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Problem of Selection in Law Libraries

Theodore Samore*

LAW LIBRARIES, LIKE SOAP, come in three sizes—large, giant and super. It is also true that law libraries, like taxes, living expenses, populations and college enrollments are rapidly expanding and the end is not in sight.

Use determines the growth of a library. As long as students, professors and practitioners ask for more books, more periodicals and more services the library must expand. Use, moreover, is the prime factor in determining what materials a library elects to buy. Ideally, a library should acquire everything that has been published, since there may be at least one demand for every conceivable item. But librarians learned long ago that no single library can hope to acquire everything, although the Library of Congress tries hard enough. If cost alone would not stop such an endeavor, common sense would.

The law collections of Harvard and of the Library of Congress number nearly a million volumes each. Considerably behind them but still respectably huge are the law libraries of Yale, Columbia and Michigan. These are the supers.

Close behind the super legal research libraries stand the bar association or county libraries and various governmental and business law libraries such as those of the Justice Department, the Labor Department, state supreme courts and private law libraries such as that of the Metropolitan Life Insurance Company. Several of this class, for example the Los Angeles County Law Library and the Association of the Bar of the City of New York Law Library, rival the supers in size, quality and variety. Generally speaking, however, these libraries are built according to the needs of *practicing* lawyers. The collection will consist mainly of practice and pleading books, reports, codes, session laws, form books, legal encyclopedias, court rules, attorneys-general opinions and records and briefs. Indeed, the heaviest items in use are invariably the records and briefs of the state supreme court or other courts of appeal. As a rule, the users of these libraries have little time for research *per se*; they must try

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to win a suit, or draw up a will or contract, not theorize about such activities.

Between the legal research collections and the bar association libraries stand the unaffiliated (independent) law school libraries; not necessarily in size, but in purpose or function. These law schools are the direct result of a demand by Americans for opportunity to improve their role in society. They are, in a sense, a significant branch of the strong adult education movement in this country. For the hundreds, indeed, thousands of citizens who have decided either to better their economic status or to increase their knowledge, despite the burden of a job and family, the evening law school is the perfect answer. A legal career thus is open not only to the student who is financially supported by others, but also to the self-supporting student and family man.

It follows that the legal collection of such a school will contain primarily those items that meet practical instructional needs. But in addition there is an obligation to the professors and students who are engaged in the more scholarly aspects of law. A familiar conflict then arises—instruction vs. research. In this case superselectivity may be required, since the independent law school sometimes does not have the many other resources to draw on that a university-affiliated law school has. Some, of course, have resources superior to those of some university law schools. But in either event, it is an old saw in library practice that 10% of a collection is used 90% of the time and 90% of it only 10% of the time.

Finally, in our list, we should not overlook the private library of a practicing lawyer. More on this will be said at the conclusion of this paper.

At this point we have briefly sketched the chief various types of law libraries and indicated how their collections are formed to meet the greatest needs of their users. It is now appropriate to analyze in greater detail the matter of use. In addition, we ought to suggest what other factors guide or should guide a law library when it buys books, periodicals and other materials.

Some problems confronting various libraries and their solutions, are peculiar to each one, and thus are of little value in helping other libraries with *their* problems. This excludes, of course, such general problems as space, budget, personnel, etc., which are common to all libraries. Furthermore, what is a

problem for one library may be a blessing to another—for example, periodicals. A college library is faced with the tremendous problem of selecting several hundred periodicals out of thousands published. A law library, on the other hand, is blessed with the relatively “simple” problem of selecting only legal periodicals—of which there are hundreds.

Even if one could determine precisely what use will be made of a particular item, tight budgets (common to all libraries save a lucky few) and lack of space (common to all, period) will oftentimes force a particular library to forego ordering a valuable item. This need not mean that the demand for the missing item will go unsatisfied. Fortunately, there are substitutes. Despite the limitations of money and space, it is believed that the following considerations merit some examination:

1. Proximity of other law libraries and the privilege of interlibrary loan service.
2. Gifts and exchanges.
3. Future plans and policies of the institution.
4. General reference works and works in related fields.

The bar association library might well think over all four suggestions. Too many times a lawyer requests a book which costs dear and the future usability of which is even dearer. If the library has an interlibrary loan arrangement with a super law library a short distance away it need not buy the item.

