

Statutory Protection of Library Materials

PETER J. PARKER

IN HIS FIRST LECTURE ON *The Forms of Action at Common Law*, published posthumously in 1909, the English legal historian F.W. Maitland urged that, "we should guard ourselves against the notion that...it was the office of the King's own court or courts to provide a remedy for every wrong."¹ Maitland's advice is as appropriate in the United States today as it was in England seventy-five years ago, especially in the case of American libraries. The purpose of this article is to examine some of the statutory and legal remedies available to library administrators for the protection of their institutions, their employees and their collections. The discussion will focus only upon those remedies that are specific to libraries and will exclude, for the most part, the larger body of law found in the criminal, corporate or municipal codes of the several states. The discussion will be necessarily general because libraries differ so much from one another in the circumstances of their establishment, their governance and their collections. And, because there is no consistency in the laws governing library operations from state to state, it will not be possible to make anything more than some generalized recommendations about when library administrators have no alternative but to seek a legal remedy.

Peter J. Parker is Acting Director, Historical Society of Pennsylvania, Philadelphia, Pennsylvania.

It seems that library administrators are comforted by strong library-specific statutes, laws that make it a crime to steal a book from a library or to deface library property. These statutes may not really be necessary. Most criminal codes protect property owners against theft, malicious mischief and vandalism. Consequently, it is more important for administrators to identify those particular parts of library operations that are not covered by existing law and to remedy those deficiencies than it is for them to work for the passage of a more general library law that supposedly covers all contingencies.

Indeed, the existence of a library-specific statute may be counter-productive. Obviously, effective law enforcement depends upon the cooperation of law enforcement officials. Statutes that create special circumstances—outside the normal, routine experiences of police officers, prosecutors and judges—may be extremely difficult to enforce. Will, for example, the kind of evidence the police have to assemble in a case of library theft differ from that in an ordinary theft case? And, when the time comes to sign a complaint against an alleged miscreant, a library administrator must weigh the uncertain outcome of any legal proceeding against the expenditure of time and money. Throughout this article, then, I shall argue that “going to law” should be the remedy of last resort.

The Library, Museum or Archive & Law Enforcement Priorities

If, as Samuel Johnson propounds: “The law is the last result of human wisdom acting upon human experience for the benefit of the public,” then librarians and administrators are in bad trouble indeed. Or, so it would seem from many of the laws protecting library property drawn in more than thirty American jurisdictions. Library administrators can only conclude that their legislators have been unwise, their law-enforcement officials uninformed, that they themselves have failed to communicate the urgency of their needs, and that, in consequence, many Americans fail to perceive that libraries are threatened.

The manner in which a state has chosen to govern its libraries affects where library laws are found in its statutes. In some states, libraries are under the jurisdiction of the state department of education; in others, libraries may be treated as community institutions and will be in the state’s statutes under municipalities; and in still others, libraries may be a separate department. How the state has chosen to govern libraries may also affect what types of libraries are included in the statutes. For example, states that put public libraries under “municipal-

Statutory Protection

ities" may not include school and academic libraries in the provisions of this section. In states where libraries are governed by the education department or a separate libraries department, school, public, and academic libraries (as well as museum and other public-institution) libraries may be included. In other states, libraries' functions as cultural centers are reflected in their inclusion under such departments as "Art, Artifacts, and Cultural Property" (Montana) and "Arts, Archives, and History" (Mississippi). Where states have assigned criminal penalties for theft, damage, destruction, or defacement of library materials, the penalties may be included in the laws pertaining to libraries; they may be cross-referenced from the library laws to where they appear in the state's criminal code; or they may simply appear in the criminal code. Graded criminal penalties may be applied in some states according to the extent of the theft or damage to library property, but most states have assigned only one level of criminal penalties. Library crimes in the state criminal and penal codes are juxtaposed in amusing or perhaps troubling fashions with such offenses as malicious mischief (Oklahoma) and damage to playground equipment (Massachusetts). These juxtapositions seem due as much to accidents of code revision as to legislators' priorities for libraries. Nonetheless, it is difficult to perceive this patchwork of legislation as "the last result of human wisdom."

Librarians and library administrators must bear some of the responsibility for this state of affairs. While we may believe that our buildings and our collections are being abused by an indifferent public and that law enforcement people will only intervene when the abuse becomes particularly outrageous, we are fooling ourselves if we think we are getting any less than we deserve. All too often, as librarians, we have an unrealistic and parochial view of the obligations of the police and prosecutors to protect the institutions in which we work.

In 1975, the Society of American Archivists (SAA) attempted to deal with the parochial attitudes among archivists. With the assistance of a grant from the National Endowment for the Humanities (NEH), the society began a program of consciousness-raising and cultivation of law-enforcement agencies. They published a security manual prepared by Timothy Walsh, organized and administered a checklist of stolen property, sponsored the drafting of model legislation, and even lobbied the law-enforcement community with well-placed articles in several of their professional journals.² The SAA offered a program that they and the NEH hoped would be sufficiently comprehensive to make a real contribution and to become self-sustaining. Comprehensive it was, but it seemed not to have engendered the support of the library community

necessary to keep the program going. Several explanations for that failure are possible: either the SAA failed to communicate sufficiently with the library community; or librarians, long accustomed to a high rate of loss of current and replaceable titles, did not realize that they had a common problem with their archival brethren, or most likely, the city and university officials and the board presidents responsible for the administration of archives and libraries paid little attention to the importunities of their paid help.

