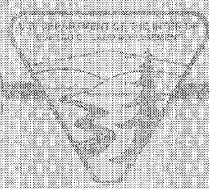
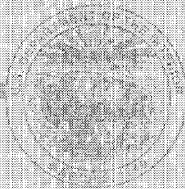
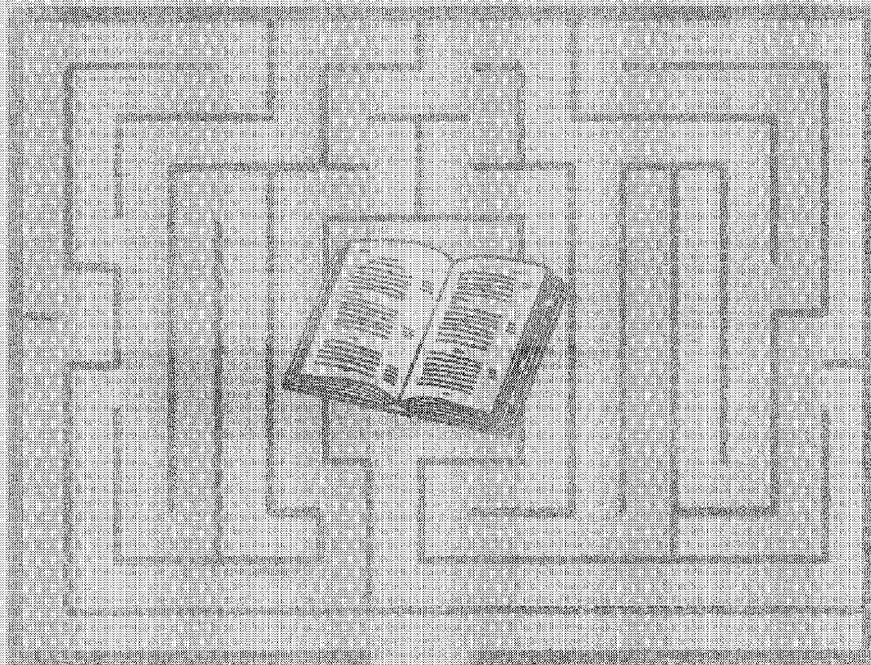


Finding the Law:

A Workbook on
Legal Research for Laypersons



Finding the Law:

**A Workbook on
Legal Research for Laypersons**

**Prepared for :
Bureau of Land Management
Branch of Survey and Mapping Development
Denver Service Center**

**By :
Al Coco
Professor of Law/Librarianship
and Law Librarian
University of Denver**

1982

As the Nation's principal conservation agency, the Department of the Interior has basic responsibilities for water, fish, wildlife, mineral, land, park, and recreational resources. Indian and Territorial affairs are other major concerns of this department of natural resources.

The Department works to assure the wisest choice in managing all our resources so that each shall make its full contribution to a better United States now and in the future.

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FOREWORD

“The first thing we do, let’s kill all the lawyers.” (Shakespeare, King Henry VI.) No doubt each of you has felt this way at one time or another because daily living in this era is seemingly inexorably wound up in legalisms. One can not even do a simple thing like driving from home to work without being cautioned against “no left turns” or “bus lane only” or a multitude of other regulations. However much one might wish to eliminate all the lawyers, it nevertheless must be recognized that laws and regulations dictate not only much of what each of us may do in pursuit of his own private life but also much of what we do as employees of the Bureau of Land Management. Since a great many employees of the Bureau must therefore deal with laws, rules, and regulations in their ordinary activities, it was decided to provide a book that would serve as an introduction to the “mysteries of the law.”

