From the Chair

Greetings to all Legal History and Rare Books SIS members and other readers of the newsletter. I hope everyone had a pleasant and productive fall and a fun and festive holiday season. Also, I hope any of you who lived through the various regional natural disasters which occurred since July (a recent storm in the Northeast, and, of course, Hurricane Andrew) have recovered, or are recovering. I suspect that in the not too distant future Hurricane Andrew will be the source for innumerable studies and programs on library disaster planning and recovery as well as construction. I had originally intended to fill part of this space with a long-winded tale about a very small and very local "almost disaster" that happened in my own library when I returned from San Francisco last summer. However, the flow of articles to the newsletter has been sizeable enough that we really don't need yet another "what happened in my library" space filler. So, my ramblings have been stored for another time, and I will fill just as much space as is necessary to give an update on our activities since July.

In our effort to comply with the wishes of the AALL Preservation Committee, we have started to collect written definitions of "rare books" and policies for handling them. Anyone who has a written definition or policy and wants to help us should send it to Ann Laeuchli, Associate Law Librarian, Yale Law School, 127 Wall Street, P.O. Box 410A Yale Station, New Haven, CT 06520.

I have also placed an announcement of this in the December AALL Newsletter, and I have been in touch with a rare books librarian, not in law, currently doing the same thing, who is eager to share his findings with us. We should be well supplied with definitions by the spring.

We submitted several proposals for programs for the Boston meeting to the Education Committee in August. We also co-sponsored several proposals. At this point I am sorry to report that none of our program proposals has been definitely accepted. One proposal for a speaker is still being considered; the others have been officially rejected. These rejections bring up what appears to be a problem that won't go away. Certainly, as academics (which most of us are), and in particular as people interested in legal history and rare books, we are in an ever-shrinking minority within AALL. And, when the Education Committee is faced with diminished space at a meeting site, it is easy to figure out why our proposals are not accepted. On the other hand, members of the Legal History and Rare Books SIS, who are for the most part interested and active in AALL, cannot help becoming discouraged from active participation when our proposals are rejected year after year. All the pep talks in the world about "being active" won't work when the very activity being encouraged is repeatedly rejected. I will put this problem on the agenda for our business meeting in Boston. In the meantime, both Dan Wade and I will speak with Jim Hoover, the Education Committee chair for the '94 meeting, about this situation, and we encourage interested members to apply for a spot on the Education Committee to help make our voice heard where it counts.

In this Issue:

From the Chair .................................................. 1
Editor's Column ................................................. 2
The Selden Society ............................................. 4
Special Collections Program at South Texas College of Law Library ............. 6
English Legal History ......................................... 9
Annual Meeting Program ..................................... 10
Minutes of the Business Meeting ................................ 12
Treasurer's Report ............................................. 12
On the plus side, we will be having a reception with the Academic SIS at the Boston Meeting in the Harvard Law Library’s Special Collections Department. The reception will be at 5:30 on Tuesday, July 13, and there will be tours of the Special Collections Department starting at 2:00. I hope everyone will be able to attend. I will put the details in the July newsletter.

Although the minutes of the business meeting indicate that the nominations for new officers will be included in this newsletter, we have decided to use a separate mailing for these. Look for that in your mail in the near future.

Finally, the fact that Janet Sinder, our editor, has received enough materials for this issue does not mean that people should stop writing for the newsletter. Keep those articles coming. You really don’t want to see my endless wandering prose on these pages.

Cynthia Arkin

Editor's Column

First of all, thanks to Cynthia Arkin and members of her staff for designing the new logo (we look so professional now!). I’m happy to report that the articles came rolling in for this issue, as I’m sure you can tell from the length of the newsletter.

David Warrington has written about the history of the Selden Society, some of its publications, and has used his inside knowledge to give us a preview of forthcoming publications. I’m sure Dave will be happy to know that both Chris Anglim’s article and Byron Cooper’s column mention Selden Society publications.

The newly renovated Special Collections department at South Texas College of Law is the subject of Christopher Anglim’s article. In addition to describing the program at South Texas, he provides some practical information for those of us developing plans and programs for our own libraries. Once again, Byron Cooper has contributed an interesting column on English legal history. This time he has chosen to write about the legal historian Helen Cam.

