Classification of Legal Materials

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FROM ALL APPEARANCES it is safe to say that the last decade has seen more progress in matters of classification of legal materials than has any previous period. The obvious question to ask is, Why was there so little progress in the past? We can only speculate about the past because there is no clear record of the various factors involved. The fact that we have to resort to speculation may itself suggest an answer. Communications between those concerned with development of a law classification—general librarians, law librarians, and members of the legal profession—were ineffective. Today, however, while there is no single schedule which is generally accepted, there is evidence of an effective exchange of thoughts and experiences that promises to result in agreement in matters of classification of legal materials.

Recent trends in law classification might be approached from several points of view. One might review the theoretical or jurisprudential attempts of the legal scholar to organize the discipline of law. People with greater qualifications than the present author have dealt with this, but without arriving at conclusions which secure general agreement. One might analyze and compare the details of schedules presently available. Such a discussion would necessarily be technical and complex and is more properly within the scope of professional meetings. The point of view reflected in these remarks is that of evaluating the progress made in the resolution of problems of law classification.

Surrounding law librarianship there is a wealth of experience gained from a multitude of proposed classification schemes for concepts of law. There has been a wealth of intellectual talent at work within the legal profession itself, planning, testing and debating the ordering of legal concepts. The inherent difficulties have long been recognized by legal scholars:

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As the conceptions of law change, the derived ideas of legal duty and right, as well as to some extent most of the elementary notions with which the law deals . . . undergo parallel transformations. . . . Moreover, all these changes are in the course of a process of gradual development. There is no chasm between our own law and the rule and undifferentiated usages of a horde of savages. The one shades off into the other through innumerable small gradations; nor has the process of development gone on at all times and places in the same order.

It is apparent, therefore, that any one who seeks a definition of law will have to frame it according to the purpose for which he wants to use it. . . . Nor can any definition be made that shall cover exactly the ground intended without some arbitrariness in the use of the words employed, since the subject-matter itself does not present clear lines of demarcation.[1]

The law librarian can be likened to the pedestrian at a railroad crossing, who is admonished by the signs to stop, look, and listen. Stop, he did; look, he did; listen, he did. From one direction he saw legal research staffs wrestle with the problem of scheduling the law for the purposes of a particular project; he saw legal publications, from the single monograph to the complex digest systems, elaborate on classification problems. From that same direction he heard the scholars talk about the classification of law, not for library purposes, but for teaching purposes, research purposes, or the needs of the practicing lawyer. He was to be directed by such statements as the following:

In making an arrangement of the whole body of the law the first and most important principle to be borne in mind is that the end in view is a purely practical one. It is not symmetry, elegantia or logical order for its own sake, or for the sake of the intellectual or aesthetic gratification to be derived from the contemplation of a code having such qualities, that would make it wise to enter upon the vast labor of codification and submit to the great, though temporary, inconvenience and increase of costly litigation that would result from the dislocation of established associations, the introduction of new technical terms, the failure to always express the intended meaning in unambiguous language, and the inevitable blunders, omissions and misconceptions which, even though the work of codification were entrusted to the best men obtainable, must attend the work of recasting into a better form the immense mass of shapeless and crude material found in our law. What is wanted is . . . to so arrange the

whole as to make it as easy as possible for persons who have occasion to do so to find out what the law is upon any given point. . . . Whatever arrangement best promotes these ends is the best, whether it is 'philosophical' or not. To prefer any other to it on any grounds of *a priori* theory is to play the doctrinaire or pedant.[2]

From the other direction the law librarian saw classification at work in his town library, in his school and college library, in his state and national libraries; he saw national and international conferences at work on schedules intended to resolve conflicts and to provide universality in this area of bibliographic controls. From this direction he heard talk of classification, but little, if any, mention of his problems with the law. The law librarian reacted as one would expect—he stopped, looked, listened. He also wailed a bit and waited to build up the courage necessary to take action. It took a long while for the law librarian to mature, to reach a level of sophistication that provided the necessary courage to devise a workable classification scheme for his library.

