
Legal Literature

JULIUS J. MARKE

"THE FIRST THING about our legal system that strikes a European or Latin-American lawyer is its sheer bulk."¹ In essence this statement by the late Chief Justice of New Jersey reflects the changing nature of law libraries in the United States. From a mere 5,000 reported English cases around the turn of the seventeenth century the modern lawyer must now contend with millions of judicial opinions alone.² A similar situation prevails in statute law. In 1946-1947, for example, the legislatures of the 48 states and the Congress enacted 56,701 pages of statutes. This huge mass of legislation merely supplemented the existing codes of the federal government and the several states which filled 274 massive books aggregating 267,777 pages by themselves.³ The growth of law library collections in the twentieth century has taken on such proportions that Fremont Rider's piquant deduction that libraries double in size nearly every 16 years is more than substantiated by this evidence.⁴

Law in the books has become a formidable problem for law librarians and others concerned with their maintenance and use. Whereas formerly a law collection was sufficient if it contained a proper representation of judicial decisions, constitutions and statutes, as well as the necessary digests, indexes, encyclopedias, annotated cases, treatises, restatements and citators, today such a collection would be found wanting. To what do we owe this metamorphosis?

First, it should be noted that what was once considered peripheral to the law collection is now treated as significant and important. No law library administration which professes to offer an important research collection would evaluate it as adequately comprehensive by simply stocking all the U.S. jurisdictional reports and statutes and secondary aids to their use, bulky and shelf-consuming as these materials are. Nor for that matter could it act complacent even if it boasted the leading treatises and texts on the law. Today, a library collection keyed to the needs of modern legal researchers must contain

Mr. Marke is Law Librarian and Professor of Law, New York University.

Legal Literature

a wide assortment of literature formerly considered as properly belonging in the general library collection. Biographies, history, source and document books, trials, bibliography, philosophy and jurisprudence, political science, and fiction have now rightfully taken their place on the law library shelves. But even this itemization merely reflects part of the change occurring in the holdings of law libraries.

Over the last 40 years a great mass of literature has gradually assumed importance in legal research. Legal periodicals, government documents, administrative law and regulations, both federal and state, foreign law, international law, topical loose-leaf services, and the literature of the social sciences have not only become indispensable to the legal researcher but have also brought with them attendant problems in their selection and use. These materials are presently adding considerably to the bulk of law library collections as well as in a subtle way compounding the difficulties of legal research.

Pollack and Maitland's characterization of the law as "a seamless web" has taken on a new connotation in legal research. Today it is recognized that law is so closely interrelated with the social sciences that it can no longer be isolated from them. Justice Holmes stated it well when he predicted early in the century: "For the rational study of the law the black letter man may be the man of the present, but the man of the future is the man of statistics and the master of economics."⁵

Justice Brandeis probably best exemplified this transition when, as an attorney, he emphasized statistical and economic data to support legal concepts in his arguments.⁶ His thought that "out of the facts grows the law" has now been promoted to the status of a legal maxim and legal researchers look to the law collection for related materials in the social sciences.⁷

Today lawyers must be sensitive to the social trends in order to anticipate how the law will respond to social pressures in the future. Only recently a staff member of the law library of New York University was requested by a member of the faculty to locate materials on the economic, psychological, and sociological effects of trusts—especially spendthrift trusts—upon the economy and upon the character of beneficiaries. In areas pertaining to zoning, proportional representation, taxation, or labor and anti-trust litigation, the law librarian must acquire materials in disciplines other than law when such materials are pertinent and interrelated. In fact it is to be noted that there is a growing number of books being written jointly by lawyers and representatives of these other disciplines, such as doctors, econo-

mists, political scientists, anthropologists, sociologists, etc.⁸⁻¹⁰ All this, of course, is being reflected today in the law school curricula, which now include seminars in interdisciplinary areas to meet the new challenges facing society whether it be in space law or food, drug, and cosmetic law.