Perhaps one of the reasons that few paid any attention to the information professionals in 1975 is that we had and continue to have an image problem which, even at our most aggressive and expansive, we manage to perpetuate. In the fall of 1983, some determined, angry and frightened archivists and librarians met in Oberlin, Ohio with dealers, law enforcement people and attorneys in what was known as the "Oberlin Conference on Theft." On 19 August, John Horvith, Oberlin's news officer, announced the conference to the press as follows:

Librarians, traditionally thought of as enforcers of silence, for years have been speaking in hushed tones about something far more unsettling than noise and lack of decorum: grand theft.

The undercurrent of concerned whispers has finally given way to a chorus of alarmed voices: formerly reticent librarians are now forced to battle thieves bent on emptying our nation's best libraries of millions of dollars in books and manuscripts.³

Although arch and somewhat contrived, Horvith's introduction to the core of his hard-news release was certainly attention-getting (and considering the media coverage the conference received, he seems to have been right on the mark). The conference itself may have been part of the solution, but I would argue that Horvith's tone is part of the problem.

Early in February 1984 the *Philadelphia Daily News* ran another installment of its "crime in Philadelphia" series calculated to instill in its readers yet another attack of urban paranoia. Complete with maps and charts, the story translated FBI and local crime statistics into the "human terms" with which the readers of almost any metropolitan daily are all too familiar. The story was really rather well crafted in an episodic manner: lines such as "once every eight minutes a major theft is reported to the Sixth Police District" were followed by vignettes in which the reporter described the personal sufferings and anguish of the victims. While many readers may have concluded that those of us who live and work in cities are under siege, there is another important lesson to be drawn from the *Daily News* story: for those of us who work in the Sixth District—where all three of Philadelphia's IRLA libraries are

Statutory Protection

located—prudence rather than paranoia is the appropriate frame of mind, especially when one learns from the story that arrests are made in fewer than one in ten of the reported thefts.⁴

For a number of years I served as the security officer at The Historical Society of Pennsylvania. Intuitively, I suppose I knew about the prevalence of theft in Philadelphia and how few arrests the police were able to make. Like many who have had little professional working contact with the police, I was inclined to ascribe the low arrest rate to police indifference. But, in June 1981, I was jolted out of this rather silly attitude when I called the Police Emergency Operator to report a dramatic smash-and-grab. The impersonal, completely professional voice on the other end of the line first asked “Was anybody injured?” before he let me continue my report. Police priorities were correct, given the neighborhood of the Historical Society, but they were certainly not very satisfactory to an institutional security officer who thought he could rely upon the police to enforce the law.

I learned a good deal about the attitudes of law enforcement people toward cultural institutions that summer. It was a “hot” summer for the city’s libraries and museums. At almost any gathering of librarians or museum professionals, I learned of yet another theft. I learned too about the many ways cultural administrators faced what was obviously a common problem. Some publicized their problems; others thought it best to contain the damage. We decided to bite the bullet: our theft and that from the University of Pennsylvania Museum became the subject of an excellent story in the *Philadelphia Inquirer*. Even so, the police seemed unwilling to match our zeal to catch the thief. After all, they seemed to be saying to us, only some old jewelry and paintings were taken; the watches stolen did not even work. Granted, the police did show momentary interest when they were informed that the value of the property stolen was in excess of \$50,000, but that interest quickly faded when I was forced to admit that the Historical Society had neither photographs nor current appraisals of the stolen property. Once again—I realized later—the police priorities were correct: if we did not care enough for Historical Society property to protect it by normal registration methods, we could hardly expect the police to do our job for us.

I learned too that most library and museum people were just as naive as I had been. We thought, it seems, that the presence in one place of all those books, manuscripts, paintings, and other precious things endowed the place, the collections, and those who took care of them with a privileged status in society. To the police, however, the materials

stolen from the Historical Society were simply property, not much different from that stolen from any private house or store in the city. To be sure, stealing that property is against the law, but given a choice of protecting life or property, few will dispute police priorities.

Even if the police can be persuaded to carry through an investigation of a theft of library property and to make an arrest, in many jurisdictions it is doubtful that the district attorney will prosecute the case with the vigor that library administrators would like. Many district attorneys will choose plea-bargaining because of the enormous expense of prosecution. John Hagerty, deputy for communications in the office of the Philadelphia District Attorney, estimates that in Philadelphia's Court of Common Pleas a one-day trial, in which the defendant has waived a jury, costs the taxpayers \$700. A full-fledged criminal jury trial costs \$1300 to \$1500.⁵ Hagerty's figures do not include legal fees, nor do they take into account the time lost from their jobs by any but police witnesses. Clearly, police and prosecutors have come to believe that prosecution is worth the effort only if they have "a good case." It behooves library administrators to give law enforcement people as good a case as possible rather than to work for the enactment of unenforceable statutes.