Exchanges and gifts are indispensable means for building up the collection. Almost all bar associations publish journals which can be exchanged for journals of other bar associations and with law schools for their law reviews. Gifts by established lawyers or other interested parties always should be strongly encouraged. Too often, it is true, donors in their kindness unwittingly give to the library worthless or irrelevant items. But a reasonable notification of the wants and needs of a library should help guide prospective donors. How many times has a distinguished attorney (or his heirs) literally founded a bar library by the gift of his private collection? Unhappily, such collections now are almost a thing of the past. One reason probably is the existence of a well-stocked bar library itself; the other is surely the high cost of legal materials. Bar association libraries, then, are the obvious result of the ability of lawyers to do collectively what they are unable or disinclined to do individually, namely, to amass large private libraries.

Future plans and objectives of a bar association library are determined by its officers. They have the duty to keep the librarian well informed, so that he can plan accordingly.

The demand for non-legal information is becoming pervasive among lawyers. A highly select reference collection more than pays for itself. One excellent guide in this respect is Winchell's *Guide to Reference Books* (1951).

It is apparent that some of these suggestions need not be taken into account by our super law libraries. For them the problem of selection is replaced by the problems of space and accessibility. It seems true that the larger the library, the more inaccessible to the user its collection becomes. Items stray, are mis-shelved, or lost outright. Cataloging and classifying problems snowball. Less and less of the collection becomes available to the student because of organizational and space problems or the seemingly mystic manner of library operations and procedures. The card catalog, for example, still leaves most students bewitched, bothered and bewildered. Moreover, the conflict between instructional needs and research demands constantly grow greater. The student wants a particular item in order to pass his class; the professor wants it in order to help write a paper, which, in turn, will be in demand by another student for his class and another professor for his paper. Duplicate sets are one answer to the problem of conflicting demands.

Although the library of an independent law school may lack the vast numerical resources of the supers, it need not suffer unduly from feelings of inferiority. Indeed, the independent law school library often is pretty well off. For one thing, it seems better to start "small" and to plan ahead, than to start big and keep getting alarmingly bigger. Moreover, such a library can plan ahead carefully, since it can draw on the experience of the supers and yet remain flexible enough to take advantage of increasingly rapid changes in modes of legal publishing, information retrieval, and material for new or modified courses taught in law schools. Microfilm, microcards, and even tape recordings offer an answer to some acquisition problems, but raise some problems of their own. Generally though, the independent law library is out of the race for sheer size, for the simple reason that it can never hope to catch up anyway—even with an unlimited budget. The stubborn fact remains that there are just so many early editions of *Littleton on Tenures* around, and no more. Libraries possessing these scarce volumes are not likely to

part with them. Besides, size and incunabula alone are a poor yardstick with which to measure the value of a collection. Libraries should be evaluated pragmatically. If they do their job, that is, furnish the necessary services and materials for their clientele, then they are valuable indeed. Last, the independent law school library is in a useful position. Its services satisfy a public need; its services are non-competitive with the giants and supers; and its services provide a standard for the medium and smaller size libraries.

Before a law school secures approval from the American Bar Association or Association of American Law Schools it must meet certain requirements. Its library, for instance, must contain a certain minimum number of volumes. This number, which is constantly being pushed upward, in itself is merely an absolute minimum. Too often such minimums are taken as standards. Once the library has selected the obvious items—session laws, codes, reports, court rules, administrative law materials, indexes, digests, encyclopedias, and form books—what then? We now refer back to the four suggestions mentioned above.

First, there is the proximity of other legal libraries. The library may be fortunate in having a treasure house a few miles away, with some privileges in the matter of use. Nonetheless reliance on such resources is risky business at best. Here, as in most other areas, strength and respect derive from independence, not from dependence. In the crucial matter of legal periodicals and bar association reports, for example, the school should take, at the very least, all the ones indexed in the *Index to Legal Periodicals*. In addition, the library should subscribe to various general and scholarly periodicals and newspapers. *The New York Times* is almost indispensable; so are such periodicals as the *U. S. News and World Report*, *American Historical Review*, *American Economic Review*, *Harvard Business Review*, *American Political Science Review*, etc. Incidentally, all of these are available on microfilm.

Second, gifts from alumni and other interested friends of the school should be constantly encouraged. It is submitted that nothing has a greater potential for good than a needed book becoming available at a library. In addition, if the law school publishes a review, so much the better. The exchange possibilities are limitless and the library should exploit them to the fullest possible extent.