The increasing use of economic, sociological, psychological, or similar data in legal research presents a new problem to the university law librarian. Should it be his policy to acquire apposite nonlegal materials in the field of social sciences which are available in the general university collection? It is true that recognition of the importance of the social sciences in properly understanding our continually changing concepts of law has already necessitated the acquisition in the law library of selected titles in this area. Now the question arises: Should expensive reference tools in the social sciences be purchased by the law library, such as the *Public Affairs Information Service*, the *International Index*, the *Encyclopedia of the Social Sciences*, and similar tools which are available on the reference shelves of the general library. It is the writer's considered opinion that the answer should be in the affirmative. The scholarly interest of lawyers in the social sciences has become so extensive and research therein has increased to such depth that he believes that duplication of these reference tools is warranted when there is sufficient frequency of demand. This is not to indicate that the law library collection will some day be a counterpart of the campus library, but to suggest the raw challenge to the law librarian in selecting materials of vital use to his patrons.

The problem is just as acute with reference to materials in the scientific and technical fields. Law schools, bar associations, industry and government, with foundation support, are now engaged in research projects pertaining to the law of water resources, urban renewal, atomic power, oil and gas (mineral law), space law, food, drug, and cosmetic law, and similar fields. Because of current technological and scientific developments, legal researchers engaged in these projects, must necessarily depend upon the findings of scientists to draw criteria and standards for the law. At what point would a pesticide used on food become harmful to humans? This is a problem lawyers representing the food producers and government must eventually resolve by depending upon scientific data. Lawyers would like to have this scientific information available in the law collection to guide them in legal situations of this sort. A marked flow of such technical and scientific literature into the law library collection can now be noted.¹¹

Legal Literature

The need felt by legal researchers for the materials of administrative law and the recognition of the importance of government documents in the field of legislation have also characteristically affected the changing trend in law library holdings. It has been said that the use of administrative boards in the twentieth century "constitutes one of the most notable trends in public administration and in fact government itself."¹²

A plethora of administrative rules, regulations, and decisions of these regulatory agencies must be consulted to solve even a minor point of law involving federal government control of a particular industry or public service. The *Federal Register*, the *Code of Federal Regulations*, the decisions, annual reports, and press releases of the various agencies, the administrative interpretations, such as those of the Treasury Department on its own rulings on taxation, all create a formidable barrier to the inquiring lawyer. This unhappy situation is aggravated by the lack of primary source material at the state administrative level. The legal researcher must pursue a relentless search for these materials, appearing as they do sporadically and often in processed form. At times almost insurmountable difficulties to their accessibility arise because of the lack of bibliographic control over their output.

Born of necessity, the topical loose-leaf service has taken on stature in the field of administrative law. A reference tool that was practically unknown prior to the 1920's, it has become an integral part of the law collections of the nation. The publishers of loose-leaf reporters have shown initiative and ingenuity in presenting the materials lawyers require in order to solve administrative law problems. The nature of these loose-leaf reporters, which are published either weekly or daily, makes them particularly flexible and adaptable for use in research on current developments in the administrative law field. The loose-leaf services of Commerce Clearing House, Prentice-Hall, Bureau of National Affairs, Matthew Bender and Company, and Pike and Fisher on labor and taxation especially and in other areas affected by administrative law have become indispensable to the lawyer of today.

Government documents are also contributing to the changing nature of law library collections. Although many law libraries today depend upon government depository libraries for these documents, they are also, by necessity, being independently integrated into the law collection. Many of them are actually transcripts of original records and as such are primary sources of information on the activities and policies of the executive, legislative, and judicial branches of

the government. To overlook pertinent government documents may well affect the solution to a vexing legal problem, particularly in the field of legislative histories. Law libraries are now systematically assembling the materials of legislative histories, that is, congressional committee reports, hearings, statements in congress, executive comments, etc., as a specialized type of service. The use of government documents, however, especially those published at the state and local levels, presents great problems for the researcher. Over the years such documents have been arranged and classified in an unusually perplexing pattern.^{13,14} The indexes compiled to help locate them have been quite ineffective.¹⁵⁻¹⁹ The researcher must depend upon inadequate and confusing indexes up to 1896 and then check the *Document Catalogue* and the *Monthly Catalog* issue by issue up to the current period. A ten-year cumulative subject index was finally compiled for the *Monthly Catalog* for the period from 1941 to 1950. State publications, unless listed in the *Monthly Checklist of State Publications*, are almost completely lost to the researcher. An excellent paper by Marion H. Hemstreet²⁰ on state and local documents as a source of legal research has recently been published and should be carefully read for guidance in this field.