Discussion & Comparison of State Legislation

Let us now examine some of the laws that protect libraries to see whether they are workable. For this survey, I consulted the annotated, consolidated codes for the fifty states as well as the District of Columbia and Puerto Rico. I first checked the most recently revised index available under the general heading of "library" or "libraries." If I found no appropriate citation under this heading, I tried the more general headings of "theft" or "unlawful taking" to see if there were any citations to library situations. I know that I missed the pertinent legislation in at least one state and I may have in others. The comparative table was originally prepared for the Oberlin Conference but appears here in revised and corrected form (see table 1).

As noted, the various state laws protecting library property have been codified differently in almost every state. Most are to be found in one of the following codes: Municipal, Library, Education, Cultural Property, or Criminal. Basically, the laws are of two types: type "A" statutes, generally enacted before 1970, which provide some protection against willful detaining or defacing of library property; and the newer type "B" statutes that are directed primarily against library theft.

Statutory Protection

Many of the type "A" laws contain no criminal sanctions whatsoever, or if they do, they are so weak as not to be of any significance. Section 990 of Oregon's library code, for example, establishes a minimum fine of \$5 and a maximum of \$25 for willfully detaining library property for more than thirty days after receiving a written notice from the library. The act may penalize the act of keeping a book, but it makes no provision for its recovery. And, when one considers that this section was enacted in 1975, one can only conclude that librarians did not have a sympathetic ear in the legislature.

Many type "A" laws are ineffective because they are grounded on the assumption that library materials are the property of a particular library board or municipality, and that the remedies for the recovery of such corporately owned property ought not to be any different from those available for the recovery of any other kind of private property. In Wyoming, for example, the law reads, "whenever library materials are lost, destroyed, or taken from the library...the library board may institute proceedings in any court of competent jurisdiction to recover the materials or the value thereof." (18.7.105) The Education Codes of Delaware and Idaho simply say that local library boards may "make such rules and regulations as [they] may find necessary." (Delaware 14:1707; Idaho 33:2605)⁶ In these and some other states then, a municipal library must become a party in a civil action that they must bring before the municipal or state courts. Furthermore, these laws are silent as to the remedies available to university or privately established libraries.

To be sure, some states grant cities and towns the right to pass ordinances that protect libraries or their property. Such a grant is contained in the Arizona code, but in 1977 that state also repealed those sections of the code dealing with destruction and detention.⁷ In Arkansas municipal governments may do the same, and local libraries are empowered to "refuse the use" of their facilities to known malefactors.⁸

These are hardly criminal sanctions. Instead these laws all seem to assume that libraries are places where such offenses as theft and mutilation rarely occur. When they do, the library can easily replace the missing materials and the offender will simply receive a rap on the knuckles. Many of these laws were enacted before World War II, and although codification has taken place in some of the type "A" states as recently as 1983, no effort seems to have taken place to review the sections dealing with library offenses. Indeed, some states, notably Hawaii and Rhode Island, have recently enacted library laws that are little more than type "A" laws.⁹

TABLE 1
 COMPARISON OF STATE LAWS AND LAWS OF THE DISTRICT OF COLUMBIA AND PUERTO RICO ON DAMAGE,
 MUTILATION AND FAILURE TO RETURN LIBRARY MATERIALS AND LIBRARY THEFT AS OF SEPTEMBER 1984*

State or Jurisdiction	Loss, Damage & Mutilation Penalties	Failure to Return Penalties	Library Theft: Penalties/ Graded Offenses	Failure to Return: Posted or Written Notice with Copy of Law	Shoplifting Provisions: Presumption Clause/ Liability Exemption
Arizona (AZ)	AZ				
Arkansas (AR)	AR				
California (CA)	CA	CA	CA	CA	CA/CA
Colorado (CO)		CO	CO		
Connecticut (CT)	CT	CT		CT	
Delaware (DE)	DE				
Dist. of Columbia (DC)	DC				
Georgia (GA)		GA	GA/GA	GA	GA/GA
Hawaii (HI)	HI	HI			
Illinois (IL)	IL	IL	IL	IL	IL/IL
Indiana (IN)	IN	IN		IN	
Iowa (IA)	IA	IA	IA	IA	IA/IA
Kansas (KS)	KS	KS			
Maine (ME)	ME	ME			
Maryland (MD)	MD				
Massachusetts (MA)	MA	MA	MA		MI/MI
Michigan (MI)	MI	MI	MI/MI	MI	
Minnesota (MN)	MN	MN			
Mississippi (MS)	MS	MS	MS		MS/
Missouri (MO)	MO	MO		MO	
Montana (MT)	MT	MT			
Nebraska (NE)	NE	NE			
New Hampshire (NH)	NH	NH		NH	
New Jersey (NJ)	NJ				

By contrast, type "B" laws have teeth. Generally they define the institutions protected very broadly to include public, private, school, and museum libraries and archives. Materials protected are defined equally broadly. What sets them apart from type "A" laws, however, is that they establish library theft as a crime. The Virginia law that served as the model for the SAA model statute will serve to illustrate.

