

# LEGAL HISTORY TREASURES IN THE CALIFORNIA STATE LIBRARY

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One of the first acts of the Legislature in 1850 was to create the California State Library. Over the past 172 years, the library has grown into an eclectic mix of physical and digital materials that includes millions of books and photographs as well as Gold Rush-era maps, suffragists' diaries, immigration logs, paintings, and posters.

Here's what eclectic means: One of the 232 known Shakespeare First Folios and the campaign materials from actor Gary Coleman's mercifully unsuccessful run for governor in 2003. Lawbooks, in Latin, from the 1500s and the moustache of Tiburcio Vasquez, an infamous thief hanged in 1875. The personal diary of the leader of the first wagon train into California in 1841 and more than 100 Family Dog posters of '60s San Francisco rock concerts.

There are stories of innovation, compassion, injustice and grit. Some well known, others obscure. Stories that describe who and what California is, has been and will become.

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Some of the State Library's greatest treasures can be found at its one branch, the Sutro Library,<sup>1</sup> located on the top floor of the undergraduate library of San Francisco State University.

Besides the First Folio, Sutro is home to more than 90,000 rare books, photographs, pamphlets and manuscripts including one of only two known copies of the *Ordenanzas y Compilación de Leyes*, the Western Hemisphere's first lawbook, published in 1548 in Mexico City.

One of the characteristics that sets Sutro and the State Library apart from other research libraries is access. The materials in the State Library's care are owned by 39 million Californians. And if one of the owners comes to Sutro asking to see their lawbook or avail themselves of some Falstaffian wit, it's the State Library's pleasure to facilitate the request.

That said, a librarian will likely hover protectively. And nobody is going to be taking home the First Folio or the *Compilación de Leyes* — even if Dante's Inferno freezes over.

The State Library also stores and organizes federal and state publications, is home to the Bernard E. Witkin Law Library, and serves as the lead state agency for library-related services throughout California.

This kind of wide and often deep collection fosters a unique synergy in exploring California. For example:

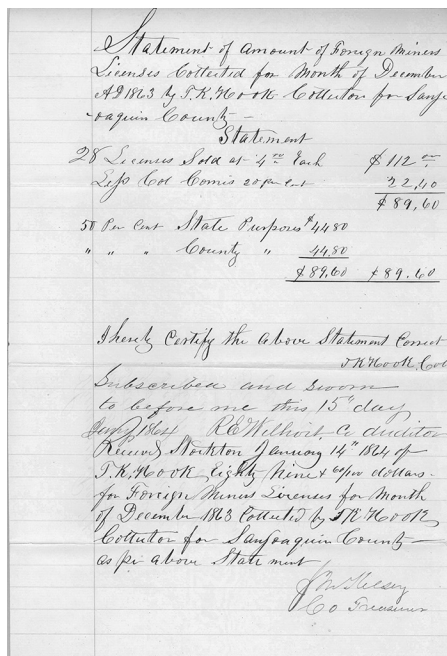
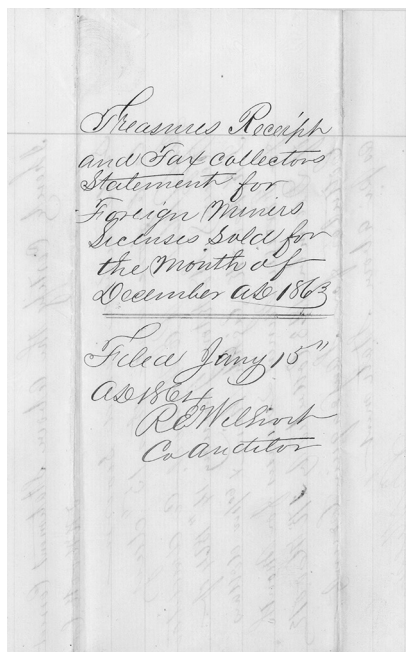
In the first year of California's statehood, lawmakers and the governor enacted a Foreign Miners Tax, levying \$20 a month on any "foreigner" engaged in mining. The measure was aimed at discouraging Chinese and Latino miners but also was imposed on European miners as well. Those immigrant miners who stayed, protested the measure and the tax was subsequently reduced to \$4 a month and imposed primarily on Chinese immigrants.