Last year, when I asked for someone to write about our program at the San Francisco meeting, Katherine Hedin volunteered. I’m sure those of you who weren’t able to attend, and even those who were there, will find her description of Lawrence Friedman’s presentation fascinating reading.

Thanks to everyone who contributed, and to all our advertisers. I look forward to seeing what you send for the next issue (deadline is the beginning of May).

Janet Sinder

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The Selden Society
by David Warrington
Harvard

Many members of the Section will be familiar with the work of the Selden Society, the principal learned society devoted to the publication of new editions of primary works relating to early English legal history. For those members who are not acquainted with the work of the Society, however, and for others who wish to learn of its latest activities, I would like to describe briefly the work of the Society and to discuss some of its recent and forthcoming publications.

The Selden Society was founded in London in early 1887, largely through the efforts of F.W. Maitland, "to encourage study and advance the knowledge of the history of English Law." Its principal work is to publish annual volumes of the records and reports of proceedings in many different kinds of courts, but treatises, formularies, and other kinds of professional literature are also included. In each case the text is provided with the translation (where the original is Latin or French) and with full indexes and other apparatus. The introductions to these volumes comprise a substantial proportion of the research done in modern times on the history of the common law, and they and the materials themselves are important for social, economic, constitutional, and linguistic historians, and also for students of local and family history. The Society has in fact averaged a little more than a volume a year; 1991 saw the publication of the 107th volume in the series.

The Annual Volumes
The Society has long placed emphasis on editing Year Books; thirty-two volumes have appeared so far, the vast majority covering the first fourteen years of the reign of Edward II. Other broad subjects that have received attention are the plea rolls of the central courts (e.g., Vol. 101: Select Cases on Defamation to 1600); general eyres (e.g., Vol. 96: The Roll of the Shropshire Eyre of 1256); the King's Council, the Chancery and the Courts of Civil and Canon Law (e.g., Vol. 95: Select Cases from the Ecclesiastical Courts of the Province of Canterbury, c. 1200-1301); mercantile law (e.g., Vol. 28: Select Charters of Trading Companies); the legal profession (e.g., Vols. 71 and 105: Readings and Moots at the Inns of Court in the Fifteenth Century); and treatises and formularies (e.g., Vol. 91: St. German's Doctor and Student).

A good example of the scholarly approach used in editing Selden Society annual volumes may be found in Vol. 87: Early Registers of Writs, edited by Elsa de Haas and G.D.G. Hall and published in 1970. The development of writ forms and the collections of these forms, which were later represented by the standard compilation known as the Registrum Brevium Originalium (first printed by Rastell in 1531), can be traced back to the early manuscripts, five of which are printed with Latin text and translation in this volume. Following a general introduction by de Haas, who was responsible for preparing much of the text and translation, Hall provides a valuable commentary of nearly one hundred pages in which he discusses registers of writs in general and the five edited exemplars in particular. He then turns to the general questions of the growth and nature of registers, the problem of authority, the value of registers to contemporaries, and finally, the value of registers to historians. The volume concludes with a concordance of writs in the five collections; an analytical index of writs; and indexes of manuscript registers, persons and places, and subjects. De Haas and Hall's work remains the definitive study to date on this fundamental genre of legal literature.

Other Publications
As Byron Cooper pointed out in the first number of this newsletter (January 1991), most academic law libraries subscribe to the annual series, but many have failed to acquire the volumes in the Supplementary Series. This extra series, started in 1965, is occasional rather than regular, providing a home for relevant works of a nature or size unsuitable for the main series. The titles that have appeared so far are:

L.H. & R.B.