Our third point concerns the future plans of the institution. Of course nothing is certain, and plans may go awry. Nevertheless, the library should try to develop some plans for the future. Intuition is one way. Nor is it as absurd a way as it sounds. Close cooperation between administration and library, and faculty and library, is another—in fact, the most important way. New courses will be added or old ones dropped. It is conceivable that tomorrow the case method of teaching law will be drastically modified, and that wholly new kinds of law books will have to be *written*, instead of *compiled*. Foreign and international law are becoming more and more significant in our daily lives. The St. Lawrence Seaway, for example, will very likely considerably modify the business, commercial and manufacturing communities in the Middle Western states. All these areas are rich in legal possibilities. What effect will this have on courses taught in law schools?

The much-maligned *survey* is a valuable way to explore the best direction for future progress. This need not require the services of a Roper or Gallup. The librarian or some one designated by him can do a pretty good job, although it obviously is better if a professional investigator (from another law library) is chosen. It is necessary, of course, that users of the library be polled as to their wants. Are they satisfied with present library services? What changes, if any, would they recommend? It must be remembered, however, that such surveys are beneficial only if implemented. Dr. L. R. Wilson has summarized the results of some of the surveys in which he has participated, as follows:

1. . . . [it opens] the channels of communication for the transmission of ideas about the library between administration, library, and faculty that surveyors frequently find all but closed.
2. . . . the education of the administration concerning the role of the library in the teaching and research programs
 . . .
3. . . . a codification of library policy.
4. . . . a program of action for the library is developed.
5. . . . greater financial support has been obtained.
6. . . . the survey may result in the solution of specific problems. (Wilson, *The University Library Survey: Its Results*, 8 *College and Research Libraries* 372 (1947)).

In brief then, the library will select what materials to buy not only on the basis of the present teaching and research needs

of faculty and students, but also on the basis of their long-range teaching and research.

It is well, in passing, to underline the library's obligation to collect and conserve the story of the institution's own history, including its full faculty archives and collections of alumni publications.

Law students and lawyers too little appreciate the usefulness of reference tools and works in other disciplines. Law proverbially covers a wide range of human knowledge and behavior. It is much too important, to paraphrase Clemenceau, to be left to lawyers alone. Political science, ethics, and psychology—to take some obvious examples—affect law as much as law affects them. It follows that a law library, in order to be complete, must contain numerous non-legal works. This includes encyclopedias, handbooks, dictionaries, directories, bibliographies, biographies, government documents, indexes, catalogs, atlases, etc. Here are some specific examples: *Encyclopedia of Social Sciences*, Hinsie's *Psychiatric Dictionary*, Warren's *Dictionary of Psychology*, *Encyclopedia Americana*, *Encyclopedia Britannica*, *World Almanac*, *Who Knows—and What*, *Who's Who in America*, *Statistical Abstract of the U. S.*, *Official Congressional Directory*, *Van Nostrand's Scientific Encyclopedia*, *Concise Oxford French Dictionary*, *Cassell's New German and English Dictionary*, *Foreign Affairs Bibliography*, *Statesman's Yearbook*, *Lippincott's New Gazetteer*, *American Manufacturers' Directory*, and so on.

A word about legal guides or bibliographies: One excellent example is Price's *Effective Legal Research*. Another is Pollock's *Fundamentals of Legal Research*. Still good but aging rapidly are Beardsley's *Legal Bibliography and the Use of Law Books* and Putnam's *How to Find the Law*. The library should have all of them.

A good deal of what has been said about law libraries can be applied, *mutatis mutandis*, to a lawyer's private collection. What will he use it for—general practice, labor practice, tax practice, patent law practice? In what state will he practice? Is there a sound bar association library he can use? Is he a member of a firm, or on his own? What does he plan or hope to do five, ten, twenty years from now? Like a definition of the word "I," each lawyer will answer these questions as best fit *his* demands, *his* state, *his* bar association library and *his* hopes. However, it is hoped that the following list will prove helpful: a set of his state's reports and code (if any) or revised statutes and Shep-

hard's citators to both; state digest; practice books pertaining to his state; local and state court rules; local municipal ordinances (if published); a legal encyclopedia; all law reviews published in his state and the local and state bar journal; possibly a loose leaf service of some particular interest—tax, labor, etc. Fortunate is the lawyer who can buy all of the above at once; otherwise, he ought to acquire them in the order given.

Finally, the writer suggests that in order to “round out” his collection, the lawyer ought to give serious consideration to completely non-legal materials, and including good fiction. In his fine book, *Man's Unconquerable Mind*, Gilbert Highet writes:

The smallest local collection of books may contain unique treasures or inspire a genius. Every library is an assertion of man's durable trust in intelligence as a protection against irrationalism, force, time and death. (p. 47. Columbia Univ. Press, N. Y., 1954.)