SS42.1-72. Injuring or destroying books and other property of libraries. Any person who willfully, maliciously or wantonly writes upon, injures, defaces, tears, cuts, mutilates, or destroys any book or other library property belonging to or in the custody of any public, county or regional library, the State Library, or other repository of public records, museums or any library or collection belonging to or in the custody of any educational, eleemosynary, benevolent, hereditary, historical library or patriotic institution, organization or society, shall be guilty of a class I misdemeanor.

SS42.1-73. Concealment of book or other property while on the premises of library; removal of book or other property from library. Whoever, without authority, with the intention of converting to his own or another's use, wilfully conceals a book or other library property, while still on the premises of such library, or wilfully or without authority removes any book or other property from any of the above libraries or collections shall be deemed guilty of larceny thereof, and upon conviction thereof shall be punished as provided by law. Proof of the willful concealment of such book or other library property while still on the premises of such library shall be prima facie evidence of intent to commit larceny thereof.

SS42.1-73.1. Exemption from liability for arrest of suspected person. A library or agent or employee of the library causing the arrest of any person pursuant to the provisions of SS42.1-73, shall not be held civilly liable for unlawful detention, slander, malicious prosecution, false imprisonment, false arrest, or assault and battery of the person so arrested, whether such arrest takes place on the premises of the library or after close pursuit from such premises by such agent or employee; provided that, in causing the arrest of such person, the library or agent or employee of the library had at the time of such arrest probable cause to believe that the person committed willful concealment of books or other library property.

SS42.1-74. Failure to return book or other library property. Any person having in his possession any book or other property of any of the above libraries or collections, which he shall fail to return within thirty days after receiving notice in writing from the custodian, shall be guilty of a misdemeanor and punished according to law; provided, however, that if such book should be lost or destroyed, such person may, within thirty days after being so notified, pay to the custodian the value of such book, the value to be determined by the governing board having jurisdiction.

Statutory Protection

SS42.1-74.1. "Book or other library property" defined. The terms "book or other library property" as used in this chapter shall include any book, plate, picture, photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public record, microform, sound recording, audiovisual materials in any format, magnetic or other tapes, electronic data processing records, artifacts, or other documentary, written, or printed material, regardless of physical form or characteristics, belonging to, on loan to, or otherwise in the custody of any library, museum, repository of public or other records institution as specified in SS42.1-72.¹⁰

Several features of the Virginia law deserve comment. The strength of the law comes from its resemblance to shoplifting laws common to most states: concealment is *prima facie* evidence of intent to steal and the employee who discovers the concealment is exempt from civil action arising from false arrest or slander suits. But, good as it is, the Virginia statute lacks some features present in many commercial shoplifting laws. In most states, the presumption clause is more broadly drafted. Substitution of one object for another or changing the price tag are both considered *prima facie* evidence of intent to steal. Such features could and probably should be adapted to library theft laws to deal with the more sophisticated book thief who has been known to alter a catalog or to substitute a lesser for a more important copy of a rare book.

The Wisconsin law, enacted in 1979 and effective 30 April 1980, has an important feature not found in the Virginia statute. The offense of library theft is graded, depending upon the value of the materials taken: less than \$500 is a Class A misdemeanor; \$500-\$2500 is a Class E felony; and more than \$2500 is a Class C felony. Penalties upon conviction are provided elsewhere in the criminal code. However, the Wisconsin law has a curious feature that deserves clarification: the subsection of the law dealing with library theft states that a library employee may detain a suspected thief "in a reasonable manner for a reasonable length of time to deliver the person to a police officer." Several sections earlier in the code library officials are "privileged to threaten or intentionally use force" against a suspect. One wonders if Wisconsin library administrators have worked out a definition of reasonable force.¹¹

Most of the type "B" statutes require that the text of the law be prominently displayed throughout libraries. One wonders if the posting requirement is not the most important deterrent feature of these laws. Certainly the Illinois Library Association thought so. That association went to considerable expense to print and distribute the text of the Illinois law to member libraries.

The summary that appears in table 1 will enable the reader to compare the library laws whatsoever. The reader should not conclude, however, that libraries and their property are not protected in those states; generally the state laws against theft and the like will obtain.

Conclusion

Even though one's library and collections may be covered by one of the laws just summarized, the existence of that legislation does not mean that they are protected. Obviously, successful prosecution will depend upon the existence of protocols and procedures within the institution that protect the collections before they are stolen, and should anything be stolen, will provide law-enforcement people with a chain of evidence with which they can successfully prosecute. Such was the thinking of the organizing committee of the "Oberlin Conference on Theft." Peter E. Hanff, a member of that committee and librarian at the University of California at Berkeley, assumed the job of preparing a draft of protocols for library security. His draft touched upon five major security concerns. To be sure, his paper was framed within the context of "The Guidelines for Security of Special Collections" (drafted by the Security Committee of the Rare Books and Manuscripts Section [RBMS] of the Association of College and Research Libraries), but his recommendations are generally applicable.