The Society also publishes many of its lectures (more than twenty so far) and occasional publications. Two of the latter are particularly noteworthy. In 1985, the Society published John H. Baker’s English Legal Manuscripts in the United States of America: A Descriptive List. Part I: Medieval and Renaissance Period (to 1558), which listed 205 manuscripts held by American institutions and individuals. Each entry indicates the principal contents of the manuscript, its provenance and principal published references. There are indexes of names and subjects. Part II, which appeared in 1991, continued the list from 1558 to the present century, with some additions and corrections to Part I. Because of the greater quantity of post-medieval manuscripts, this part contains 1,320 entries. A number of new discoveries were announced (including the autograph of Hale’s History of the Common Law), and several almost complete manuscript law libraries described (the Hale, Parker, Powys, Singleton, Twisden and Turnour collections). Part II also contains indexes of titles and incipits, of law reports (alphabetical and chronological), of names, and of subjects. Together, the two volumes offer the first comprehensive finding list of English legal manuscripts in America, and because many of the manuscripts have been unused by scholars, promises to stimulate much new research.

On the occasion of its centenary in 1987, the Society published A Centenary Guide to the Publications of the Selden Society. This 242-page guide contains a full history of the Selden Society and its publications. It describes in detail the contents of the Society’s main series, supplementary series, occasional publications, and lectures and pamphlets. The book’s indexes of subjects and personal names permit the researcher seeking information on specific questions to locate quickly relevant citations to the full run of Society publications.

Current Publications

The two most recent annual volumes are Raoul van Caenegem’s two-part English Lawsuits from William I to Richard I. The first volume contains accounts of law suits in the secular courts up to the end of Stephen’s reign, drawn from chronicles, charters and similar sources. Material from the reigns of Henry II and Richard I occupies the second volume, which contains indexes to the whole work. Professor van Caenegem’s introduction not only discusses the early English cases but also explores the European context and modern scholarship, with an

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account of the retrieval and publication of similar materials in continental countries.

The volume attributable to 1992 (Vol. 108) will be Sir Matthew Hale’s treatise on the admiralty jurisdiction, edited by M.J. Prichard and David Yale. The book will be augmented by other materials principally concerning jurisdiction over maritime crimes in the early modern period. Two further volumes, which will probably be attributed to 1993 and 1994 respectively, are nearing completion. The first is Dr. Brand’s edition of unpublished reports in the Common Bench prior to 1290; these are earlier than the Rolls Series Year Books of Edward I, and will illuminate the development of the law (and legal language) in the earlier part of Edward I’s reign. The second is an edition of the unprinted reports of Sir James Dyer (d. 1582), reconstructed by Professor Baker from various manuscript sources. They include a number of cases of general historical importance which were omitted from the 1585 editions because of their sensitivity, and also the earliest known continuous series of circuit notes.

Volume 10 in the Supplementary Series, scheduled to appear in early 1993, will be The Judges of England 1272-1990, compiled by Sir John Sainty. This is the first complete and accurate list of judges of the superior courts, with their precise dates of office, and will be an indispensable reference for all legal scholars working with English cases.

Membership

There are no qualifications for membership other than an interest in the work of the Society. There are now over 1700 members in some 30 countries, mainly the United Kingdom, the United States, and the Commonwealth. These members include, in addition to legal historians, professional and amateur, many distinguished judges and practicing lawyers, together with most of the major university and court libraries in the English-speaking world.

For the annual subscription (currently $50 per annum for individuals; $65 for institutions), a member receives without further charge the annual volume, the annual report of the Council of the Society, and occasional literature, including published lectures. Members are also entitled to concessional rates on other publications, including the Supplementary Series.

For further information and an application form, please contact David Warrington; Secretary for the United States; Selden Society; Langdell Hall 512; Harvard Law School; Cambridge, MA 02138; (617)496-2115; warringt@hulaw1.harvard.edu.

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Special Collections
Program at South Texas College of Law Library
by Christopher Anglim
South Texas

Dedication Begins New Era for Special Collections

The library at South Texas College of Law held the official dedication of its newly renovated library on January 9, 1991. The revamped Special Collections facility on the third floor of the library houses: 1) valuable and historically significant monographs, many of which are rare, and 2) the Archives and Manuscripts Collection, which includes faculty writings, and collections associated with notable attorneys, jurists, or cases. The Archives and Manuscripts Collection also includes records and photographs pertaining to the history of the college. The Special Collections stack room underwent significant improvement which should eventually result in major preservation benefits. A major part of the renovation is the new Jesse H. Jones Reading Room for Rare Books and Special Collections. The room is modeled after the architectural style of Frank Lloyd Wright. It has parquet floors and beautiful wood cabinets. Furnishings in Special Collections include a desk once owned by Jesse H. Jones, a Houston businessman, while he was publisher of the Houston Chronicle. Jones eventually became director of the Reconstruction Finance Corporation in the 1930s.