In the State Library's California History collection, there is a Chinese translation of the (\$4-per-month) 1852 Act and some receipt stubs issued to miners. One receipt, from the initial miner's tax, was issued to a German miner, reflecting his \$20 payment. A later receipt lacks a name and simply states that the bearer had paid \$4 — the fee Chinese miners had to shoulder after the 1852 tax renewal.

Speeches from lawmakers and the governor defending the tax are available, as are revenue records. For example, San Joaquin County's ledgers

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<sup>1</sup> <https://www.library.ca.gov/Sutro/Collection>.



**SAN JOAQUIN COUNTY. "TREASURER'S RECEIPT AND TAX COLLECTOR'S STATEMENT FOR FOREIGN MINER'S LICENSES SOLD FOR THE MONTH OF DECEMBER AD 1863." JANUARY 15, 1864.**

*From the Foreign Miners Tax Documents. Box 3481, Manila Envelope.  
Courtesy California State Library.*

from the mid-1850s lay out how much revenue the tax brought in and how the county divided this income with the state. Placer County's ledger for October 1861 shows the foreign miner's tax yielded \$30,000 in revenue — 7,500 payments of \$4. The revenue from the tax represented approximately one-third of the taxes and fees recorded in this ledger for that year.

More broadly, there is also a research guide to the resources the State Library has relating to mining in general in California.<sup>2</sup>

At the law library there is an 1864 compilation of the statutes of California and the Nevada Territory relating to mining corporations, canal companies, assessments, mining partnerships, mineral lands and actions respecting mining claims, taxation and foreign miners.

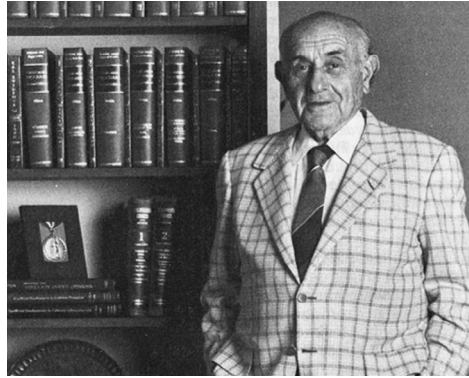
<sup>2</sup> <https://www.library.ca.gov/wp-content/uploads/2021/08/MiningResearch.pdf>.

The first compilation was followed by a subsequent volume in 1866 that includes a discussion of water rights.

A similar compendium of Spanish and Mexican law relating to mines and title to real estate, a thorny legal issue in California's early statehood, is also available.

## WHAT'S AT THE WITKIN?

Although it holds an extensive collection of photos showing Bernie Witkin on both public and private occasions,<sup>3</sup> the Witkin Law Library's focus is historical California legal and regulatory research. To better place California in perspective, the Witkin Library includes statutory and judicial law from all fifty states and U.S. territories as well as federal and international specialties. Building upon an expansive collection of primary sources, secondary sources include historical court rules and treatises.



WITKIN NEVER TIRED OF WORKING, AND CONTINUOUSLY EDITED HIS BOOKS THROUGHOUT HIS LIFE. FORMER STATE BAR PRESIDENT SETH HUFSTEDLER RECOUNTS THAT WITKIN SAID, "I'M 80 THIS YEAR. I'VE BEEN THINKING FOR SOME TIME THAT MY BOOKS NEED REWRITING . . . AND I'M GOING TO REWRITE ALL OF MY BOOKS IN THE NEXT FIVE YEARS" (AND HE DID).

*Witkin Law Library,  
Courtesy California State Library.*

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<sup>3</sup> The law library's namesake, Bernard Ernest Witkin is widely known for his foundational works on California law, which include the *Treatises on Civil Procedure, Evidence, and Criminal Law*, the original *California Rules on Appeal*, the *California Style Manual*, and the *Manual on Appellate Court Opinions*, as well as his philanthropic work in creating the *Foundation for Judicial Education* which provides continuing education to California judges. Bernie became the preeminent scholar of California law and created an entirely new standard for legal education and judicial ethics in California. *Bernard E. Witkin Biography*, CALIFORNIA STATE LIBRARY, <https://library.ca.gov/law/witkin> (last visited August 15, 2022).

To honor Bernie's impact on California's legal system, the state legislature passed Education Code Section 19328 in 1997 and renamed the State Law Library as the "Bernard E. Witkin State Law Library of California." At the dedication ceremony in 1998, his portrait was officially unveiled and now hangs in the library.

