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Freeing the Law

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behind paywalls and subscriptions, out of reach of the average citizen. To successfully navigate the legal system, a litigant often must rely on primary sources that are codified, published, or disseminated in some “official” way. Many legal sources, including most state and municipal codes, are subject to copyright restrictions. Before the advent of the internet, publishers held a monopoly on publication of legal materials. The federal government has its own in-house printing press, GPO, but most states do not have an equivalent and many rely on various publishers to disseminate their codes.

The Bluebook requires citation to “official” codes that are often published by for-profit private entities, rather than the government or non-profit groups. Although there is express language prohibiting copyright protection of U.S. government materials,² there is no such stipulation for states. States have continued to assert their copyright interests either in the text of the law itself or its arrangement or compilation. As a result, there have been a number of lawsuits over the last three centuries and efforts to “legislate” this problem. Only a handful of states (California, Florida, Indiana, Louisiana, Massachusetts, Minnesota, New Jersey, New York, North Carolina, and South Carolina) have laws that make their codified and compiled laws part of the public domain.

“While the free law movement may be fairly new, the idea that the law should be freely available to the public is not. In 1886, a Massachusetts court stated: ‘... it needs no argument to show that justice requires that all should have free access to the opinions, and that it is against sound public policy to prevent this ...’”

So who benefits from the free law movement? Essentially, everyone. The law makes up part of the culture and hegemony of society. There is no aspect of life that the law does not touch. The law governs our lives, from the way we elect our leaders and the amount of taxes we must pay, down to the width of the turnstile at the subway station and public school toilet paper contracts. There is very little that is not regulated, legislated, or litigated in modern society, thus making the law itself a cultural artifact.

Shouldn’t the law be free? Doesn’t it belong to all of us? This is an issue of history, cultural property, anthropology, sociology, and morality.

Libraries have always been the warehouse of information for any community. This information should include legal information as well. All libraries, public, academic, government, and private, should consider how their organization can contribute to this movement. As the role of the library continues to change from the warehouse of books to the public meeting house to a digital access point, it is imperative that librarians and libraries continue to be arbiters of information.

The use of finding aids and reference services can help with this mission. But partnerships with legal service providers and community leaders can also help this cause. There have been a number of different programs in this regard, from legal clinics offered in libraries, to embedded law librarians in public libraries. Other groups are starting to follow suit as well. Many law schools and academic law libraries are creating clinics, classes, and incubator programs that provide these services.

It is up to law librarians as arbiters, vetters, and disseminators of legal information to lead the charge. ■

Notes

¹ *Nash v. Lathrop*, 142 Mass. 29 (1886).

² See 17 USC 105.



From the Editor

YOU Get the Law! And YOU Get the Law! And YOU Get the Law!

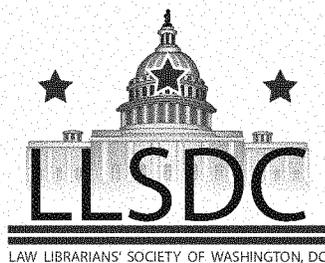
Shannon Roddy

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Happy New Year! The theme of this issue is Access to Justice/Free Law Movement, both of which are hot topics in the legal and library communities. The [ABA](#) defines access to justice initiatives as “effort[s] to remove barriers to civil justice for low-income and disadvantaged people.” The [free law movement](#) seeks to make legal information (primary and secondary sources) publicly and freely available to everyone. In my mind, these two concepts are inextricably intertwined, and law librarians have a vital role to play in both. I think it’s important for all of us to think about how we can help ensure that everyone who needs it gets access to the law.

In this issue, Khelani Clay, Special Projects Librarian at American University Washington College of Law, provides an overview of the free law movement and encourages law librarians to get involved. Pamela Lipscomb, Director of Library & Research Services at Arent Fox LLP, writes a tribute to Rick McKinney, the leading author of LLSDC’s *Legislative Source Book*, a freely available guide for researching legislative history and administrative law. In his president’s column, Andrew Martin discusses the vital role librarians play in the fight against fake news and misinformation. Matt Zimmerman’s tech column focuses on the future of artificial intelligence (AI) in law libraries and whether it will provide lower-cost



Submission Information

If you would like to write for Law Library Lights, contact Shannon Roddy at roddy@wcl.american.edu. For information regarding submission deadlines and issue themes, visit the LLSDC website at www.llsdc.org.

