



Looking Back and Looking Forward: The Social Law Library Moves into the John Adams Courthouse

Robert J. Brink, *Executive Director* (March 2005)



The Social Law Library moved into the newly restored John Adams Court House in December 2004.

The opening of the rejuvenated John Adams Courthouse has generated considerable interest—even excitement—among the bench, bar, public, and media, and the March 31, 2005 ceremony dedicating the building promises to be a memorable episode in the long history of the Commonwealth’s judiciary. While those in attendance will celebrate the installation of the Supreme Judicial Court and the Appeals Court in their new quarters, I suspect many may not know much about the Courthouse’s third occupant, the library with the funny name, or how it came to be resident in the Courthouse. The answer is found in an arrangement unique in the annals of the Commonwealth and dating back more than two centuries.

decisions from any American courts existed to provide precedents. As the Courthouse’s namesake, lawyer John Adams, observed, “I have suffered very much from the want of books.”

The years following the American Revolution saw social and economic revolutions with the pace of progress spawning new legal issues, but the bench and bar were severely hindered because there were very few indigenous American law books, and no published

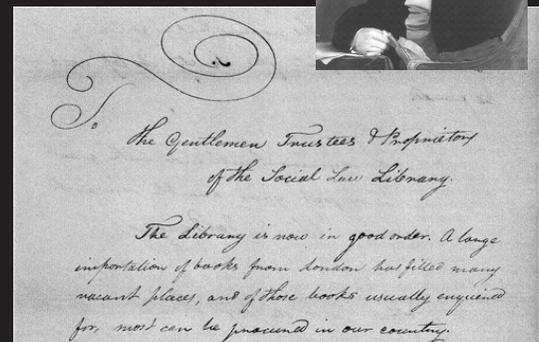
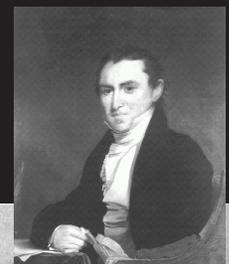
In response, in 1803—only thirteen years after state government began under the still novel Massachusetts Constitution—leaders of the Boston legal community formed the Social Law Library. The next year the Library sent an agent abroad with \$1,100 to import the first of many shipments of English law books.

The bar suddenly had books for research, but the bench did not. The Supreme Judicial Court immediately remedied that situation by assigning the Social Law Library a room in the courthouse in exchange for the use of the Library collection. Since then, the Supreme Judicial Court has moved six times and each time the Library has moved with it, continuing one of the Commonwealth’s most successful and enduring public/private partnerships.

1814 Legislation Transforms Library

The first such move was in 1814, the very same year the Legislature by a special act transformed the Social Law Library into a special governmental law library to assist the three coordinate branches of state government in performing their respective constitutional roles. Govern-

John Lowell journeyed to England with \$1,100 to select English law books for the Social Law Library’s first collection. “The Library,” this early document notes, “is in good order. A large importation of books from London has filled many vacant places.”



ment's use of what was then (and still is) the most comprehensive law library available to Massachusetts officials was necessary to achieve John Adams's ideal, which he eloquently penned in the Constitution of 1780, that the Commonwealth of Massachusetts be "a government of laws and not of men."

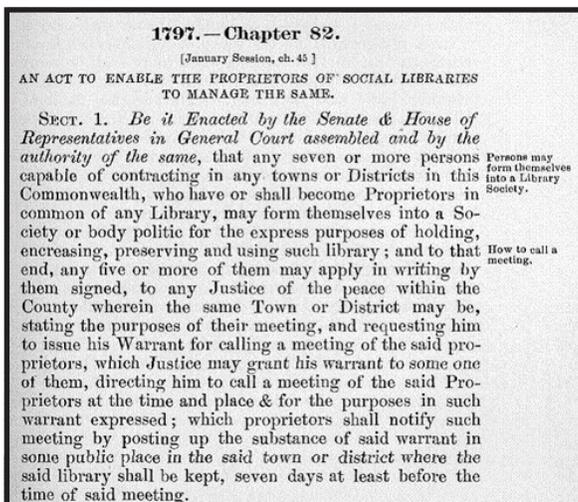
Thus, the 1814 legislation expressly imposed upon the private Library the unique public obligation to provide the judicial, executive, and legislative branches of the state government access to its collection and services in return for public funding. (This arrangement predates by a century Amendment XLVI to the Massachusetts Constitution which exempted private entities functioning as public libraries from the general prohibition on the expenditure of public money for other private organizations.)

In 1842 the Legislature reaffirmed its intent that the Library serve as a quasi-public library providing free services to governmental officials, and fee-based services to the public, when legislation creating the statewide county law library system was passed. That enactment provided for "law library associations" in every county "except Suffolk." It was assumed by the Legislature that the Library would continue to serve the requirements of the judicial courts and bar of Suffolk County. The Legislature intended that "[t]he free law library for [Suffolk County] is the State Library's law collection," notes *The County Law Library System in Massachusetts* (1921).