On November 10-11, 1961, a Conference on Classification in Law was held at the University of Chicago, under the auspices of the Chicago Chapter of the American Association of Law Libraries.[3] Here gathered an array of speakers who explained and advocated the recognition of the merits of their particular schemes. The current status of classification of law was reviewed; philosophies and schedules were surveyed. Discussion of the "K" schedule of the University of Chicago Law Library, the Los Angeles County Law Library "K," the New York University scheme, and a report upon the schedule being developed at the Harvard Law School Library was followed by the announcement that the Library of Congress is proceeding to complete its version of "K" for American legal materials. However, the fact that such a conference took place, that it was so well and enthusiastically attended, and that it produced the probing exchange of viewpoints so vital to progress, is of even greater significance. This meeting clearly demonstrated the growing maturity of law librarianship and predicted the achievement of its desired goal in matters of the classification of legal materials.

Of course, there are obstacles to be overcome. Some law librarians still seem unwilling to distinguish between the philosophical classification of legal concepts and the practical classification of legal material. There is little possibility, based upon past experience, that the legal profession will clarify this problem for its librarians. Therefore, rather

than become entwined in a complex matter that they are unable to resolve for lack of qualification, law librarians must seek to organize and control the order of law books on shelves rather than attempt to establish an order for legal concepts.

This they can accomplish readily, for, as a practical matter, large parts of all law libraries are already classified. The basis is not necessarily subject but is, rather, jurisdiction and form, with the alphabet providing the subcategory pattern. Since, as is frequently quoted, upward of 70 per cent of a law library's collection is serial in nature and reflects the law of a particular jurisdiction, these bases are certainly adequate for a systematic arrangement. They are, in fact, self-classifying materials. What remains, then, is the problem area. Monographs, textbooks, or treatises are less than 30 per cent of any law library collection; there may well be no need to call classification a problem for such a relatively small number of books. Be that as it may, it has been the heart of the classification problem for decades. Once it has been decided that these materials call for classification, the next inquiry should be, Shall the classification be according to a detailed, close, theoretical schedule or a simple, broad, practical schedule?

Once again the nature of the materials and the needs of the library users dictate the reasonable course to follow. As noted above, the characteristics of legal materials—jurisdiction, form, and date—if allowed to control a law collection, do so even without a notation device. A lawyer would not, or should not, be lost in a strange law library if he is intent upon utilizing its primary source materials—the laws and judicial decisions. However, when he is interested in locating treatises on a specific subject, he may become confused. More often than not he is confronted with an alphabetical arrangement according to author. The relationship of Smith, C., to Smith, L., to Smith, W., is useless to him. The relationship of three books, respectively, on the Uniform Commercial Code, negotiable instruments, and warehouse receipts is much more meaningful. As long as related materials are brought into proximity with each other, the assignment of close numbers to books is of little consequence. By guiding the user to the proper section of subject-related treatises, classification has accomplished its purpose.

Another feature to be sought in any scheme to be developed is flexibility and adaptability. On the one hand, the schedule ought to be applicable to the legal materials of all jurisdictions. On the other hand, it ought to be able to accomplish national uniformity while it

remains flexible enough to allow local deviations. It should be possible for a library arranging its books by subject-form-jurisdiction to utilize the same notation designators as the library utilizing a jurisdiction-form-subject arrangement in different sequence.

The determination of costs of application of a scheme to a collection is a local question. However, the relationship of classification to the potentials of bibliographic service need further exploration.

Is law librarianship attaining a professional maturity of the horse-and-buggy vintage in the space age? The self-classifying literature of the law has been magnificently ordered for centuries; it has developed access devices so effective and so tremendous that the indexes themselves now need multiple-volume indexes. Other disciplines are turning to machines for the type of access the lawyer can no longer afford to maintain as books on his shelves. Is the law librarian not well advised to touch base on matters of classification of treatises forthwith, to acknowledge that he has been stumbling while the rest of the library world has organized its books, to label two or three schemes as generally acceptable and workable if anyone wants to and can afford to adopt them, and to proceed to develop a greater knowledge and skill in the manipulation of existing devices for finding the law? He can then assume a much-needed leadership in experimentation in matters of machine information storage and retrieval. The skills recently acquired in matters of classification will not be wasted; they may be happily wed to existing skills in legal research for the ultimate realization of effective programs of a new dimension in library service for the legal profession. Roscoe Pound summarizes the matter thus: "Classification is not an end. Legal precepts are classified in order to make the materials of the legal system effective for the ends of the law. A classification is scientific, not because it has an appearance of universality, but to the extent that it organizes in a logically coherent scheme of exposition, the best that we know and think about those materials."[4]

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2. *Ibid.*, p. 607.

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