Because government documents are usually printed in limited editions and quickly go out of print, those titles which they need on a regular and continuing basis libraries find it advantageous to place on standing order with certain dealers (*e.g.*, Dennis and Company, Fred B. Rothman and Company, Bernan Associates, to mention a few thus actively engaged). This service insures automatic receipt of government documents without extra charge. There is the added advantage of a single itemized bill to be paid, as well as elimination of the need for preparing subscription lists each year, checking expirations, and initiating individual orders. For example, under Federal Trade Commission, a library can establish a standing order for its *Annual Report* and *Decisions*. Under the Judiciary, the *Court of Claims Reports*, the *Supreme Court Reports*, the *Customs and Patent Cases*, the *Customs Court Reports*, the *Tax Court Reports*, and the *Tax Court Rules of Practice* can be similarly ordered. Similarly, under the Internal Revenue Service, the *Internal Revenue Cumulative Bulletins* are available and so on.

Another comparatively recent development which has made its imprint upon the law library collection has been the marked increase in the number of law reviews and legal periodicals now being pub-

Legal Literature

lished. By contrast to the selected leading law reviews of a relatively short time ago, extensive collections of law reviews can now be found in many law libraries. Law review articles have attained recognition as scholarly and well organized treatments of current developments in the law and are being liberally cited by judges and legal commentators. The *Index to Legal Periodicals*, a classified index to these reviews, has played an important role in this respect, for its cumulative volumes have given the legal researcher bibliographic control over the contents of the many law reviews. The last cumulative *Index to Legal Periodicals*, covering the period from August 1958 to August 1961, lists 321 legal periodicals as indexed therein. The significance of legal periodicals is well described by J. Myron Jacobstein in the January 1962 issue of *Library Trends*.²¹

Whereas formerly the law librarian had to contend only with the acquisition of British jurisdictional materials apart from American law, the rise of American interest in the diplomatic, commercial, and industrial affairs of foreign countries has been accompanied by the growth of law collections in those fields. Institutes on international relations and on comparative law are springing up, and many law libraries now have extensive collections on foreign and comparative law, as well as on international law.

The world of legal literature has also had to keep pace with the computer and microfacsimile reproduction of books. As contrasted with an increase of almost geometric progression in the total volume of law books, there is an ever-narrowing physical area to house them. This situation has resulted in the era of the "non-book" or the "microform" publication, known commercially as Microfilms, Microcards, Readex Microprint Cards, and Microlex Cards. With some exceptions, the average size of a microcard is approximately three by five inches and is capable of containing as many as 80 pages of material, depending upon the size of the book microcarded. It has been determined that a library or collection of printed material in the form of books, periodicals, records, etc., reproduced on microcard, saves over 95 per cent of the physical space occupied by the material reproduced. Microcards are printed on permanent heavy paper stock, and their legibility lasts indefinitely. Obvious savings occur, too, in the binding and storage costs of periodicals. Microprint is a printing press product rather than a film negative or photographic print which is characteristic of microfilm and other versions of microphotography. It uses carbon ink on the chemical equivalent of rag paper. The

material reproduced is reduced about 400 times and printed on a card six inches by nine. It is claimed that the card has a minimum life of 300 years. By this process 100 pages can be developed on one card. Both microcard and microprint cards can be read by magnifying and projecting them on the screen of a "reader."

