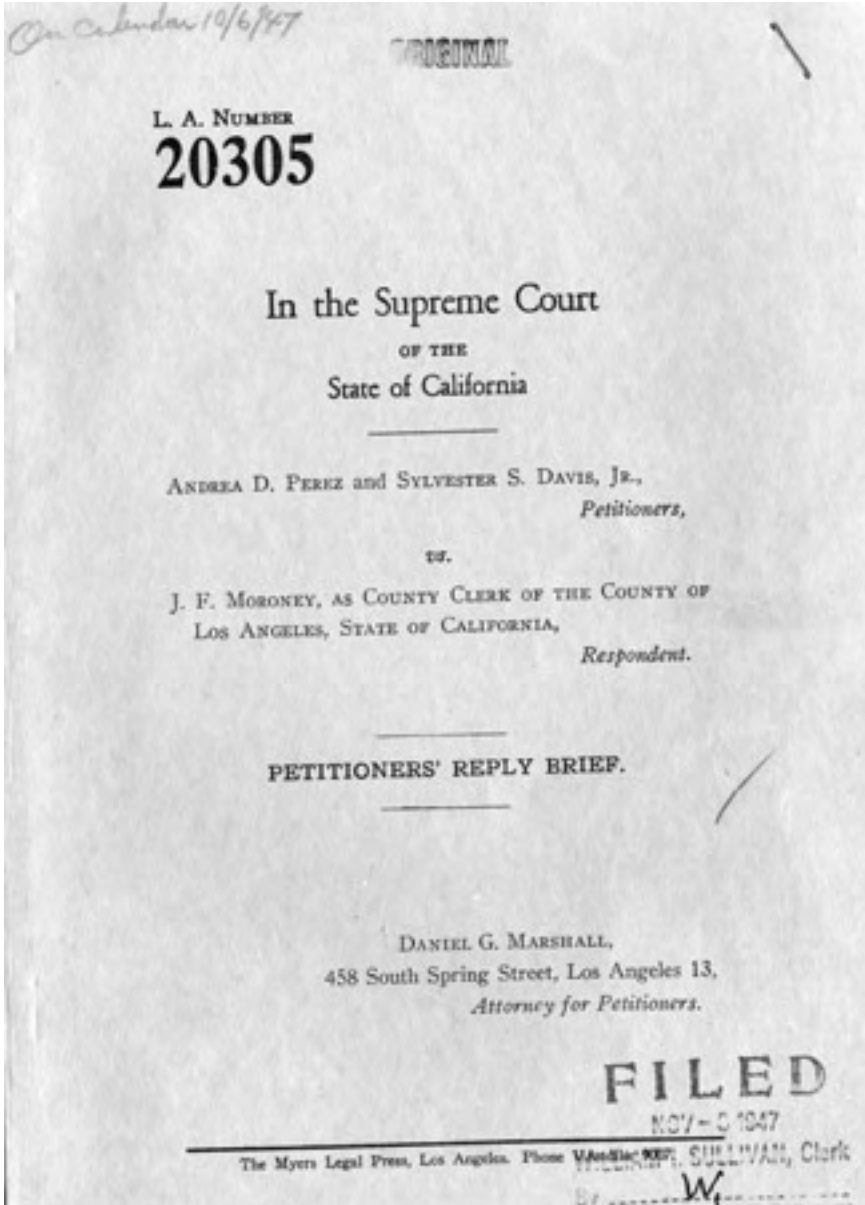
Since 1905 the basic structure of the Supreme Court has remained unchanged. As the highest court of record, the court has original jurisdiction in habeas corpus proceedings and proceedings for extraordinary relief in the nature of mandamus, prohibition, and certiorari. The court has appellate jurisdiction only in cases involving the death penalty. All other appeals from the superior court are taken to the court of appeal. The Court can transfer to itself, on petition or on its own motion, a cause in a court of appeal. It can transfer a cause from itself to a court of appeal or from one court of appeal or division to another. The Court also admits applicants to the bar who have been qualified by the Committee of Bar Examiners of the State Bar, and it passes upon disciplinary recommendations of the Board of Governors of the State Bar.