The Legislature was thus quite willing to leave the preexisting arrangement with the Library untouched, given that a substantial portion of the Library's operating expenses were underwritten with private revenue (today that figure exceeds sixty percent) to meet the bench and bar's need for the most comprehensive law library possible; a library that collects the fullest range of legal research and reference materials from all fifty states and common law countries. I know of no other law library in the United States with such a legislative directive to provide services to the three branches of state government that also receives private funding.

19th Century "Social" Libraries

To appreciate fully the development of the Social Law Library's quasi-public status, it is helpful to know that many of the Commonwealth's leading public libraries were established prior to the tax-supported public library system itself. Classed today by the Massachusetts Board of Library Commissioners as "Association/Corporation



Copy of the 1797 statute creating "social" libraries. Created for the "social" good, they were the earliest form of public libraries. The "law" library was the first, soon followed by "social" libraries for medicine, engineering and insurance.

Libraries," approximately eighteen percent of the state's public libraries are of this type, and they continue to be governed under their original charters as private entities while officially functioning as public libraries and receiving state, local, and private funding.

The earliest of these institutions were organized as corporations pursuant to a 1797 statute calling for the creation of "social" libraries, in the sense of "association." As their name implies, these libraries were created for the "social good." Membership was open to the general public for a fee in the same way the Commonwealth's infrastructure for public transportation was (and, in part, continues to be) funded with tolls and tokens for bridges, roads, busses, and trolleys. As one legal historian explains, a dominant reason for the use of this corporate form "was the legislature's aversion to taxing its citizens. By incorporating private groups and empowering them to collect user fees, the state did not have to tax its citizens to provide public services."

The inception of the state’s public library system can be traced to four such Association/Corporation libraries, organized under the 1797 statute, which provided the intellectual underpinnings to support the Commonwealth’s 19th century transformation from an agricultural to a modern industrial economy—a law library, a medical library, an insurance library, and an engineering library. The first of those was the Social Law Library, organized in 1803, making it one of the oldest public libraries in the Commonwealth.

The tax-supported, free public library system was not started until the founding of the Boston Public Library in 1848. Thereafter, the older Social Law Library and other similarly-organized Association/Corporation libraries were integrated into the Commonwealth’s public library system because they served the same needs as the tax-supported system. As recognized long ago by the First Circuit Court of Appeals, the need addressed by the Social Law Library is “access to sources of information and for opportunities for research in problems of law by any citizen becoming a Proprietor” and certain state officials pursuant to the 1814 legislation described above. Such access, the Court goes on to say, affords the public both direct and indirect advantages “from the better administration of the law by reason of the knowledge thus obtained,” which “*is of inestimable benefit to the public.*” (emphasis supplied). *United States v. Proprietors of Social Law Library*, 102 F.2d 481, 482 (1939).

Starting its Third Century of Service in the John Adams Courthouse



Today, the Social Law Library serves as the premier law library in Massachusetts. In addition to the direct services it has provided to the Supreme Judicial Court for more than two centuries, and to the Massachusetts Appeals Court since 1972, it welcomes and responds daily to research requests from judges and court personnel from all courts, in all corners of the Commonwealth.

Over 175 offices of the Legislative and Executive Branches also routinely depend on the Library. During the recent recession, reliance on the Library by the Executive and Legislative Branches has increased by thirty percent. Not only have Legislative Committees (*e.g.*, on Banks and

Banking, Commerce and Labor, Housing and Urban Development, etc.) established accounts with the Library, but also entities in the Executive Branch (*e.g.*, Executive Office of Public Safety, Medical Affairs Branch of the Registry of Motor Vehicles, Workers’ Compensation Rating Bureau, etc.) joined the Library. The Legislative and Executive Branches used the Library’s resources over 13,250 times last fiscal year, or more than fifty requests per business day.



The Social Law Library also serves nearly 9,000 private members who practice law in communities from Pittsfield to Provincetown. With faxes, emails, PDFs, and the Library’s electronic databases (including the recent introduction of the national online research service, Fastcase) lawyers from beyond Boston are the fastest growing segment of the Library’s membership.

Since equal access to justice depends on equal access to a comprehensive law library, the Social Law Library also provides pro bono memberships to every major Legal Services organization in Massachusetts—those that serve the indigent in greater Boston, on the North and South shores, Cape Cod and the Islands, as well as in Central and Western Massachusetts.

What was for generations an organization serving downtown Boston, is now a resource relied on daily by the full spectrum of lawyers, judges and other governmental officials throughout the entire state.

As it moves into the new John Adams Courthouse, the Social Law Library begins its third century of service to the government and legal community of Massachusetts. Its resources are part of the intellectual “commonwealth” of all who place their faith and trust in the rule of law.