It has been rightly said that “a little knowledge’s a dangerous thing.”¹ This statement is nowhere more true than it is in situations where one attempts to deal with legal issues. It is clear that almost anyone, with a little training, can find and read some law. In most cases,

however, the sort of knowledge obtained thereby is insufficient to permit the nonlawyer to properly interpret what has been read. Accordingly, it must be clearly understood that use of this workbook and the skills it will teach in finding and enabling a BLM employee to read some law is not to be substituted for obtaining legal advice from the Office of Solicitor. The Deputy Solicitor recently went so far as to suggest that the Solicitor’s Office has as much or more difficulty dealing with instances where nonlawyers try to do their own legal work than is caused by all the professional lawyers confronting the Office put together.

We commend this workbook to your reading and understanding but hope that it will be used intelligently in furtherance of your own knowledge of your own responsibilities but not in lieu of obtaining legal advice from the Solicitor’s Office on matters requiring legal interpretation.

*¹A little knowledge’s a dangerous thing.
Drink deep, or taste not the Pyrean spring.
There, shallow drafts intoxicate the brain,
and drinking largely sobers us again.
Alexander Pope*

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Al Coco

PREFACE

FINDING THE LAW—A Workbook on Legal Research For Laypersons

This workbook was written primarily for cadastral survey personnel and others in government service who do not have a law background but who frequently work with or are exposed to law. The workbook has many illustrations and definitions which should make it easier for the layperson to better understand the legal process and legal publications. The workbook was not intended to be a complete course in itself but can serve as a good reference source. Emphasis is on federal law. Certain sources were purposely limited or omitted, eg., coverage on computerized assisted legal research (CALR) such as WESTLAW, Lexis, Juris, etc.; indepth coverage of state and local statutory materials; international law; and sources not typically found in small to medium sized law libraries, the type library the student is apt to use.

It is noteworthy that illustrations used in the text may be dated, eg. advance sheets, pocket parts, supplements. It was the author's intention to give the student an overview of the legal resources and how to use these resources by showing illustrations which were current at the time the text was prepared.

The workbook includes exercises at the end of each section which you are to complete. Please read the following instructions:

- Step 1. Read all instructions then review the Table of Contents and make notes of the various Sections and Appendix.
- Step 2. Read Section I and complete Review Exercise I.

- Step 3. Grade Review Exercise I and review those sections where you had incorrect answers for Review Exercise I.
- Step 4. Read Section II and complete Review Exercise II.
- Step 5. Grade Review Exercise II and review those sections where you had incorrect answers for Review Exercise II.
- Step 6. Before continuing on to Sections III and IV, take time now to visit your office law library. If you have a more complete law library within commuting distance, take time to also visit that library. Spend no less than four hours finding those reference materials discussed in Sections I and II. Spend time reviewing the contents of each set of these volumes looking for indexes and other finding tools.
- Step 7. Read Section III and complete Review Exercise III.
- Step 8. Grade Review Exercise III and review those sections where you had incorrect answers for Review Exercise III.
- Step 9. Read Section IV and complete Review Exercise IV.
- Step 10. Grade Review Exercise IV and review those sections where you had incorrect answers for Review Exercise IV.
- Step 11. Again visit the most complete law library in your commuting area and work as many of the final Review Exercises (found in back of this book) that can be completed within the

remainder of this three day session. Answers are provided for each exercise. However, answers should not be referred to unless you definitely cannot find an answer or until you have completed the exercise.