The new reading area is designed to preserve the materials as much as possible, provide security for the materials, display them in an attractive fashion, and increase user interest in Special Collections. While the law many of these works contain may have been long superseded, the monographs remain as testaments to our Anglo-American legal heritage. These unique works are fully explained in an annotated catalog for the collection. The collection includes such significant titles as:

1. Robert Brooke, La Graunde Abridgement (1576).
   Sir Robert Brooke was a common sergeant, recorder of London, speaker of the House of Commons (1551) and chief justice of the Court of Common Pleas. The Abridgement was first published in 1568 and was the last of the Year Book abridgements, designed to facilitate access to the information contained in the Year Books. Many of the cases in the Year Books are unique as printed texts. Brooke abridged the Year Books of Henry VII and Henry VIII. In addition
to the Year Books, Brooke based this work on early treatises and statutes. This work is more inclusive than the abridgement by Fitzherbert.

2. Justinian's Pandectae (3 vols.) (1581). This is part of Justinian's Digest, which first appeared in 533. This work was compiled by a commission established by Justinian to codify the work of Roman jurists.

3. John Selden, Historie of Tithes (1607). Selden (1584-1654) was educated at Oxford and served as a barrister at the Inner Temple. He served in Parliament during the reign of Charles I and was regarded as an advocate of political freedom. Selden's works interpreting English law and history are valuable sources for his period and won him scholarly acclaim.

4. John Cowell's Interpreter (1607) has frequently been relied on by English scholars. John Selden made several references to this work in corresponding with John Fortescue. Giles Jacob used the Interpreter as one of his authorities in compiling his law dictionary. Cowell was accused of "constitutional errors" for this work and imprisoned, and the work was suppressed by royal proclamation in 1610. The Interpreter did, however, endure. It was expurgated of its "offensive" content and enlarged in 1708. It remained a foundation of legal lexicography for much of the 18th century.

5. Edward Coke, Coke on Littleton (1633). Edward Coke (1552-1634) was the chief justice of the Court of Common Pleas from 1613 to 1616. In 1616, he began work on the Institutes of the Laws of England, a four part work, of which the first part is "A Commentary on Littleton." Coke followed Littleton's format and discussed the same issues of common law, statutes, and customs. The commentary on Littleton's Tenures is a valuable historical compendium of property rights.

Renovation is Accompanied by Model Special Collections Plan

Special Collections at South Texas was developed over several years by past and present library administrations. The renovation was also accompanied by efforts to create a preservation plan for the collection. Special Collections was recently the subject of study and planning to improve its administration, preservation, and conservation, and this effort resulted in a model plan.

The plan discusses the following Special Collections issues: mission, goals, and objectives of the collection; administration; collection development; cataloging and technical services; public services matters, such as educating staff and users on the correct handling of books; preservation-conservation strategies; exhibiting materials; and supporting the collection. The preservation strategy entails proper maintenance, proper environmental conditions and environmental monitoring. Efforts such as phase-boxing and conservation await results of the condition survey. A more formal preservation proposal, including statistical analysis and cost estimates also await the conclusion of the collection survey.

Survey of the Collection

Our collection survey is based on both the collection survey performed at Georgetown University College of Law in 1986 and the procedures recommended by Karen Garlick, Senior Conservator at the National Archives. We will also incorporate the forms used by the Northeast Document Conservation Center Survey Form C-1 to assess the material. The C-1 form has a comment section allowing us to summarize the contents of each archival item. This survey is instrumental in developing a plan of action for our valuable materials.

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We will make specific assessments on the following issues: effect of environmental conditions on the collection; extent of physical deterioration of the collection; strengths and weaknesses of preservation resources currently available; vulnerability of the collection to physical disaster; and strengths and weaknesses of current library preservation activities, as well as their administration and organization.