More and more of the Witkin's resources are available online. Various research tools and guides can be found on the law library's homepage.<sup>4</sup> A particularly useful tool is a statute-to-bill number database<sup>5</sup> to assist researchers in locating a statute's legislative bill number, which differs from the measure's "chapter" number. The interactive tool contains information regarding California statutes and their corresponding bill numbers dating back to 1865. Given the time-savings this provides, it is puzzling that no one had created this already.

Elsewhere at the Witkin Library are:

### *California Supreme Court and Appellate Court Briefs*

The collection of briefs at the Witkin Library is nearly complete. It is so extensive that not all can be housed on-site. Published opinions of these two courts are available online but briefs are not. For the Supreme Court, briefs date to 1863. Court of Appeal briefs date to the start of that court in 1904.

### *Senate and Assembly Bills*

The law library has a nearly complete collection of legislative bills from 1867 forward and virtually all versions of legislation from 1876 to the present. The State Library is working to fill the collection's holes. Bill books contain all versions of a bill from its introduction through when it was either chaptered or last amended. Trying to establish legislative intent? This collection shows how the language of a bill changes between floor readings, helping to decipher what the authors did — and didn't — intend to do.

A different perspective can be found in the California History section by examining, for example, the Commonwealth Club of California's journal, *Commonwealth*. Running from 1903–1988, *Commonwealth* and its sister publication, *Transactions*, analyze a cornucopia of state and federal issues, from treaties to state highways to fire insurance rates. Often, the Commonwealth Club invited government representatives to speak at their meetings, and those speeches are also recorded in these two periodicals.

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<sup>4</sup> <https://www.library.ca.gov/law>.

<sup>5</sup> <https://www.library.ca.gov/law/ca-statutes>.

### *California Codes*

Editions of the California Codes go back to 1872. There are copies of the original Code of Civil Procedure, the Civil Code, the Penal Code, and the Political Code. These code books provide enactment dates, notes to relevant court decisions, and complete citations of the code history to aid in legislative intent research.

### *California Code of Regulations (1945–date)*

Laws beget regulations and one can no longer be considered without an understanding of the other. This collection contains all the administrative regulations of California state agencies adopted pursuant to the Administrative Procedure Act, dating to 1945.

### *California Building Standards Code*

Routinely, the largest number of searchers on the State Library website are seeking Title 24 of the California Code of Regulations, which is maintained by the California Building Standards Commission and is published in its entirety every three years. The law library maintains a collection of building codes from various publishers dating to 1927, the genesis of the Uniform Building Code. In 1978, legislation required building standards be unified in a single code, Title 24. Ten years later, Title 24 was applied to all occupancies throughout the state. Is it any wonder, there are some many searches?

### *California Law Prior to and Immediately Following Statehood*

California laws were printed in Spanish up to 1879. As decreed by Article XI, Section 21 of the 1849 California Constitution, all laws, decrees, regulations, and provisions were published in both English & Spanish. This continued for 30 years until the 1879 Constitution no longer included this provision. Witkin has copies.

