

History of law libraries:

Abstract: This paper will give an historical overview of California county law libraries, leading to the creation of the San Mateo County Law Library and the statutes that govern their operations and filing fees.

In 1891, the California Legislature enacted statutes mandating that a public law library be located in each California County. However the idea of making the law accessible to people free of charge dates back further and ties into the very core of American democracy. By the 1800's public law libraries had been established in the east in Massachusetts and Connecticut as a means of "making the law available to every attorney and layman"(Stubbins, 1921). Many of these east coast elite were drawn to California by the lure of gold, possibly bringing the idea of public access to the law with them.

In California, the first attempt at creating a law library for general use occurred in 1853 in San Francisco, which then dominated California politics and culture (Watson, 1989). It was then that San Francisco attorney William B. Olds purchased a law book collection for \$20,000, which he chose to house in the San Francisco City Hall. He believed that his investment would be returned by voluntary donations to the library by the San Francisco Bar Association members. But although the city established the collection as a depository library, no donations followed. Mr. Olds then tried to turn the library into a subscription supported library, but again not enough money was collected. This is important as an indicator of the difficulty in securing funds to support public access to the law. Attorneys alone could not or would not support the system. Finally, to recoup his investment, Mr. Olds sold his collection to the State of California for \$17,250 (Watson, 1989). The legislature then gave the collection to the newly organized State Library to establish the prominent California State Law Library (Stats. 1855, c. 198, p. 267, §§1-3.), still in existence today.

In 1865, the San Francisco Law Library Association was formed and a second attempt to establish a permanent funding source for the San Francisco Law Library was undertaken. A collection was purchased through memberships and a space was donated by the City and County of San Francisco. But again, the association quickly learned that membership money could not maintain the collection nor afford the hiring of a librarian.

Taking a different tack, the association appealed to their connections in government. They quickly found there were enough votes in the State Legislature from San Francisco to pass what was to become the San Francisco Law Library Act on March 9, 1870 (Stats. 1869-1870, c. 173, p. 235, §§1-17.) This act codified the practices of the San Francisco Law Library Association, including requiring the City and County of San Francisco to provide facilities and services at no charge; as well as mandating access to the library by the citizens of the City and County of San Francisco. It is this latter practice of open access that makes county law libraries so relevant today.

Newly imposed with this law was the remarkable requirement that a share of the filing fee for every civil suit be set aside for the law library. This was a practice established in the East with evidence as far back as a Massachusetts statute of 1815 authorizing use of attorney's fees to

support public law libraries (Stebbins, 1921). Thus, California became the first western state to use portions of the filing fee income to finance a public law library (Watson, 1989), quite a Progressive concept for the new frontier.

In 1874, a second public law library was established in San Jose by state statute, following the same path laid out by San Francisco and supported by filing fees. Los Angeles attorneys, apparently unaware of San Francisco's path to success, attempted to open their own law library, supported by membership fees and shares. When this failed (as it had in San Francisco), Los Angeles legislatures took a bold recourse. Instead of attempting to pass an act establishing a Los Angeles Law Library (something that they knew they did not have the political support for in the Northern dominated capitol) they proposed a general legislation that allowed for *all* counties to use filing fees to fund law libraries. This resulted in what will be referred to as the County Law Library Statute. On March 31, 1891, this law library act was signed by the governor into law. By the end of the year, twenty-three counties established law libraries. By 1900, another twenty law libraries were established (Watson, 1989).

The expansion of law libraries in California was a direct result of the progressive movement, led in California by Governor Hiram Johnson. Issues of "class war" and organized labor at this time led to armed clashes between the working and moneyed classes in dispute over the disparity of wealth. In discussing the history of county law libraries, Justice Conrad Rushing writes "The establishment of law libraries was not by any means the most important feature of what grew out of the progressive movement, but it nevertheless spoke strongly to the idea of equality under the law," (Thomas, 2008). Lawyers were seen as tools of the rich, so the idea was to make the same tools available to the common man so that he may be his own lawyer.

It is important to point out that what this legislative enactment did *not* do was create a system of libraries; instead each county law library operates and renders service to meet the needs of its community. This is conducted under direction of its board of law library trustees, the appointed manager, and staff (CCCLL history).

Management of the county law library is commonly put under the control of a professional librarian, or sometimes a director with legal experience. In the case of the San Mateo County Law Library, their current director is a professional librarian that holds a JD and formerly practiced law.

San Mateo County's Law Library

The history of the county of San Mateo began as a by-product of the legislation known as the Consolidation Act, written by Horace Hawes and approved by the legislature in 1856 (Levy, 2006). The purpose of the act was the incorporation of the City and County of San Francisco. San Mateo County was excluded from the San Francisco borders, and as such was given a name and boundaries as defined in the legislation (Edmunds, 1986). "An act to reorganize and establish the County of San Mateo" was passed by the legislators on April 18, 1857. This act also appointed Redwood City as the county seat, which included the courthouse that would soon be the recruiting center for the American Civil War in 1861 (Edmunds, 2005). It

was in Redwood City that the San Mateo County Law Library would eventually be established and continues to operate.

The San Mateo County Law Library was established in 1916, when the newly created San Mateo County Bar Association came to the conclusion that the county's law library (already in operation) had not been legally established. They subsequently drafted an ordinance and presented it to the Board of Supervisors. This established the existent Law Library in a formal capacity. It is interesting to note that at the San Mateo County Law Library, "Since there was no librarian, the law library would be kept locked and each member of the bar association would be given a key. The secretary was instructed to have the requisite two dozen keys made," (Cohn & Suto, 1991). It is unclear how long this practice continued.

The constant threat of move has loomed over the library. As one of the county law libraries that do not own their own building, the county houses the library on county property and can move them according to need. Since its inception, the San Mateo County Law Library has inhabited many different locations, the most prominent being in the old courthouse building, now the San Mateo County History Museum. In 1985, the law library moved from the Hall of Justice in the new courthouse to its current location at 710 Hamilton Street, the site of an old Wells Fargo Bank branch (Robertson, 1985). Understandably, the county is always looking for ways to capitalize on the space the law library occupies, which is now in the active, high-rent downtown of Redwood City on the edge of Silicon Valley.

Additionally, the San Mateo County Law Library does not own its building. As mandated, the county is required to provide "adequate space" for the county law library, and provides us with our building across the street from the court house. However, with large-scale development of the Redwood City downtown area, the library is often up on the chopping block for demolition and redevelopment. For the time being, the library space is secure, however eventual development of the land the library occupies will displace the library to an undetermined location.