Patron/Staff Education

Shortly prior to the dedication, a student worker noted that a book from the general collection had had bubble-gum used as a bookmark. This only reiterated the need to maintain awareness by users and staff of appropriate and inappropriate ways of handling books. To use materials in Special Collections, one must show good cause as explained in the manual and follow procedures as enunciated in the manual. They must use materials within the desk attendant’s sight and in the reading area, unless they have permission to take it out of that area. A library-wide publicity effort is planned to alert users to the possible damage to materials caused by abuse or neglect.

Holdings Maintenance Preservation Strategy

Preservation measures are intended to stabilize materials in their present condition. "Holdings maintenance" is comprised of activities which are the first preservation initiatives. They are designed to improve storage environment, and retard or eliminate the need for conservation. Maintaining the proper environment is essential for the preservation of materials. Thus, temperature and humidity levels appropriate for a collection of mixed materials will be maintained, i.e., temperature at 68° F and relative humidity at 45%, within prescribed fluctuations. Daylight, which contains harmful ultra-violet light, is prevented from entering the reading area or the stacks by the new design of the facility. As part of our long-range plan, we are investigating the possibility of cold storage for photographic materials.

Another element in our initial preservation strategy is to slow the natural process of deterioration by using proper enclosure materials such as acid-free folders, phase-boxes, clamshell boxes, buffered tissue, envelopes for photographs, and cover mounts. Again, a complete preservation proposal awaits the results of the condition survey.

The practice of "oiling" monographs was discontinued after a study determined that "leather dressing" has little or no preservative effect. The Library of Congress, incidentally, suspended its oiling program for the same reason.

The material for Special Collections is housed in closed stacks. Each monographic work has an OCLC record, the card catalog, shelflist, and Special Collections value card file. Each item in the Archives and Manuscript Collection is listed by indices and by inventory sheets. In order to retrieve and use or display archives and manuscripts without damage, they are stored, mounted, and enclosed in a chemically neutral medium. Related items are kept in the same folder if they are of similar size and material.

Display of Materials

Permanent and rotating displays are an ongoing function of Special Collections. Items will be framed with archival quality materials. For example, wood frames will be phased out and replaced with aluminum. The display cabinets for monographic materials in the reading room are wooden. These cabinets are sealed so the monographs will not be in touch with the acidic wood.

A complete inventory is required for every exhibit. Any photograph chosen for display will be dry-mounted on museum board for support. Photo negatives will be stored in photo archives. We will display art works on paper in the wall-mounted cases, encapsulating them in mylar.

Displays are rotated so that ultra-violet light will not affect the materials. Fluorescent lights are fitted with filters to prevent ultra-violet light damage.

Disaster Planning and Recovery

Disaster planning pays for itself, especially if one acknowledges that the degree of recovery from a disaster is directly proportional to the amount of pre-planning performed. The plan includes provisions for asset inventory, a list of steps to implement when a disaster occurs, a telephone list, sources of emergency supplies, a description of emergency procedures, disaster response outline, a list of priorities for protection and recovery, staff volunteer lists, a list of emergency resources, and conservation efforts.

Our disaster preparedness plan is partially based on recommendations by Toby Murray, Conservator at the University of Tulsa, and Robert Genovese of the University of Arizona.

Conclusion

The library staff at South Texas is committed to the preservation and conservation of legal classics as a way to preserve these works as artificial testaments of Anglo-American law. We hope our model plan will assist other law libraries.
**English Legal History**

**Helen Cam**  
By Byron Cooper  
University of Detroit

Unlike lawyers and even librarians, legal historians have rarely been portrayed in films or fiction. Are there any besides the detective of uncertain gender in Sarah Caudwell’s epistolary murder mysteries? But in his recent idiosyncratic account of 20th century medievalists, Inventing the Middle Ages (1991), Norman Cantor recalls that Helen Cam was thought to have been the basis for Margaret Rutherford’s character in the 1947 film, Passport to Pimlico. Cantor maintains that “Rutherford’s medievalist resembled Helen Cam in high gear too much to be just a coincidence.”

In general, however, Cantor neglects Cam’s contributions to historical studies, merely setting her up as a critic of Maitland and ridiculing her admiration for Bishop Stubbs. Her work was, in fact, much more significant than Cantor’s account might suggest.