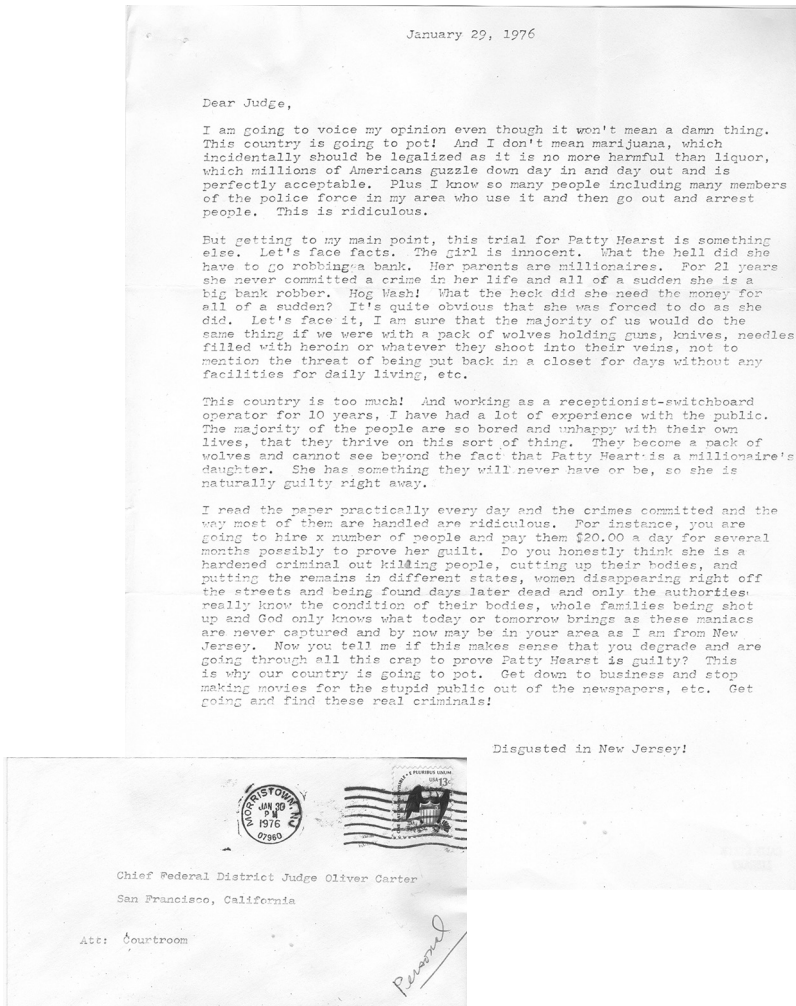
### *Pre-Statehood Leyes Constitucionales, 1836*

The *Siete Leyes* (Seven Laws) were enacted under President Antonio López de Santa Anna of Mexico mainly to concentrate power in the president and his immediate subordinates, a fundamental altering of the structure of the first Mexican Republic. These laws would have theoretically been enforceable in the area that became California, but it is still debated whether they were.



## A UNIQUE LOOK AT PATTY HEARST'S TRIAL

For an insider view, peruse the law library's transcript of the trial of Patricia Campbell Hearst and then review the personal papers of Oliver Carter, the federal judge who presided. In her 1982 memoir (also available at the library) chronicling her kidnapping by the Symbionese Liberation Army



**DISGUSTED IN NEW JERSEY! "LETTER TO JUDGE OLIVER J. CARTER."  
JANUARY 29, 1976.**

*From the Oliver J. Carter Collection. Box 1949. Folder 3. Letter 3.  
Courtesy California State Library.*

and subsequent trial for bank robbery, Patty Hearst calls Carter a “crusty old judge” who couldn’t “resist the publicity.”

Carter’s papers illustrate the pressures faced by a judge presiding over a high-profile trial. In addition to Carter’s trial notes and his personal summaries of each witness’ testimony, are twenty-two boxes of largely “hate mail” directed at either Hearst or Carter or both.

## VIOLATIONS OF THE CIVIL LIBERTIES OF JAPANESE AMERICANS

Lots of universities, museums and the National Parks Service have important materials that help bring the incarceration of Japanese Americans in World War II not only to life but keep it in memory so that, hopefully, such a thing is not repeated.

On February 19, 1942, the United States federal government issued Executive Order 9066. Under its provisions and subsequent military orders, 120,000 Japanese Americans were required to report to their local authorities for forcible removal to camps, where they were held for the duration of the war. Many Californians of Japanese ancestry had to sell homes, businesses, and farms at fire-sale prices, or just abandon them.

For more than twenty years, the State Library has been awarding grants to a variety of groups through its Civil Liberties Public Education program<sup>6</sup> to aid in remembering the rights violations of the past and help prevent them from happening today or in the future.

One of the grantees is the state university system, which is consolidating and digitizing its Japanese American incarceration collection to make it more accessible. The State Library is also using its own funds to create digital audio and video copies of the oral histories of camp internees in its possession.

The State Library offers several gateways into examining this stain on the state and nation including the papers of James C. Purcell, a lawyer who represented several Japanese Americans who fought the actions of the federal and state government.