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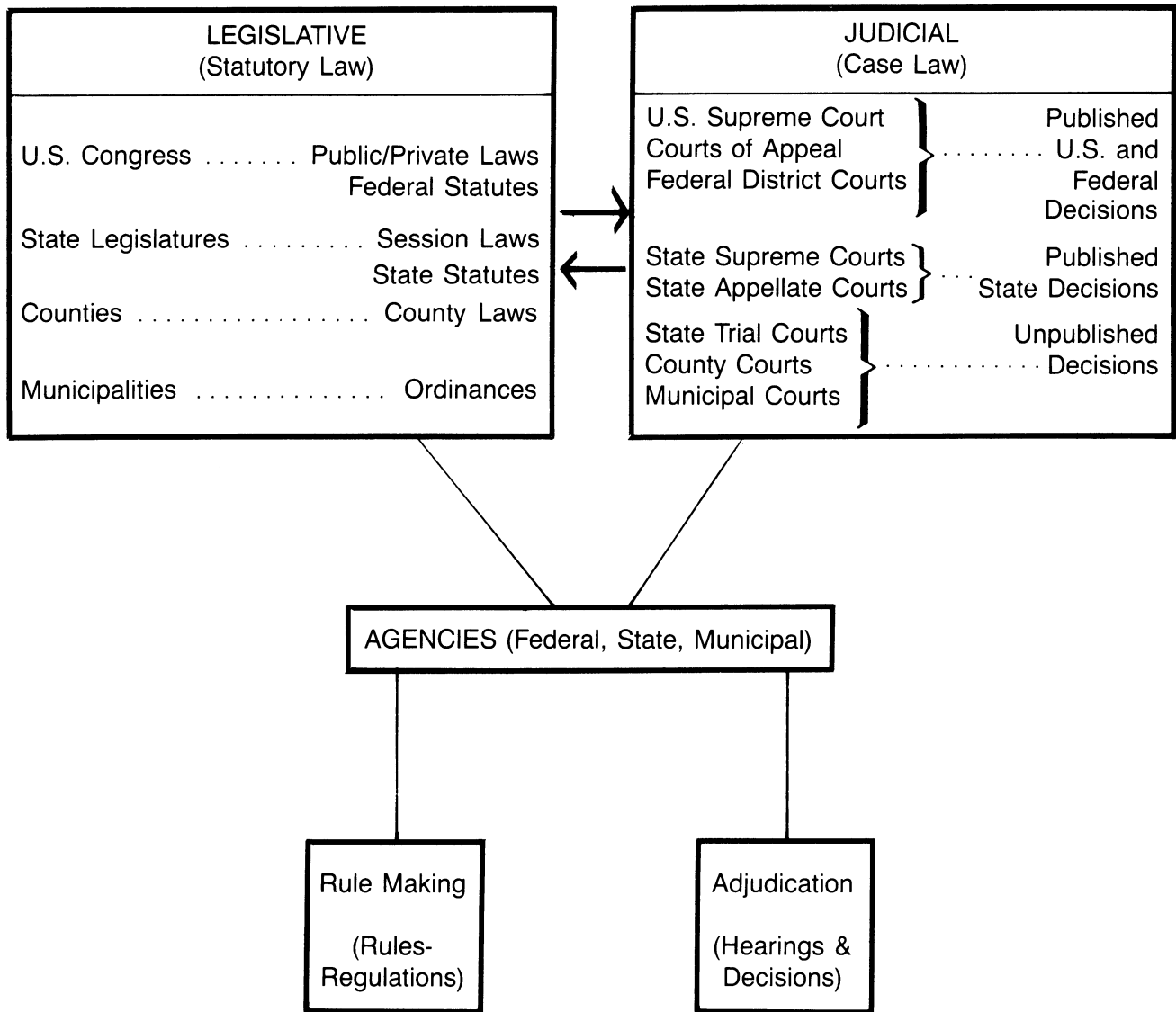
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SECTION I - INTRODUCTION

A law library is similar to other libraries. There is a catalog to use, library staff to help you, the collection is arranged in some order on the shelves, there are tables and carrels and so on. The difference in a law library lies in the sources — books, periodicals, microproducts, computers, etc. In a law library most sources will relate to law.

The bulk of the other sources in a law library are books which help *find* the law, e.g., digests, indexes, or books which *explain* the law, e.g., periodicals, treatises (textbooks), encyclopedias.