The case files of the Supreme Court present a rich treasure trove of research opportunities. The Supreme Court records begin in 1850 and include civil and criminal case files, minutes, registers of actions, opinions, calendars, clerks' correspondence, and other administrative records of the court. The collection includes case files for such historic, landmark cases as *People v. Gold Run Ditch and Mining Co.*, 66 Cal. 138 (1884), and *Lux v. Haggin*, 69 Cal. 255 (1886), important decisions that helped to shape the state's water and environmental laws. Also included in the collection are cases concerning contract law and tort law such as *Colton v. Stanford*, 82 Cal. 351 (1890) and *Seely v. White Motor Co.*, 63 Cal.2d 9 (1965).

Other prominent cases in the collection concern civil rights. The case of *Pleasant v. North Beach and Mission Railroad Company* is a landmark case that outlawed racial discrimination on San Francisco's public trolleys (*Appeal of North Beach & M.R.R. Co.*, 32 Cal. 499 (1868)). One prominent case receiving current attention is *Perez v. Sharp*, 32 Cal.2d 711 (1948) that overturned the state law prohibiting interracial marriage.



PLEASANT V. NORTH BEACH AND MISSION RAILROAD COMPANY — THE LANDMARK CASE BROUGHT BY MARY ELLEN PLEASANT, “THE MOTHER OF CIVIL RIGHTS IN CALIFORNIA,” THAT OUTLAWED RACIAL DISCRIMINATION ON SAN FRANCISCO’S PUBLIC TROLLEYS: TRANSCRIPT FOR APPEAL OF NORTH BEACH & M.R.R. CO., 32 CAL. 499 (1868), FILED JUNE 20, 1867.



PEREZ V. SHARP —
THE 1948 CALIFORNIA SUPREME COURT
DECISION THAT OVERTURNED THE STATE LAW
BANNING INTERRACIAL MARRIAGE:
PETITIONER'S REPLY BRIEF,
FILED NOV. 8, 1947.

Parallels have been drawn between the *Perez* case and the prohibition of same-sex marriage.

Appellate Courts

The courts of appeal were established by constitutional amendment in 1904. They are California's intermediate courts of review and have jurisdiction when superior courts have jurisdiction and in certain other cases prescribed by statute. They exercise mandatory review of any appealable order or judgment from a superior court, except in cases in which the death penalty is imposed, over which the Supreme Court exercises mandatory appellate jurisdiction. There is no constitutional right to an appeal, and the Legislature has the power to determine and change which matters are appealable, as decided in *Powers v. City of Richmond* 10 Cal.4th 85, 108 (1995).

California has six appellate districts, each organized into at least one division. Each division is headed by a presiding justice and has two or more associate justices. Justices are appointed by the governor after review by the Commission on Judicial Nominations. The Constitution requires that the governor's appointments must be approved by the Commission on Judicial Appointments, which consists of the chief justice, the attorney general, and the presiding justice of the court of appeal of the affected district. The Constitution prescribes a term in office of twelve years for justices of the courts of appeal, subject to retention by the public at the next general election following appointment and confirmation, and at the conclusion of each term.

Appeals from superior court judgments in both criminal and civil cases must be decided on the merits of the case based upon the record on appeal. The courts of appeal do not hear testimony, retry the case or reconsider the factual findings of the judge or jury. They review the final judgment or appealable order for prejudicial errors of law. Courts of appeal have original jurisdiction in habeas corpus, mandamus, certiorari and prohibition proceedings. In most writ proceedings, the court has discretion whether to decide the merits of the claims set forth in the petition.

Decisions of the courts of appeal are subject to discretionary review by the California Supreme Court, but the scope of review by the Supreme Court differs from that by the courts of appeal. The Court of Appeal's primary function is to review the trial court's judgment for legal error. The California Supreme Court's review is to decide important legal questions and maintain statewide uniformity of decisions. In addition to review by the Supreme Court, the decisions of the courts of appeal are subject to certain types of review in the federal courts based upon federal constitutional and statutory grounds.