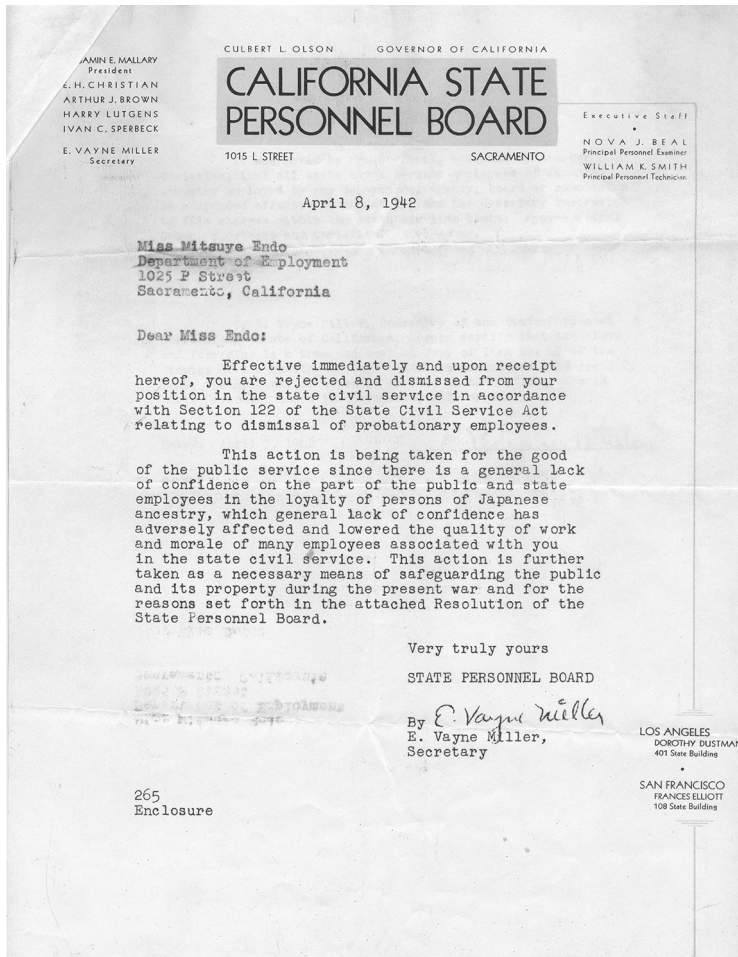
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<sup>6</sup> <https://www.library.ca.gov/grants/civil-liberties>.



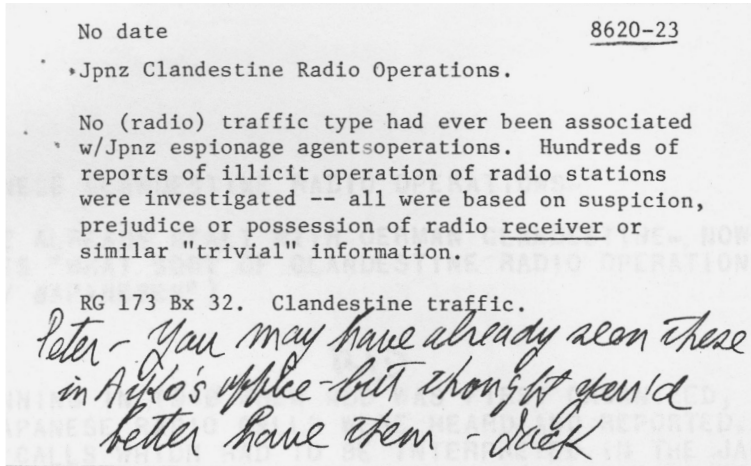
Purcell's clients include Arthur Morimitsu, Yoshio Kamikawa, and Mitsuye Endo. Like Morimitsu and Kamikawa, Endo was a state employee, fired from her job after the declaration of war on Japan due to her Japanese ancestry. She sued the state for wrongful termination.

Upon consulting with Purcell, Endo decided to aim higher and challenge the incarceration itself. Her case was eventually heard by the U.S. Supreme Court. The Purcell papers contain details of both the employment



**CALIFORNIA STATE PERSONNEL BOARD. "LETTER TO MITSUYE ENDO." APRIL 8, 1942.**

*From the James C. Purcell Collection. Box 3755. Folder 6. Letter 14.  
Courtesy California State Library.*



“COPY OF A NOTE CARD TITLED  
‘JPNZ CLANDESTINE RADIO OPERATIONS.’”

From the Fred Korematsu Collection. Box 3895. Folder 13. Item 1.  
Courtesy California State Library.

case and of the subsequent habeas corpus case as it wound its way through the District Court, the Court of Appeals, and finally the Supreme Court.

Interestingly, the collection includes drafts of Purcell’s various district court arguments showing how he refined his thinking before presenting the case. The collection also contains correspondence with Endo, including a letter regarding finances at the outcome of her wrongful termination case. Her award for that case was \$58.99 in back pay, which Purcell asked for in fees rather than his previously agreed-upon \$100.00 fee.