The world of law has been more slow to take advantage of this new process than has the world of science, but it has managed gradually to adopt it. At present an impressive mass of microform legal literature is available for purchase, and the holdings of law libraries are beginning to reflect this new medium in areas rarely considered in the past. The Matthew Bender Company is presently making available on microcard the records and briefs of the Supreme Court of the United States and of the Court of Appeals of New York, as well as some of the more important legislative histories of federal acts. In the past many of these documents could not be acquired by many libraries because they were distributed only to certain depository libraries or were published in limited editions. State reports prior to the National Reporter Series and out-of-print issues of law reviews are similarly being reproduced. The Readex Microprint Corporation offers for sale microprint editions of *Hearings of the Senate and House Judiciary Committee*, the *Current Serial Set* (House and Senate documents and reports), the *Congressional Record* with appendix, Senate and House bills, the *Federal Register*, decisions of the more important administrative agencies, and United Nations documents. Oceana Publications offer microcard editions of reports of cases not published in the *English Reports (Full Reprint)* for the period 1220 to 1873. The New York Public Library, in cooperation with the United Nations Library, has undertaken a comprehensive program of collecting and microfilming the official gazettes of many Latin-American countries. The law library of Temple University School of Law is reproducing on microfilm early American reports, long out-of-print and difficult to obtain, as a service to all law libraries. The American Bar Foundation also offers as a service a microfilm copy of many legal materials such as bibliographies, proceedings of the American Bar Association, monographs, law books, reports of international conferences, and reports of state conferences.

The Library of Congress, in cooperation with the University of North Carolina, has published a microfilm edition of all of the earlier legislative, judicial, and executive records of the American states and their various territorial and colonial predecessors representing the equivalent of approximately 8,300 books of 300 pages each. The com-

Legal Literature

pleted project consists of 1,700 reels of microfilm of approximately 100 feet each and comprehends as complete a collection as is known today of all legislative records, statutory law, constitutional records, administrative records, executive records, and court records from the earliest origins in this country to 1850. This material is listed in *A Guide to the Microfilm Collection of Early State Records*, an 800-page catalog published by the Library of Congress. The *Guide* itself can be used as a checklist because of its complete listings. The Photoduplication Service of the Library of Congress will accept orders for positive copies of any reel of the film at \$15 per 100-foot reel, or \$22,400 for the entire collection.

All this activity in microform publication has significantly changed the research capabilities of many law libraries. It reflects a trend that will redound eventually to the best interests of legal researchers. Whether vast areas of the reported decisions predating 1939 will meet this fate or be absorbed in an information-retrieval system that will not only research a particular topic but also print out the pertinent material to be read, remains for a future period of the law. Librarians may refer to a *Guide to Microforms in Print, 1962*²⁴ for a listing of all that is available in microform from U.S. commercial publishers. Titles or projects of some noncommercial publishers are also included. Theses and dissertations are not listed.

These vast changes in book selection have been met in the law library field by significant advances in book selection aids. In a sense, the legal bibliography has come of age in the last decade. Just as Marvin²² and Soule²³ dominated nineteenth-century legal bibliographic America, certain bibliographical tools in the field of law today have become indispensable to the law librarian and legal researcher as selection aids and guides to the literature of law. They are now recognized as significant not only as aids to book selection but also as guides which permit comprehensive legal research on the premises of the library. These bibliographic aids are keys to the collections of other libraries or to organized bibliographic knowledge on the subject concerned, and once known, a book may be borrowed or photocopied to allow the researcher to complete his work without resorting to the use of other libraries.

Writing as recently as 1951, the law librarian of a Southern university law library lamented that the small law school library had great difficulty in developing the library's collection in the basic fields of instruction, for there was "no standard catalog for Law Librarians

and the diligent librarian [had to] use all the varied tools he [could] manipulate to dig out the bibliography of a specialized field."²⁵ Save for the *Harvard University Law Library Catalogue*, published in 1909, Miles O. Price's *Catalog for a Law Library of 15,000 Volumes*, published in 1942, some sundry law library catalogs of ancient vintage, and the special bibliographic features of the *Law Library Journal*, there really was very little published information for a law librarian seeking guidance in law book selection to consult.

The publication of the classified and annotated catalog of Anglo-American law books of an important law school library marked the first major improvement in this unhappy situation.²⁶ Containing some 45,000 entries and 25,000 annotations, the *Catalogue of the Law Collection at New York University* features comprehensive subject and author indexes which facilitate reference to the classified arrangement of materials. The NYU Annotated Catalogue has been acknowledged as a valuable source of information for book selection and is also being used as a ready reference tool to the literature of the law.