Born in England in 1885, Cam was educated at the University of London, with a year at Bryn Mawr. After teaching in several schools, including over two decades at Cambridge University, she became in 1948 the first woman appointed to a full professorship at Harvard University. She returned to England in 1954 and in 1957 became one of the first two women (with Lady Stenton) appointed to the Council of the Selden Society. Throughout her career, she published a large number of articles on a wide variety of topics, along with several significant books: Local Government in Francia and England (1912), Studies in the Hundred Rolls (1921), The Hundred and the Hundred Rolls (1930), Liberties and Communities in Medieval England (1944), England Before Elizabeth (1950 and later editions), Law-Finders and Law-Makers in Medieval England (1962). She also edited a number of works, including in 1957 a selection of Maitland’s historical writings. Working from a leaning tower attached to a house she shared with her sister in Sevenoaks, she had by the time of her death in 1968 virtually brought to completion the Eyre of London (85 & 86 Selden Society (1968-69); see S.F.C. Milsom’s pleasant memorial at 86 Selden Society ix-x).

Cam’s most significant work concerned local history and the interaction between local communities and the emerging legal system, especially in the 13th and 14th centuries. Her work was based on a mastery of published and unpublished documentation, and for that reason is likely to have permanent value.

She also had a remarkable ability to share the values and perspectives of people of the Middle Ages and to empathize with them in their dilemmas concerning government, social organization, and legal developments. This imaginative empathy was a characteristic she valued in other historians as well. In her enthusiastic introduction to the Selected Historical Essays of F.W. Maitland (1957), she wrote that Maitland was able to see every generalization in terms of the individual and every principle in its application to a particular case. Although not trained as a lawyer, she was drawn to legal documents not only as a source of historical evidence but also as a means through which “[t]he generalisation is brought down to earth . . . We are plunged into the fascinating world of personal conditions and individual psychology.” Helen Cam, Law as It Looks to a Historian 14 (1956).

For much the same reason, she also valued historical fiction, which, she wrote, is “a standing reminder of the fact that history is about human beings.” Helen Cam, Historical Novels 4 (1961 & 1968 reprint with memoir). Not unexpectedly, she tended to rank historical novels by the extent to which the author “has really soaked himself” in the society used as a setting: “[I]f we refuse to call a picture a good portrait when, though a fine work of art, it bears no resemblance to its subject, we are surely entitled to demand that a historical novel should be both good literature and good history.” So she gives an “A” to Gone with the Wind, but reserves an “A***” for a book like H.F.M. Prescott’s Man on a Donkey, for which the author immersed herself in the society of Henry VIII’s England. Few books aroused Cam’s wrath as much as Josephine Tey’s Daughter of Time, which she regarded as “essentially dishonest,” “phony,” and anachronistic, but still useful: such books “can serve the historical student as excellent subjects for the dissecting table.”

In Helen Cam’s works, Milsom wrote, “[t]he abstractions in which the legal and institutional historian must deal were not allowed an independent life of their own, but were kept in their place as a part of the lives of real people.” 86 Selden Society x (1969).

Cam’s work continues to be useful to legal scholarship. In From Medieval Group Litigation to the Modern Class Action (1987), Stephen Yeazell proposes Cam’s account of the status of vills in medieval law courts as one potential explanation of the source of the modern class action. Much of the
work on the legal and institutional history of the Middle Ages has relied extensively on her efforts.

She really deserves better of Norman Cantor. He uses her as an example of "reactionary" approaches to teaching history: "In 1948 Helen Maud Cam published a thunderous proclamation arguing that Stubbs's *Constitutional History* of the 1860s should still be the core undergraduate textbook!" In fact, she was only recommending that Stubbs' book be placed on the list of books recommended for study by students of medieval constitutional history. See her 1948 article, "Stubbs Seventy Years After," reprinted in *Law-Finders and Law-Makers* 188 (1962). Cam was by no means blind to Stubbs' faults, but believed that the significance of his work should be understood by serious students of constitutional history. Stubbs' work was relied on by several historians generally admired by Cantor (Maitland, Eileen Power, Maude Clarke) as well as some he generally disliked (Vivian Galbraith and Professor Cam). The reasons for Cantor's hostility to Cam are not explained fully in his book, but it is difficult to avoid the impression that he does not respect the highly technical work she did; perhaps this is not surprising in a medieval historian who twice describes the plea rolls as being written in French. Norman Cantor, *supra* at 31, 53. Like Maitland but unlike Cantor, Cam was generous in recognizing the real achievements of other historians.