Hanff recommended that a senior staff member of a library be appointed security officer and the security officer should identify areas of library vulnerability and develop a security program which would, among other things, inform staff members of the legal basis upon which the institution operates. The security officer would, for example, coach the staff on such questions as whether they have the right to stop suspected thefts as well as the rights of a suspected thief.

Hanff also recommended that the institutional security policy include a "standard operating procedure" for: (1) the apprehension of suspected thieves, (2) reporting thefts promptly within the organization and to appropriate law-enforcement officials, and (3) the prosecution of thieves. A more important—and more difficult—part of Hanff's recommendations includes tight inventory control. Hanff's guidelines state:

Administrators of libraries and archives must be able to identify the materials in the collections. Adequate accession records should be kept and cataloguing should be as detailed as possible. Materials should be routinely marked and a record of the library's marking system should be maintained. Permanent records should be maintained for deaccessioned materials.

Statutory Protection

He also recommends that the RBMS "Guidelines for Marking Rare Books, Manuscripts and other Special Collections" be adopted.⁹

At the Oberlin Conference, the participants were continually reminded of the inadequacy of current marking procedures. The rules of evidence in effect in most jurisdictions in the United States would require that the procedures for accessioning, cataloguing and identifying library and archival materials be well-established and preferably printed for distribution within the institution, and consistently followed to ensure that the courts would accept the identification of stolen material put forward by an institution.¹¹ In short, the courts want to know how long and how thoroughly the library has been doing things in the manner described. Those of us who have not had the experience of trying to identify stolen library property to the police or in court cannot possibly imagine how mortifying that experience can be when one has to confess that practices one had thought quaint are seen by law enforcement people as downright culpable.

I suspect that library administrators will have even more trouble with Hanff's description of their legal responsibilities. He states: "The administrator...must report any thefts to the law enforcement agencies with jurisdiction in the area, and must take responsibility to prosecute thieves. Materials stolen should be reported to *Bookline Alert: Missing Books and Manuscripts (BAM BAM)*."¹³ Whether the materials taken from a library are of the quality to be listed in *BAM BAM* is not at issue. The reluctance of library administrators to parade their misfortunes before the public may be understandable. But it is unfortunate: neither the public nor funding sources will believe that theft is a real problem. And until they do they will neither support nor tolerate the changes in institutional operating priorities necessary to institute a workable security policy.

Alan Lincoln has demonstrated in *Crime in the Library* that libraries are not the safe, comfortable places most Americans believe them to be.¹¹ The purpose of this article has been to suggest that while libraries may, indeed, be under siege, legal protection is available in some form or another in almost every state, should it be needed. Libraries in type "B" states may believe that they are well protected, but they may not be as secure as they think. Most of the type "B" laws are of fairly recent passage; I saw no references to case law that would suggest that the courts have tried to determine what is "reasonable" force, and "reasonable" detention. Library administrators would do well to consult with legal counsel and law-enforcement officials when they develop library security protocols. The experience is likely to be mutually instructive, I

can assure you. For example, when I spoke with the Philadelphia police about Pennsylvania's new statute, they had never heard of it. However, when two detectives from the city's major crimes unit read it, they thought it workable—providing that there always be two library employees present when a suspect was detained. They further recommended that if an institution intends to prosecute rather than simply to recover library materials, the search of the suspect's belongings ought to be conducted by a police officer. This may not be what the law says, but it is the way the police seem to be willing to carry it out.¹⁴

The laws protecting libraries are only as effective as those enforcing them. Library administrators and their staffs are vital parts of that enforcement process.