One of the difficulties confronting law librarians has been the unavailability of complete and accurate bibliographical information about books in print. Law book publishers have aggravated this situation by failing to list all their publications or giving incomplete information about them in their catalogs and in their announcements. General trade bibliographies are notorious for their incomplete coverage of law books. Designed to fill this lacuna, *Law Books in Print*²⁷ has become the prime reference tool in the field for bibliographic control of current legal literature. It lists books written in English and published in the United States, Canada, and Great Britain. Complete bibliographical information is given, including price. Book entries are listed under subject and author, and all are arranged in one alphabetical listing.

Although *Law Books in Print* has become a standard reference tool for current texts obviously devoted to law, it does not offer complete bibliographical control over all literature of interest to legal researchers. Books on the periphery of law, such as government and criminology, are selectively listed. Statutes, law reports, digests, citators, government documents, periodicals, and annals are excluded. It is therefore necessary to refer to other bibliographical guides for references to these materials. To ascertain documents on legal subjects published by the federal government, the *Monthly Catalog of United States Government Publications* must be consulted, and for state government publications, the *Monthly Checklist of State Publications*. For

Legal Literature

books of interest to law in the social and political sciences, the *Subject Guide to Books in Print*, the *Cumulative Book Index*, and the *Public Affairs Information Service* can prove helpful. To supplement *Law Books in Print*, one should refer to *Current Publications in Legal and Related Fields*.²⁸ Endorsed by the American Association of Law Libraries as a nonprofit service for law libraries, it is published monthly except June, July, and September. It is one of the best acquisition tools which a law library can depend upon for bibliographic control of the most current legal literature. Not only does it list complete bibliographic information about each entry, but it also indicates price and offers additional information about current supplements and continuations to established legal materials.

Beginning in October 1960, the Harvard Law School Library instituted a new bibliographic service entitled *Current Legal Bibliography*, published monthly, nine times a year. A cumulative *Annual Legal Bibliography* incorporates all nine issues. The purpose of the service is to provide a quick survey of the more significant legal writing in all fields of law from all countries of the world. The service is being prepared not only for legal researchers, but also for scholars in the related fields of political science, economics, sociology, and history. The service lists monographs, substantial journal articles, and the contents of collected works of all types currently received by the library, classified by subject and by country.²⁹

The *Law Library Journal*, published quarterly by the American Association of Law Libraries, contains many bibliographical features of value to those interested in checking available current legal literature. One of its more important sections is entitled "Current Publications." It is a selection, by subject, of items appearing in the monthly list of *Current Publications in Legal and Related Fields*. The classified arrangement allows for a subject approach to current legal literature, and it therefore corresponds to a supplement to *Law Books in Print*.

The *Law Library Journal* also features a "Checklist of Current State, Federal and Canadian Publications," which is an up-to-the-minute checklist of current American state reports, National Reporter Series, statutes, statutory codifications, session laws, and administrative reports. Similar information is given for United States and Canadian dominion and provincial publications.

There are several other legal periodicals to which librarians can refer for bibliographic help in the field of law. The issues of the *Record of the Association of the Bar of the City of New York* offer subject

bibliographies, which are usually well chosen, on matters of current interest to lawyers. For example, the November 1961 issue contains a selected list of materials on "African Law and Administration," which can be very helpful to the law librarian concerned with building up his collection in this field. The tax specialist should never miss the listing of "Selected Tax Reading" featured in the quarterly issues of the *Tax Law Review*. In each of its issues the *Industrial and Labor Relations Review* publishes a good bibliography entitled "Recent Publications," which is classified by various facets of labor relations. The *Bulletin of the Copyright Society of the United States* contains bibliographical information on copyright law published in the United States and in foreign countries. *Trusts and Estates* contains a department entitled "Trust and Probate Literature." The *American Journal of Comparative Law* has a book review section of books on comparative law published in many foreign countries. In this respect the book review sections of the *Canadian Bar Review*, the *Law Quarterly Review*, the *Scottish Law Review*, the *University of Toronto Law Journal* are all helpful as well. The book review section of the *Index to Legal Periodicals* indexes checklists and bibliographical articles on specific subjects and also lists all reviews of law books appearing in American and British law reviews. Law reviews themselves are fertile sources of information on the bibliography of law and should be consulted systematically in the book selection process. Another source of new books is the *Annual Survey of American Law*. The authors of the various articles therein usually indicate new books in the subject area treated.

