

ing is the approach taken in a study draft of the American Law Institute, under which the creation of specified generation-skipping trusts, or the making of an outright gift to a member of a defined distant generation, would be subjected to a surtax, based on the transferor's average rate, in addition to the standard transfer tax.²⁰

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WATER LAW BIBLIOGRAPHY 1847-1965. By J. Myron Jacobstein¹ and Roy M. Mersky.² Silver Spring, Maryland: Jefferson Law Book Co. 1966. Pp. xvi, 249. \$20.

With this bibliography Professors Jacobstein and Mersky have made a major scholarly contribution—not only to the study of water law, but also to the advancement of legal bibliography. Their work, subtitled "Source Book on U.S. Water and Irrigation Studies: Legal, Economic and Political," provides an ordered record of a varied and elusive literature of books, documents, and periodical articles. It is divided into fourteen sections: four are topical, designated General, Legal, Economic, and Irrigation; five are geographical including entries for each of the fifty states plus Central Arizona, Central Valley in California, Colorado River, and Frying Pan-Arkansas; and five are forms of material—Legislative Histories, Newsletters, Interstate Agencies, Unpublished Doctoral Theses, and Administrative Decisions. Standard bibliographic entries are used, including pagination, and indexes are provided by author, agency, and periodical. It is unquestionably a first rate work—a model of bibliographic planning and execution. It not only brings together public and private law, but also bridges differences of form, source, and jurisdiction. By providing an integrated and functional record of one subject area, it has made the literature of that area much more accessible to scholars working in it.

Bibliography of this kind requires skill in research and investigation, in discrimination and distinction, in evaluation and analysis, in organization and description—in short, true scholarship. Because the legal scholar specializing in a particular area of law becomes well-acquainted with its literature, one is not surprised to discover the extensive bibliographic interest and work of men like Beale, Pound, Wigmore, and the three great historians of English law, Maitland, Holdsworth, and Plucknett. Furthermore, authors of many fine treatises have prepared and included in their works excellent bibliographies, and there are occasional instances of legal scholars devoting a major part of their efforts to preparing comprehensive bibliographies.³ Today, the increasing specialization

²⁰ ALI, FEDERAL ESTATE AND GIFT TAX PROJECT, *supra* note 7, at xxxi-xxxiii, 106-21.

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³ For example, Charles Szladits, Adjunct Professor of Comparative Law at Columbia University School of Law, has compiled many outstanding bibliographies, including GUIDE TO FOREIGN LEGAL MATERIALS: FRENCH, GERMAN, SWISS (1959), and A BIBLIOGRAPHY ON FOREIGN AND COMPARATIVE LAW: BOOKS AND ARTICLES IN ENGLISH (1955).

and fragmentation of legal scholarship has forced bibliographic endeavor almost entirely into the hands of law librarians. Fortunately, however, more and more of this group have legal as well as bibliographic training, and many, like the authors of *Water Law Bibliography*, can combine these skills to achieve thorough bibliographic control of a significant area of legal literature.

Yet there are many who appreciate neither the significance of the bibliographer's labors nor the value of his product. Another reviewer of this book, facetiously to be sure, but reflecting what is undoubtedly a widespread attitude, likens reviewing a bibliography to literary criticism of a telephone directory.⁴ Perhaps such deprecation of bibliographic scholarship in academic circles has contributed to the relative neglect of subject bibliography.

Man's quest for control over, or access to, his literature is as old as literature itself. However, "Subject bibliography . . . has always been and continues to be the weakest link in the chain of bibliographic control."⁵ This is particularly true in the legal field—while there has been substantial activity and achievement in every other area of legal bibliography, the critical enumeration of legal writings by subject has been, at least until very recent years, almost nonexistent.⁶ I know of no legal subject bibliography of lasting significance in English prior to 1900, and the two most important works of this type in the early part of this century, Borchard's *Bibliography of International Law and Continental Law*⁷ and Winfield's *The Chief Sources of English Legal History*,⁸ are both too broadly conceived to be considered single subject bibliographies.