Purcell’s papers also shed light on a parallel case before the Supreme Court filed by Fred Korematsu. Korematsu had also challenged the legality of Executive Order 9066, although his grounds were slightly different than those of Endo. Purcell’s papers contain copies of some of the arguments submitted by Wayne Collins, Korematsu’s attorney, at the district court level, as well as the briefs submitted by Collins and the ACLU at the Court of Appeals and the Supreme Court.

Unlike Endo, Korematsu lost his case in the Supreme Court, but tried again in 1982 with a *coram nobis* case against the federal government. The State Library holds a collection of papers related to this effort, documents that take the researcher through many of the background steps in building

the landmark case. Along with the briefs submitted by Korematsu's legal team to the district court and eventually to the Supreme Court, the Korematsu papers contain practically every scrap of documentation that Korematsu and his lawyers relied on to build their case, right down to the time sheets submitted by the researchers tasked with unearthing the letters between government officials.

## CARYL CHESSMAN

Caryl Chessman was arrested on suspicion of being the "Red Light Bandit" in 1948. ("Red Light" because two of the crimes he was charged with involved cars stopped at traffic lights.) Chessman elected to represent himself in court, and in his legal briefs, kept on file at the State Library, he argued that he was not guilty of the crimes attributed to the Red Light Bandit.

After failing to convince the jury of his innocence, Chessman received the death sentence for two of the crimes (kidnapping for the purpose of robbery) and entered the fight of his life. He sent out appeal after appeal,

Rosalie S. Asher May 2, 1960  
attorney at law

Dear Rosalie:

I hope you were able to get a little rest for these grueling hours ahead. It's now nearly seven a.m. and, since you've left, I've spent the remainder of the night writing letters.

I'm doing something for Mary Crawford and I'll give it to the Warden, along with the letter to Will Stevens and a personal note for Pony.

Accompanying this letter are notes which I'll appreciate if you'll deliver to (or mail to) Bernice, Ted & Dorothy, and Shirley and Irwin Moskovitz.

I've also written and will ask the Warden to mail notes to George Davis and Lorraine, Mrs. Nova Hull (a friend in Indiana), Phil Daniel, Danny Charleson, Dr. Zifertstein, Bill Linhart (asking him to return one of the files and other property of mine which I kept the Royal), and Phyllis Voth.

There were several others I would have written but I simply ran out of time. Kindly, as time permits, make it a point to thank those I was unable to, including Frank Olson, son.

Rosalie S. Asher

for you to carry on calmly and and efficiently confronted with these indescribable pressures. It eloquently bespeaks your character and dedication.

I just got the word, Rosalie. The California Supreme Court has denied all of our applications. How could they have waited until virtually the last minute to do this? I'll never understand.

And so I must say goodbye, Rosalie.

As ever,  
Caryl

### CARYL CHESSMAN "LETTER TO ROSALIE ASHER." MAY 2, 1960. (THE DATE OF CHESSMAN'S EXECUTION).

From the Asher-Chessman Collection.  
Box 3428. Folder 10. Letter 27.  
Courtesy California State Library.

attacking the original decision on every ground he and his various legal advisors could think of, even seeking clemency from then Governor Pat Brown. The Chessman collection includes his well-used typewriter.

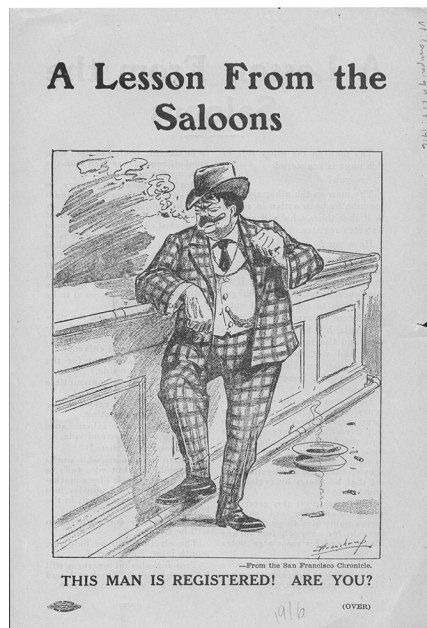
Chessman's appeals met with failure time and time again, but records of many of those attempts exist in these files, as does Chessman's extensive correspondence with individuals across the country, including Louise Caffin and legal advisor Rosalie Asher. According to Chessman himself, in his book, *Cell 2455*, also available at the library, "litigation was a means — seemingly the only means — to an end. That end was survival."