References

1. Maitland, Frederick W. *The Forms of Action at Common Law*, edited by A.H. Chaytor and W.J. Whittaker. Cambridge, Eng.: Cambridge University Press, 1962, p. 10.
2. See, for example, Walch, Timothy. "Stealing America's Heritage: Thefts of Documents from Archives and Libraries." *FBI Law Enforcement Bulletin* (July 1977): 16-22.
3. "Guidelines for Security of Rare Book, Manuscript, and Other Special Collections" (unpublished). Approved by the Executive Committee of the Rare Books and Manuscripts Section, and subsequently by the Board of Directors of the Association of College and Research Libraries of the American Library Association, 1982. As reproduced in [Peter Hanff]. "Protocols for Security" (unpublished).
4. The Independent Research Libraries in Philadelphia's Sixth Police District are the American Philosophical Society, The Historical Society of Pennsylvania and the Library Company of Philadelphia. Each of these institutions has, happily, been spared serious thefts from their collections, but all three have experienced enough to realize how lucky they have been. Some of the theft experienced was by members of the staffs, or so we have been forced to conclude. It would seem that petty theft in an institution can, in part, be traced to the tone set by senior staff. Should an administrator, curator or senior librarian be known to "borrow" from the collections for personal use, all of the efforts of an institutional security officer can be seriously undermined.
5. Hagerty to Parker, personal communication, 17 Feb. 1984.
6. Wyo. Stat. §18-7-105(c) 1977; Del. Code Ann. tit. 14, §7101; and Idaho Code §33-2605 (1981).
7. Ariz. Rev. Stat. Ann. §13-512 and §13-1016 (repealed 1977) (Supp. 1983). The basic grant of power to municipalities was originally passed in 1913 and was revised in 1939. The sections dealing with destruction (§13-512) and detention (§13-1016) were repealed in 1977 and have not been replaced.
8. Such a grant of power to a local library board would seem to be commonplace, but the Arkansas statute is the only one read that contains such a specific grant.
9. Someone familiar with the circumstances of the passage of the Rhode Island law should tell the complete story; it would be a cautionary tale for librarians. On 8 March 1983 Senators Carlin and McKenna introduced S. 0546 which would have added a new chapter to the General Laws entitled "Criminal Offenses Relating to Library Property." Their bill was a strong type "B" statute that contained a presumption that concealment was prima facie evidence on intent to steal. And, as something of an afterthought, the bill

Statutory Protection

contained a provision that: "Activation of an electronic book detection system shall also qualify as prima facie evidence." The bill also contained the liability exemption common to type "B" laws. The bill was sent to the State's Senate Judiciary Committee where it went through two revisions. The first revision, Substitute A, maintained most of the features of the first draft, but grafted them on to existing sections in the code, rather than to create a new chapter. The bill that finally passed, however, was a far cry from either the original or the first substitute. The detain and deface sections common to type "A" laws were still there, but the presumption clause had been substantially altered to a simple larceny statute: presumption of intent was missing, as was the exemption of liability for library employees. The act became effective 1 October 1983.

10. Va. Code §42.1-72, §42.1-72, §42.1-73, §42.1-73.1, §42.1-74, §42.1-74.1 (Supp. 1981).

11. Wis. Stat. Ann. §943.60, §943.61, and §939.49 (West 1982). The confusion in the Wisconsin law comes from the cross-reference in the library section, 943.61, to the section entitled "Defense of Property and Protection against Shoplifting," 939.49, which says that a person is "privileged to threaten or intentionally use force against another," and by a later subsection, 939.49(1), which extends that privilege to an official of a library.

12. [Peter E. Hanff], "Protocols for Security" developed for the Oberlin Conference on Theft, Oberlin College, 19-20 Sept. 1983. Hanff's work was intended as a draft to focus discussion at the conference. Copies may still be available from William E. Moffett, Librarian, Mudd Learning Center, Oberlin College.

13. Leab, Katherine Kyes, and Leab, Daniel J. "BAM BAM Update, December 1983." *Library & Archival Security* 6(Spring 1984):75ff. For more information about the BAM BAM online database and the missing and materials reporting service, call 212/737-2715 or write c/o BAM BAM, P.O. Box 236, Washington, Conn. 06793.

14. Several lawyers at the conference cited the federal Rules of Evidence. Administrators would be well advised to find out what the comparable state rules provide in their own jurisdiction. In this connection, Sue Holbert of the Minnesota Historical Society told conference participants of a situation which came before a Minnesota court in which the judge disallowed a calendar of manuscripts as evidence of ownership.

15. Lincoln, Alan Jay. *Crime in the Library: A Study of Patterns, Impact and Security*. New York: R.R. Bowker, 1984.

16. Shubert, Robert, Detective, Major Crimes Division, Philadelphia Police Department, to Parker, personal communication, 17 Feb. 1984.

Additional References

Ala. Code §§11-57-1 to 11-57-26 §11-90-1 (1977), §41-8-1ff. (1982).

Alaska Stat. §14.56 (1983).

Ariz. Rev. Stat. Ann. §9-419(A), §13-512, §13-1016 (Supp. 1983).

Ark. Stat. Ann. §19-3208 (1980).

Cal. Pen. Code §496b (West 1970), §490.5 (West Supp. 1984); Cal. Educ. Code §19910, §1911 (West 1978), §19331, §19332, §19333, §19334 (West 1978).

Colo. Rev. Stat. §18-1-106 (1978), §24-90-117 (1982).

Conn. Gen. Stat. Ann. §11-35 (West 1977).

Del. Code Ann. tit. 14, §7101, tit. 14, §7141 (1975).

D.C. Code Ann. §37-105 (1981).

Fla. Stat. Ann. §257.01ff (West 1975), (West Supp. 1984).

Ga. Code Ann. §32-2718, §32-2719, §32-2720, §32-2721 (1980), (Supp. 1984).

Hawaii Rev. Stat. §312-3.5 (Supp. 1983).

Idaho Code §33-2605, §33-2606 (1981).