Helen Cam's books are still occasionally available from American or British reprint publishers. The three that ought to be in any law library providing serious coverage of English legal history are *Law-Finders and Law-Makers, The Hundred and the Hundred Rolls*, and *Liberties and Communities in Medieval England*.

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**Annual Meeting Program:**

**Crime and Punishment in Early California Law**

by Katherine Hedin

University of Minnesota

One of the contributions of our SIS to the Annual Meeting in San Francisco was the sponsorship of a program entitled "Crime and Punishment in Early California Law: Legal History and Court Records." Presented by Professor Lawrence Friedman of Stanford Law School, author of *The Roots of Justice: Crime and Punishment in Alameda County, California 1870-1910* (1981), this program provided fascinating insights into the methodology of conducting legal history research, with particular emphasis on the use of local court records.

A plea for the preservation of local court records was the cornerstone of Friedman's talk. Friedman explained that archival records, often housed in dreadful conditions and in danger of being discarded, provide unique insights into the criminal justice system. Court records, for example, are powerful indicators of social attitudes and prejudices. In a particularly naked and accurate way, these records reveal attitudes toward crime and punishment that cannot be gleaned from formal literature. This is evident from one probation report of 1907 which stated that the defendant, who was denied probation, "had gone to a house of prostitution three times, was fond of theatre and had no library card."

Additional aspects of the criminal justice system that cannot be studied without the use of archival records include changes in process and procedure, information on which crimes are taken seriously and are prosecuted, the decline of trial by jury, the rise of plea bargaining, the rise of bench trials, and statistics on numbers of people acquitted and convicted in a particular court. Friedman also discussed the fact that trial transcripts are a rich source for historical study of everyday conversational English.

Professor Friedman began his talk by describing the development of interest in using local legal history as the basis for research. A landmark event in this development was the publication of *The Growth of American Law: The Law Makers* by James Willard Hurst in 1950. Hurst emphasized in this and subsequent works that the law is not an entity in itself but is rather a living system dependent upon social, cultural and economic forces. Hurst, the founder of what came to be known as the "Wisconsin school of legal history," directed attention to the local and emphasized that the best way to do research on the history of law and the criminal justice system is to do a case study. This kind of archival research is, of course, in marked contrast to traditional methods of legal research, which are based on library materials and tend to concentrate on great cases, particularly those decided on a national level. Hurst's study, in Friedman's words, "treated law as a dependent variable rather than as an internal affair. . . . and opened the door to something that hadn't existed and that is a quantitative, archival kind of writing of legal history."

One result of this viewpoint was the use of longitudinal court studies as exemplified in a study by
Friedman entitled "A Tale of Two Courts," in which a sample of civil cases appearing at twenty year intervals in the Superior Courts of Alameda and San Benito Counties from 1870-1970 were examined. Although Friedman admits that "it is not the kind of idea that wins the Nobel Prize," the idea of studying local court cases was indeed unique. With the exception of one rather ineffective study in Wisconsin, it had simply never been done before.

One unexpected result of this study was a question concerning the validity of the assumption that this country is experiencing a litigation explosion. According to Friedman, this question can only be answered by longitudinal studies. Several recent longitudinal studies, in addition to Friedman's original study, find no evidence of a litigation explosion.

Although Friedman briefly discussed some of the results of this study as well as several others, he explained the methods and results of his study of Alameda County as described in The Roots of Justice in greater detail. Examining arrest blotters, court registers, appellate court records, felony case records, newspapers and other miscellaneous records, Friedman studied in detail one particular justice system. The result was a melding of statistics with impressions, stories and testimony which, taken together, form the basis of a unique historical study.