In addition to these aids, law libraries make use of each other's acquisition lists. New York University Law Library publishes an annotated acquisition list. The Yale list is quite comprehensive, especially in foreign law. The University of Washington offers a classified listing. An index that should not be overlooked is the *Index to Periodical Articles Related to Law*, which is arranged by subject and contains references to articles concerned with law selected from journals not included in the *Index to Legal Periodicals*.

While all these aids to acquisition are geared to the needs of the modern legal world, the law librarian to fulfill his obligation to a dynamic profession must also consult the same selection aids in use by general libraries such as *Publishers' Weekly*, the *Library Journal*, the catalogs of new and used book dealers, the book review pages of the *New York Times* and the *Times Literary Supplement*, the *Public*

Legal Literature

Affairs Information Service, and the *American Book Publishing Record*, to name the obvious. Published by Bowker, ABPR offers a complete and accurate record of American book publication in the four calendar weeks preceding its date of issue. It is classified and presents a good selection of current legal literature and material related to law. Each entry is based upon Library of Congress practice. Descriptive annotations and prices add to its value.

There are many other aids to book selection and acquisition which are of value to the law librarian. Space will not permit reference to all of them, but the following should be considered: Joseph H. Beale, *Bibliography of Early English Law Books*;³⁰ Samuel F. Bemis, *Guide to the Diplomatic History of the United States, 1775-1921*;³¹ John D. Cowley, *A Bibliography of Abridgments, Digests, Dictionaries and Indexes of English Law to the Year 1800*;³² Sir John C. Fox, *A Handbook of English Law Reports from the Last Quarter of the Eighteenth Century to the Year 1865, with Biographical Notes of Judges and Reporters*;³³ Charles Gross, *The Sources and Literature of English History from the Earliest Times to about 1485*;³⁴ Sir William Holdsworth, *Sources and Literature of English Law*;³⁵ Lawrence Keitt, *An Annotated Bibliography of Bibliographies of Statutory Materials of the United States*;³⁶ and Percy H. Winfield, *The Chief Sources of English Legal History*.³⁷ Guides such as the *Harvard Guide to American History*³⁸ and *A Guide to the Study of the United States of America*³⁹ are also very helpful.

The American Association of Law Libraries is now engaged in publishing a new series which will offer valuable checklists for use of the law librarian. The *Checklists of Basic American Legal Publications*, edited by Meira G. Pimsleur and published for the Association by Fred B. Rothman and Co., will bring up to date the *Massachusetts Handlist of Legislative Sessions and Session Laws, Statutory Revisions, Compilation, Codes, etc. of the U.S. and of the Several States*, the *MacDonald Checklists of Statutes of States of the U.S.A.*, and *Checklists of Session Laws*. Its purpose is not only to present a bibliographical and reference tool but also to serve as a possible substitute for cataloging basic documents.⁴⁰ The checklist of state statutes will be followed by checklists of state session laws, judicial council reports, opinions of the attorneys-general, and bar association reports.

For checklists of legal periodicals and American and English law reports, reference can be made to Price and Bitner, *Effective Legal Research*.⁴¹ When completed, a new *Checklist of Anglo-American*

*Legal Periodicals*⁴² will offer a description of each Anglo-American legal periodical, with dates of publication, number of issues, pagination, and other pertinent details.

A law library collection, it can be seen, is indeed a reflection of the sophistication and understanding of its staff and clientele. This fact suggests that a primary asset in the growth of law collections is a well informed law librarian together with scholarly readers vitally concerned with the library's development and working as a team. Personal contacts and independently acquired knowledge are as indispensable in book selection and acquisition as are the reference tools and literature which the law librarian must consult.

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7. See also Mr. Chief Justice Warren's controversial footnote 11 in *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954, Segregation Case) in which he referred to several books and articles on social psychology. It is interesting to note in this context that Huntington Cairns, writing in 1935 on *Law and the Social Sciences* (New York, Harcourt Brace & Company, Inc., 1935, p. 5), decided to omit social psychology from his study "because apparently [it had] not reached a stage at which [it had] many material contributions to offer."
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Legal Literature

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JULIUS J. MARKE

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