PETER PARKER

- Ill. Ann. Stat. ch.81, §1-5 (Smith-Hurd 1966) (Smith-Hurd, Supp. 1983), ch.38, §16B-2 (Smith-Hurd Supp. 1983).
- Ind. Code Ann. §20-14-2-8 (West 1984), §35-43-4-3.5 (West Supp. 1984).
- Iowa Code Ann. §303.3(10) (West 1966), §702.22(55-56) (West Supp. 1983), §714.5 (West Supp. 1983), §808.12 (West Supp. 1984).
- Kan. Stat. Ann. §12-1228 (1982).
- Ky. Rev. Stat. Ann. §171.530, §171.720, §171.990, §172.150, §172.990, §173.520(3) (Bobbs-Merrill Supp. 1984).
- L.a. Rev. Stat. Ann. §25:1, §25:211 (West 1975), (West Supp. 1984).
- Me. Rev. Stat. Ann. tit. 27, §4-A(2) (Supp. 1983).
- Md. Educ. Code Ann. §23-308 (1978).
- Mass. Ann. Laws ch. 266 §99, ch. 266 §101 (Michie/Law. Co-op. 1980).
- Mich. Comp. Laws Ann. §397.208, §397.31 (West 1976), §257.909 (West Supp. 1984), §750.391, §750.364 (West 1968).
- Minn. Stat. Ann. §466.01 (West Supp. 1984), §609.541 (West Supp. 1984), §134.40 (West Supp. 1984).
- Miss. Code Ann. §39-1-19 (1973), §39-3-301, §39-3-313 (Supp. 1983).
- Mo. Ann. Stat. §182.240, §182.400, §182.460 (Vernon 1965), §182.670(2), §182.810 (Vernon Supp. 1984).
- Mont. Code Ann. §22-1-311, §22-1-506 (1983).
- Neb. Rev. Stat. §51-109, §51-105, §51-214 (1978).
- Nev. Rev. Stat. §378.080(2)(e), §379.025(1), §379.105(2)(1983).
- N.H. Rev. Stat. Ann. §201-A:19, §202-A:24, §202-A:25(1977).
- N.J. Stat. Ann. §40:54-17, 2A:53A-9, §40-54-11, §40:54-11 (West 1967).
- N.M. Stat. Ann. §18-1-3, §18-1-9, §18-1-10, §18-1-11 (1980).
- N.Y. Educ. Law §264, §265 (Consol. 1969), §265-a (Consol. Supp. 1983).
- N.C. Gen. Stat. §125-2, §125-11 (1981), §14-398 (1981).
- N.D. Cent. Code §40-38-04 (1983), §26.1-22-10 (Supp. 1983).
- Ohio Rev. Code Ann. §3375.50, §3375.51, §3375.52, §3375.53, §3375.71, (Page 1980), §2935.041(B) (Page 1982).
- Okla. Stat. Ann. tit. 11, §31-106 (West 1978), tit. 21, §1785 (West 1983), tit. 65, §§35-36, tit.65, §78, tit. 65, §183 (West 1964).
- Or. Rev. Stat. §357.975, §357.990 (1981).
- Pa. Stat. Ann. tit. 24, §§4426-4427 (Purdon 1962), tit. 18, §3929.1, tit. 18, §6708 (Purdon 1983).
- P.R. Laws Ann. tit. 18, §933, tit. 18, §936, tit. 18, §973 (1974).
- R.I. Gen. Laws §11-44-15 (Supp. 1984).
- S.C. Code Ann. §16-13-330, §16-13-340, §16-13-350 (Law. Co-op. 1977), §16-13-331, §16-13-332 (Law. Co-op. Supp. 1983).
- S.D. Codified Laws Ann. §§14-2-40 to 14-2-42 (1982).
- Tenn. Code Ann. §10-3-108 (1980).
- Tex. Civ. Stat. Code Ann. §5446(a) (Vernon Supp. 1984), Tex. Civ. Stat. Code Ann. §1015(33), §1175(15) (Vernon 1963).
- Utah Code Ann. §37-1-5, §37-1-11, §37-2-5, §37-3-6, §37-4-7, §37-4-10 (1974), §§76-6-801 to 76-6-805 (Supp. 1983).
- Vt. Stat. Ann. tit. 22, §105 (1975), tit. 13, §3732 (1974).
- Va. Code §42.1-72, §42.1-73, §42.1-73.1, §42.1-74, §42.1-74.1 (Supp. 1981).
- Wash. Rev. Code Ann. §27.12.330, §27.12.340 (1982).
- W. Va. Code §10-1-9a, §10-1-10, §10-1-11 (1984).
- Wis. Stat. Ann. §59.07(104), §60.82 (West Supp. 1983), §229.16, §229.18 (West 1982), §943.60, §943.61 (West Supp. 1983).
- Wyo. Stat. §18-7-105(c) (1977).