There are two categories of “law”; therefore, two categories of law books. The first category is statutory laws or quasi-statutory laws.¹ Statutory laws are original laws pertaining to civil and criminal matters enacted by a body legally authorized to pass laws. Example: Congress enacts federal laws; a state legislature enacts its state laws; a city council enacts its municipal ordinances. These laws are published in sets of statutes, example, *United States Code*.²

The most common quasi-statutory laws are rules (same as regulations) which are written by agencies, federal, state, county and city. Agencies are given authority for rule making from a higher authority, e.g., Congress gives authority to the Environmental Protection Agency (E.P.A.) to write and promulgate rules and regulations. The same authority gives the agency power to also enforce its rules. The E.P.A. rules are published in the *Federal Register*. (See also chart, p. 19).

¹See charts, pages 2 and 19.

²Note: All law books and citations referred to in this Introduction will be discussed elsewhere in the workbook.

The second category of laws is appellate cases which are heard and decided by federal and state appellate judges.¹ Appellate courts hear cases appealed from lower trial courts. Their decisions and opinions are published in reports. Example: the United States Supreme Court publishes its opinions in the *United States Reports*. When an appellate court wishes an opinion, if the opinion and decision contain a new interpretation of a previously written opinion on the same point of law or on a new point altogether, the court is setting “precedent”. Since precedent is binding on lower courts within the same jurisdiction, the precedent setting case thus becomes law.

Agencies also have authority to decide cases (usually referred to as hearings) and to hear appeals. (Agency judges are called administrative law judges.) Some agencies publish decisions and opinions. Examples: *Decisions of the Department of the Interior*. (See also chart, p. 19).

Before learning about law books and legal research it is necessary to review how the laws, both statutory and case laws, are generated and thus end up in the thousands of “volumes” in law library. [The legal profession refers to “volumes” rather than books because approximately seventy-five percent of the law materials are serials. A serial publication is one published in series usually in chronological order. Example: daily newspapers, legal periodicals, law reports.]

A. STATUTORY LAW

It is important to understand the process a piece of legislation goes through before it becomes “the” law. The various steps generate many publications which becomes the “legislative history” of the law. Legislative history is the background information from the

body which passed the laws — hearings, committee reports, congressional debates, etc. — of the law which is compiled during its enactment. A legislative history is often very important as it shows the intent or meaning of Congress before the law was passed. When a bill is traced from original introduction to final enactment, one can see the many changes in language (amendments) which occur. Thus, the final law is seldom in its original language.

1. How A Bill Becomes Statutory Law

Federal laws are enacted by the United States Congress. First, a bill is introduced in either of the two houses, the Senate or House of Representatives. Each bill is read by title and assigned a bill number. Example: S.123 or H.R.456. Bills then go to a committee for consideration. However, over 85% of bills never receive consideration and, therefore, die. If a bill dies at any stage, it can be re-introduced during the next congressional session. If a bill goes to a committee there may be hearings. Many of these hearings are published. After hearings, committee study and investigation, the committee submits a report with its findings and recommendation stating whether the bill should pass or not. These committee reports are numbered, e.g., H.R.Rep. 8910 or S.Rep. 198. When a bill is reported out of committee it is put on a calendar. In turn, the bill is read.

Debates then take place in the respective house. Most of these debates are also printed in the *Congressional Record*. The bill is read a third time and then voted on. If it passes it goes to the other house. After passage in one house the legislation is called an Act. The Act goes through the same steps in the second house. Often the Act is amended which means the Act is returned to the originating house for study and a vote on the amendments. If the second house passes the Act, it is signed by the head of the Senate who is the Vice-President,

and by the head of the House of Representatives, who is the House Speaker, then sent to the President for consideration. The Act becomes law if it is signed by the President or if the Act is not vetoed within ten days. This law will be published in various sets. At this stage the law is generally referred to as a public law or “statute” (see **SECTION II, STATUTES**).

Any law may be affected later by Congress or by federal courts. Example: Congress may amend, repeal, revise, supersede, etc., the law or a federal court may test the constitutionality or validity of the law when the law is questioned in court.