The California State Archives collection contains records from all six appellate courts: San Francisco, Los Angeles and Sacramento (created by election on November 8, 1904), Riverside/San Bernardino (Statutes 1929, c. 691), Fresno (Statutes 1961, c. 845) and most recently, San Jose (Statutes 1981, c. 959). The records consist primarily of appellate case files and registers of action. Due to the volume of appellate cases, only a sampling of case files have been retained by the Archives, using a process developed through research at the National Archives.

OTHER COLLECTIONS OF NOTE

Los Angeles Police Department Records of The Robert F. Kennedy Assassination Investigation

Robert F. Kennedy, then a candidate for the Democratic Party's nomination for President of the United States, was killed by an assassin in June, 1968. Sirhan Sirhan was prosecuted and convicted in Los Angeles Superior Court. Despite the fact that Sirhan was captured at the scene, gun in hand, and the investigation concluded Sirhan had acted alone, there was continuing speculation that there had been a conspiracy. The City of Los Angeles, ultimately weary of handling demands to open the records, transferred the police investigation files to the State Archives for processing and public research.

When the California State Archives received the Kennedy assassination investigation records in August 1987, it was apparent that the records would require special treatment, in part due to the magnitude of the investigation and the size and types of records generated by it. Among the

50,000 pages created by Special Unit Senator (SUS) are a card index of over 8,200 entries, over 4,800 interviews, nearly 2,900 photographs, and 155 items of physical evidence.

The records are divided into four distinct groups. The largest group by far consists of the records of Special Unit Senator, 1968-1969, which conducted the investigation. The bulk of the SUS records relate to the interview process — including interviews, transcripts, or tape-recorded interviews. Other large series exist on conspiracies — in the Conspiracy Investigation Files, and in the Final Reports.

The second group is relatively small in comparison, but significant. These are the Re-investigative Files, 1974-1978, which focus on many of the “second-gun” theories that surfaced after Sirhan’s trial. The third body of materials comprise the exhibits presented at and prepared for Sirhan’s trial. The fourth group of records is the Wolfer Board records that constitute an internal investigation by the Los Angeles Police Department into allegations against DeWayne Wolfer related to the ballistic studies he conducted in the case.

Research potential for this collection is enormous, as it speaks to issues of executive protection, media-police relations, management of highly sensitive crime collections, police investigative procedures, legal handling of notorious cases with high media interest, the viability and persistence of conspiracy theories, and many other topics.

Oral History Collection

Over 400 oral histories in the State Archives supplement the written historical record, offering insights into actual workings of the legislative and executive processes. Interviewees include such important public figures as Ronald Reagan, Edmund G. Brown, Sr., long-time legislator Ralph Dills, Proposition 13 champion Paul Gann, California author Carey McWilliams, former Superintendent of Public Instruction Wilson Riles, and many others. As a large number of the oral histories were done with individuals who experienced the same historical events, it is possible to consider the sharply different perspectives of these individuals, and what motivated them. This can lead to a more incisive understanding of the state’s recent political and legal history.

CONCLUSION

What is written above constitutes only the “tip of the iceberg” of the broad and diverse array of the Archives’ holdings. There are few limits on the scope of potential legal history research that can be conducted at the State Archives, and the Archives’ reference staff is happy to discuss possible topics and available resources. Books, articles, dissertations, theses and other studies remain to be done on a wide number of subjects that are important to an understanding of the state, and that may be consequential for its future direction.

A small sampling of books wherein the writers made use of the Archives’ collections is illustrative: John Boessenecker, *Badge and Buckshot: Lawlessness in Old California* (1988); Edmund (Pat) Brown and Dick Adler, *Public Justice, Private Mercy: A Governor’s Education on Death Row* (1989); Neal Harlow, *California Conquered: The Annexation of a Mexican Province, 1846-1850* (1982); Albert H. Hurtado, *Indian Survival on the California Frontier* (1988); Philip H. Melanson, *The Robert F. Kennedy Assassination: New Revelations on the Conspiracy and Cover-up* (1991); Dan E. Moldea, *The Killing of Robert F. Kennedy* (1995); Gerald D. Nash, *State Government and Economic Development: A History of Administrative Policies in California, 1849-1933* (1964); William B. Secrest, *Lawmen and Desperadoes* (1994); and James C. Williams, *Energy and the Making of Modern California* (1997). ★