Chessman's papers were used to create a 2016 play, *Chessman*, dealing with his last months on Death Row and last-ditch efforts to avoid execution.

## POLITICS

Any self-respecting state library located in any state capitol would have boxes of political material. California is no exception. Mailers, walking pieces, scripts, commercials from many statewide propositions are organized by election year. What makes this collection a standout is that the campaign ephemera goes back to 1850 for both candidates and ballot measures. Does it contain information on every campaign of every candidate and ballot measure? No. But the collection is quite extensive.

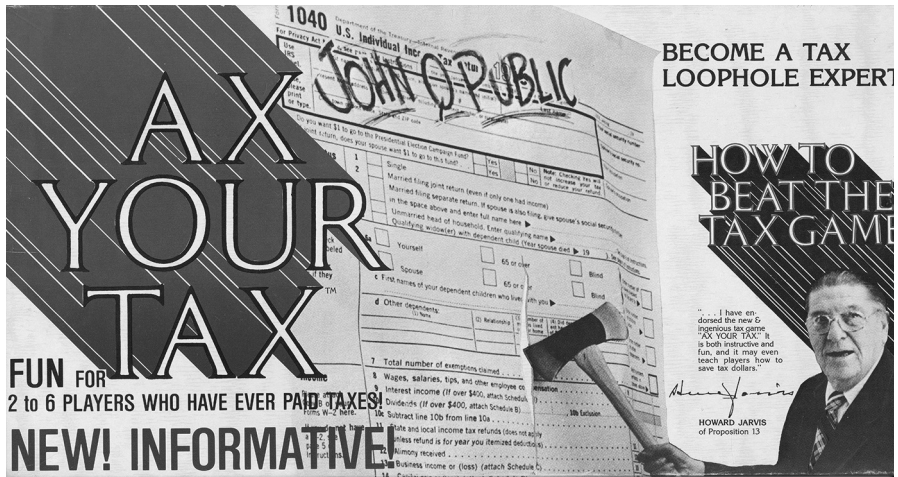
In addition to Gary Coleman's 2003 campaign materials, there are opposition arguments against Upton Sinclair's EPIC ("End Poverty in California") campaign for



### LESSON FROM THE SALOONS. SAN FRANCISCO.

Allied Printing Trades Council [1916].  
(1 sheet: 9 x 6 in). [CIFII\_Scan130] Filed  
in Vertical File : Campaign Literature :  
1916. Courtesy California State Library.





HOWARD JARVIS. *AX YOUR TAX BOARD GAME*. 1979.

*The Howard Jarvis Collection. Box 2124. Courtesy California State Library.*

governor in 1934 and the successful pitch used by supporters to win approval of Proposition 13 in 1978.

Speaking of Proposition 13, the library has collections of materials from both of the proposition's backers, Paul Gann and Howard Jarvis. In the Paul Gann collection, researchers can see items like petitions, correspondence with election officials, information sent out to mailing lists, newspaper editorials, and many of the other items involved in helping a proposition reach the ballot.

There's also information on other campaigns Gann participated in such as Proposition 8 — the so-called Victims Bill of Rights — and Proposition 4. Approved by voters in 1979, Prop. 4 caps state spending. Prop. 4's restrictions are impacting lawmakers and the governor's budget decisions today.

The Jarvis collection, meanwhile, contains several boxes devoted to the legal defense of Prop. 13, including arguments in favor of the proposition used in a lawsuit that went before the Supreme Court as well as many items from the Howard Jarvis Taxpayers Association, which Jarvis founded and ran until his death in 1986. On the offbeat side is the "Ax your Tax" board game issued in 1979, which aimed at educating players about various California tax loopholes.

## IN SUMMARY

The State Library isn't exactly Arlo Guthrie's "Alice's Restaurant." A researcher can't get anything they want. But if the library doesn't have what someone is seeking, the team will work to connect the requestor with the requested item, wherever it might be located.

As the library moves deeper into the twenty-first century, the marching order is to make more and more unique holdings available to California and the world, whenever they want it. Because that's not only what's expected by the owners but what the owners deserve.

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