One conclusion of this study that Professor Friedman discussed is that a unified criminal justice system simply does not exist. Rather, there exist many systems arranged in tiers or layers. At the bottom exist thousands of police court and municipal court cases, reflecting an extremely routine, administrative approach to such offenses as simple assault and drunkenness. At the top are a very small number of show trials, important in two contradictory ways: on the one hand they give the public the impression of an elaborate court system in which every effort is made to ensure due process, and on the other they give the impression that the law is simply a bag of tricks or technicalities. This picture of an elaborate court system is entirely incorrect as far as the normal case is concerned. These cases form the middle layer, the domain of ordinary but serious crimes, the domain of plea bargaining rather than trials, a system more administrative than adjudicative.

Friedman explained that one of his biggest breaks when writing Roots of Justice was the existence in the Oakland Public Library of Oakland Police arrest records from 1872-1910. These provided a complete record of who was arrested, for what purpose, and the decision made in each case. As an aside, Friedman mentioned that these records were preserved only because at the moment they were being hauled out of police headquarters for disposal, a woman who worked for the Oakland Public Library happened to be driving by and rescued them!

Social history discovered in these sources is not concerned with the glamorous, but with the ordinary. As Friedman explained, "what is important is the ordinary case . . . the guy today who robs the 7-Eleven in the ski mask. To understand what is happening in this country today you have to understand the routine, the average." Archival court records provide the means to study historically the routine, average case.

Friedman ended with a plea to the library community to preserve those records which are "treasures and should be preserved just as Mount Vernon should be preserved."
Minutes of the Business Meeting

Nicholas Triffin (Pace), Chair, Presiding.

The regular business meeting of the Legal History and Rare Books SIS was called to order by the Chair at 1:10 P.M., July 19, 1992.

The minutes of the last meeting were approved as submitted.

The Treasurer's report (see below) indicated a May 31 balance of $3,432.82, with invoices for the July 1992 newsletter still outstanding.

Janet Sinder (Duke) reported that while the newsletter was doing well she wished to encourage contributions to it.

Nick Triffin mentioned that our by-laws were not in compliance with the AALL requirements for election of officers. Nominations for offices should appear in the January newsletter with elections taking place by mail ballot before the annual business meeting.

William Gaunt was elected unanimously to honorary life membership in the Legal History and Rare Books SIS.

Proposed events suggested for the 1993 AALL Boston meeting included a workshop, perhaps in conjunction with the Northeast Document Center, on the care and handling of books (Grethchen Feltes, NYU); a tour of the Antiquarian Society; a program on archival materials, with the participation of a specialist in that field from the University of Massachusetts; a program featuring Prof. Paul Finkelman, who would speak on the Anthony Burns case and antebellum Boston; a reception at Harvard hosted by Terry Martin and Dave Warrington; and a program on government documents as rare books.

The nominating committee submitted Dan Wade's (Yale) name for Vice Chair/Chair-Elect, the only position now open to election, as Cynthia Arkin (University of Pennsylvania) becomes the Chair for 1992-93 and Ann Laeuchli's (Yale) term as Secretary/Treasurer runs for another year. Dan Wade was elected unanimously.

Since there was no old business, the Chair asked for new business. The following items were mentioned:

1) A Law Librarian's Resource Directory, informative for those seeking library consultants, is being compiled.

2) Janet Sinder announced that she will retire as newsletter editor next year.

3) Nick Triffin referred to the report of the AALL Special Committee on Preservation Needs of Law Libraries, which recommended that the Rare Book SIS play an active role in developing educational materials on housing and care of rare books, in developing a policy for the retention of rare books and for entering their records in national bibliographic databases, and in collecting rare book definitions and policy statements prepared by law libraries. It was decided that those members whose libraries have rare book and/or preservation policies should send them to Ann Laeuchli at Yale.

4) Marsha Trimble (University of Virginia) reported that a committee had been established through the Federal Judicial Center to advise federal judges on the disposal of their papers. A judge may well think of his/her alma mater library as the appropriate repository for such papers. There was discussion of whether a program could be structured around manuscript collections in law libraries.

5) Nick Triffin indicated the need to formulate strategic plans for the section with missions and goals, and to market our SIS through Chapter newsletters.

The meeting was adjourned at 2:20 p.m.

Respectfully submitted,

Ann J. Laeuchli
Secretary/Treasurer
August 11, 1992

Treasurer's Report
1991-1992

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LH & RB
Newsletter of the Legal History
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