State legislatures follow the same basic procedures to enact state laws.

2. How A Regulation (or Rule) Becomes Effective

Federal administrative agencies are created by Congress. Their regulations, orders, etc., have as much authority on citizens as statutes; their hearings, decisions, etc., have the same authority as case law.

Agencies get their rule making authority from federal statutes or from Presidential Executive Orders. (See chart, p. 19).

Proposed rules written by federal agencies are published in the *Federal Register* along with notices of public hearings on the rules. After the hearings, necessary rule changes are made. The final rules, and their effective dates, are published in the *Federal Register*. (See chart, p. 19).

Rules may be affected by the agencies or by federal courts.

B. Case Law

It is equally important to understand the various steps a case goes through before it becomes case law.

1. COURT SYSTEM

| | Type Court | Federal | State |
|-----------|----------------------------------|---|---|
| Trial | Trial Courts (Lower Courts) | U.S. District Courts | Municipal Justice of the Peace County District Special, e.g., Probate |
| | Intermediate Appellate Courts | U.S. Courts of Appeal (Circuit Courts) | Courts of Appeal (not all states have this intermediate court) |
| Appellate | Highest Appellate Court | U.S. Supreme Court | State Supreme Court |

Basically, there are two categories of courts: trial courts (sometimes referred to as lower courts) and appellate courts (also called higher courts or courts of review).

Matters relating to legal disputes between two or more parties are usually filed in state trial courts. Matters which involve the federal government, the U.S. Constitution or federal laws, and diversity of citizenship (a citizen from Louisiana suing a citizen from Texas) usually end up in federal district courts. Municipal matters are filed in the respective city or municipal court.

2. How A Lawsuit Or Case Can Become Case Law

After a case is filed and jurisdiction is determined, the case may be set for trial with or without a jury in the proper court. If a jury has been requested by either party, at the end of the trial the jury will decide questions relating to “facts”, e.g., has a surveyor accurately resurveyed the lines in question in accordance with the original survey? The judge, on the other hand, decides (rules on) legal issues. Example: is a citizen bound by a BLM resurvey?

After the trial, if certain legal “ingredients” are present, the losing party has the right to appeal the case to the next highest court with appellate jurisdiction. Example: from federal

district court to a federal intermediate appellate court.

To familiarize you with a case from its initial filing through final appeal, let’s follow a dispute through the court system.

John Hudspeth owns timber property adjoining BLM property in Township 11 South, Range 19 East, Willamette Meridian, Oregon. According to BLM, Hudspeth trespassed on BLM land, cut and removed substantial quantities of timber. Hudspeth was notified by BLM of the alleged trespass. Hudspeth ignored the notice and stated he was on privately owned land. Later, he again cut and removed large quantities of BLM timber. The west side of Township 11 had been officially surveyed in 1871 by David Thompson. The remaining exterior lines of the township, and its interior lines, were officially surveyed by John Kincaid in 1872. Subsequent to the alleged trespasses by John Hudspeth, a BLM surveyor resurveyed a portion of the township. Relying on this resurvey, the United States filed suit against Hudspeth in the federal district court for the district of Oregon seeking damages for the value of the timber.

This is the basic fact situation which we will work with to introduce you to the court system and to illustrate how case law gets into the books.

Often when a dispute between two parties reaches an impasse, as in the case of BLM and John Hudspeth, the aggrieved or injured party files a civil lawsuit. In our situation, the United States, through its agent, BLM, wants to recoup damages for the value of the timber removed and the damage to that part of the forest where the trees were felled plus penalties. So the United States, through its attorneys, that is, the United States Attorney's Office, files the suit. [Note: The U.S. Government could have gone another route and asked the court for an injunction — which is a court order restraining a party from doing something — against Hudspeth to prevent him from cutting the trees. Too, Hudspeth could have requested an administrative hearing (see **REPORTS AND REPORTERS, in SECTION III**). However, in our situation, let us assume that no injunction was filed nor was an administrative hearing requested.]