Statutory Protection

Appendix

LIST OF SELECTED ANNOTATED STATE STATUTES PERTAINING TO PUBLIC LIBRARIES, WITH APPLICABLE LEGISLATION

<i>State (Zip abbr.)</i>	<i>Brief Citation to Applicable Legislative Statute</i>	<i>Names of State Code Parts Containing Public Library Law</i>
AL	Ala. Code §§11-57-1 to 11-57-26, §§11-90-1 to 11-90-4, §16-21-1ff., §41-8-1ff.	State Gov't—Ala. Public Library Services; Counties & Municip. Corps.; Education—Libraries; Libraries
AK	Alaska Stat. §§14.56 to 14.57, tit. 29 Const. Alaska, art. 10	Education—State Library & Histori- cal Library & State Library Programs; Municipal Gov't; Home Rule
AZ	Ariz. Rev. Stat. Ann. §9	Cities & Towns
AR	Ark. Stat. Ann. §§17, 19, 24	Municipal
CA	Cal. Educ. Code §19300ff., §19910ff., (West)	Education
CO	Colo. Rev. Stat. §24	Gov't—Libraries
CT	Conn. Gen. Stat. Ann §11 (West)	Libraries
DE	Del. Code Ann. tit. 14, §7000ff.	Education
DC	D.C. Code Ann. §37	Libraries
FL	Fla. Stat. Ann. §257.01ff (West)	Pub. Prop.—Public Libraries
GA	Ga. Code Ann. §32	Education—Public Libraries
HI	Hawaii Rev. Stat. §312	Education—Libraries
ID	Idaho Code §33-2600	Education—Public Libraries
IL	Ill. Ann. Stat. ch. 81 (Smith-Hurd)	Libraries
IN	Ind. Code Ann. §20-14-1-1ff (West)	Education—Libraries
IA	Iowa Code Ann. §303 (West)	Education—Law, Medical & Travel- ing Libraries & Dept. of History & Archives
KS	Kan. Stat. Ann §12-1200ff.	Municipal
KY	Ky. Rev. Stat. Ann. §§171.000 to 172.000ff. (Bobbs-Merrill).	Libraries & Archives
LA	La. Rev. Stat. Ann. §§25:1 to 25:211ff. (West)	Libraries, Museums, & Other Scientific & Cultural Facilities
ME	Me. Rev. Stat. Ann. tit. 27	Libraries, History, Culture & Art
MD	Md. Educ. Code Ann. §23	Education—Libraries
MA	Mass. Ann. Laws ch. 78 §§1 to 32 (Michie/Law. co-op.)	Education—Libraries
MI	Mich. Comp. Laws Ann. §397 (West)	Education—Libraries
MN	Minn. Stat. Ann. §134 (West)	Municipal
MS	Miss. Code Ann. §39	Libraries, Art, Archives & History
MO	Mo. Ann. Stat. §182.000ff. (Vernon)	Education
MT	Mont. Code Ann §22	Libraries, Arts & Antiquities

PETER PARKER

NE	Neb. Rev. stat. §51	Libraries & Museums
NV	Nev. Rev. Stat. §§378.000 to 379.000ff.	Libraries, Museums & Historic Preservation
NH	N.H. Rev. Stat. Ann. §§201-A:1 to 202-A 1ff.	Libraries
NJ	N.J. Stat. Ann. §40 (West)	Municipalities & Counties
NM	N.M. Stat. Ann. §18, §14, §3-18-14	Libraries & Museums; Legal Records, Notices & Oaths; Gov't Structure—Municip.
NY	N.Y. Educ. Law §§245 to 281ff. (Consol.)	Education—Libraries
NC	N.C. Gen. Stat. §125	Libraries
ND	N.D. Cent. Code §§40-05 to 40-10ff.	Municipal Gov't—Public Libraries
OH	Ohio Rev. Code Ann. tit. 33 (Page)	Education—Libraries
OK	Okla. Stat. Ann. tit. 11, §31-000ff. tit. 21, §1785 (West)	Public Libraries; Cities & Towns
OR	Or. Rev. Stat. §357	Libraries
PA	Pa. Stat. Ann. tit. 24, §4000ff. (Purdon)	Libraries & Museums
PR	P.R. Laws Ann. tit. 18	Education
RI	R.I. Gen. Laws §29	Libraries
SC	S.C. Code Ann. §60	Libraries, Archives, Museums & Arts
SD	S.D. Codified Laws Ann. §14	Libraries
TN	Tenn. Code Ann. §10	Public Libraries & Archives
TX	Tex. Civ. Stat. Code Ann. §§5434 to 5446, §1606a, §§1134 to 1182, §§1572 to 1581 (Vernon). Tex. Ann. const. Art. IX §§1 to 3, Art. XI (Vernon)	Counties; Constitution—Counties; Constitution—Municipal Corps.
UT	Utah Code Ann. §37	Libraries
VT	Vt. Stat. Ann. tit. 22	Libraries & History
VA	Va. Code Ann. §42	Libraries
WA	Wash. Rev. Code §27	Libraries, Museums & Historical Activities
WV	W. Va. Code §10	Public Libraries
WI	Wis. Stat. Ann. tit. 26, §229ff., tit. 8, §59ff. (West)	Municipalities & Counties
WY	Wyo. Stat. §18	Counties