Despite its slow beginnings, legal subject bibliography has developed markedly in the last thirty years. One important undertaking is the Association of American Law Schools' Library Study Project which consists of preparing and publishing annotated bibliographies in every major field of law. Since 1964 some forty-five different subject bibliographies have been prepared by or under the direction of Dr. Miles O. Price, Law Librarian Emeritus of Columbia University;⁹ they are being completed for publication by Professor Harry Bitner, Law Librarian of Cornell Law School, and the first will appear in early 1968. These bibliographies will aid scholars and provide guidance for developing law library collections. Undertakings of this kind and works like the bibliography under review testify to the vitality of the secondary literature of the law and to the importance of its control.

In the last ninety years, a group of ingenious men, working separately for commercial motives in different areas of legal publishing, devised five unique bibliographic publications which have changed the nature of legal research. These

⁴ Moses, Book Review, 40 TEMPLE L.Q. 262 (1967).

⁵ Downs & Jenkins, *Introduction to Bibliography: Current State and Future Trends*, 15 LIBRARY TRENDS 337, 339 (1967).

⁶ W. FRIEND, *ANGLO-AMERICAN LEGAL BIBLIOGRAPHIES, AN ANNOTATED GUIDE* (1944), is a comprehensive bibliography of bibliographies. The paucity of subject bibliographies therein is striking. Only about 30 of its 298 entries can be considered subject bibliographies; of this number, more than two-thirds are relatively minor undertakings found in periodical literature.

⁷ E. BORCHARD, *BIBLIOGRAPHY OF INTERNATIONAL LAW AND CONTINENTAL LAW* (1913).

⁸ P. WINFIELD, *THE CHIEF SOURCES OF ENGLISH LEGAL HISTORY* (1925).

⁹ For a very useful survey of legal bibliographies and a discussion of the Library Study Project as well as a number of other recent developments in subject bibliography, see Price, *Anglo-American Law*, 15 LIBRARY TRENDS 616 (1967).

five publications, while building upon earlier and cruder attempts, represent innovations unequalled in the history of bibliography: the case digest systems developed by the West Publishing Company, the annotated reporters of the Lawyers Co-operative Publishing Company, Shepard's legal citators, the annotated statutory compilations published by West and other companies, and loose-leaf services such as those published by Commerce Clearing House and Prentice-Hall. Their inventors are unknown today—only Frank Shepard is immortalized in the phrase "to shepardize"—yet their contributions have had great impact in bibliography and in law.¹⁰

These innovations have provided bibliographic control only of primary materials and have virtually neglected the massive secondary literature of treatises, monographs, periodicals, and documents. The new computerized information sciences will probably have a great impact on this secondary literature,¹¹ but it is unlikely that automated information storage and retrieval will replace subject bibliographies such as *Water Law Bibliography 1847-1965*. Future subject bibliographies will most likely originate with a librarian's ordering record for particular publications and develop as a by-product of their acquisition and cataloging. The computerization of acquisition records will facilitate the mechanical production of unselected subject lists of recent titles but not the careful research, discrimination, and arrangement required in the compilation of retrospective subject bibliographies.

While voices of doom prophesy the end of the physical book as we know it, scholarly writing and publication accelerate as never before. If *Ecclesiastes* is the better prophet in warning that "of making many books there is no end,"¹² we shall surely need the efforts of bibliographers such as Jacobstein and Mersky to bring order out of chaos and to save us from the needless waste of oversight and duplication.

*Morris L. Cohen**

¹⁰ For a journalist's interesting description of these bibliographic publications, see M. MAYER, *THE LAWYERS* 417-41 (1967). Their success in rendering accessible the tremendous flood of primary source legal literature—the 30,000 appellate decisions and the 10,000 statutes which pour from the federal and state courts and legislatures each year—has undoubtedly delayed the advent of computer aids to legal research. However, a computer-based revolution in legal research may now be underway. See *id.* at 443-50. For a more scholarly discussion, see Kayton, *Retrieving Case Law By Computer: Fact, Fiction and Future*, 35 *GEO. WASH. L. REV.* 1 (1966).

¹¹ Computerized storage and retrieval of information about secondary literature in the natural and physical sciences has developed rapidly with extensive government subsidization. In the field of law computerized research has so far dealt only with primary materials.

¹² *Ecclesiastes* 12: 12.

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