Continuing with the lawsuit filed by the U.S. Government against Hudspeth, here is what normally transpires:

A complaint (petition) is filed in U.S. District Court because the U.S. Government is the plaintiff. It has the following information:

Name of Court

Example: UNITED STATES DISTRICT
COURT
DISTRICT OF OREGON

Name of Parties

UNITED STATES, PLAINTIFF
v.
JOHN HUDSPETH, DEFENDANT

“Plaintiff” is the party initiating the action; the party “pleading” to the court for some relief, e.g., monetary damages for the trees.

The “defendant” is the party who is being sued and who has the burden of “defending” the action.

Civil Action Number. This number will be assigned by the federal district court clerk to this case. This number will be on every pleading, document, etc., throughout the trial.

Complaint. This part will contain the allegations by the plaintiff. Example: the Plaintiff alleges that it is the owner and is in possession of the following described real estate . . .

Plaintiff then explains the nature of the complaint, that is, the fact that Defendant, without permission, trespassed, cut and removed \$00000 worth of trees, etc.

The Complaint is signed by the attorney who is filing the suit, giving his name, address and phone number.

Service. The Plaintiff also prepares a Summons for the Court to process. This Summons is “served” with a copy of the Complaint to John Hudspeth, the Defendant. [In our case, this service will be performed by a U.S. Marshall since the United States is the plaintiff. However, in other actions, this summons and complaint may be served by a private process server.]

Answer. The Defendant, John Hudspeth, will have a certain time in which to respond to the complaint. This response is called an answer. The answer usually denies or disputes the allegations by the Plaintiff.

Pretrial. The case (law suit) is set for trial, with or without a jury. (Either or both parties may ask for a trial by jury.) Depending on the case load of the court, it may be months before the trial will take place. (In California, for example, there are over 225,000 civil cases filed every year in California state courts. It may take as long as four years before a case is tried.) Meanwhile, either party may file certain documents with the court, such as motions, amended pleadings and the like. Also, the parties may take depositions from the parties or witnesses

to preserve testimony and to determine trial strategy. The statements made during a deposition are made under oath and recorded by a court reporter. Also, written interrogations (questions) may be used by either party to accomplish the same purpose as depositions.

Then there may be pretrial conferences before the trial judge. These conferences are to streamline or speed up the trial by getting the attorneys to stipulate (agree) on certain matters. These agreed-to issues are not brought out in the trial.

Trial. On the day and time and in the courtroom designated for the trial, the parties appear with their attorneys. If this trial will be before a jury, a jury will be selected from a panel of prospective jurors. (Depending on the jurisdiction or type of action, the jury will consist of 6 or 12 persons.) If a trial is before the judge, without a jury, the trial will commence immediately. The participants in a trial are (1) the trial judge, (2) the Plaintiff Attorney and the Plaintiff and the Defense Attorney and the Defendant, (3) the jury, if any, (4) witnesses, (5) the court clerk who marks exhibits and does other secretarial type duties, (6) the bailiff who keeps order and summons witnesses, and (7) the court reporter who records a verbatim transcript of everything said in the court by the participants.

Next, the plaintiff's (United States) attorney will make opening remarks about the case. Plaintiff's attorney will probably state that the BLM resurvey is accurate; that the Defendant did in fact trespass on federally owned land; that the Defendant did in fact cut and remove timber from this land without permission; that the Defendant should pay damages and penalties for the timber removed; that the United States will prove these facts, etc.

Defendant's attorney will probably state that the Defendant cut and removed trees from priv-

ately owned land; that the BLM surveyor did not retrace and re-establish the lines in their original positions, therefore, the BLM resurvey monuments do not mark the original boundaries; that the Defendant will prove these facts, etc.

Next, the plaintiff's attorney will bring in witnesses and ask each witness questions about what each saw, heard, etc. This is called "examining the witness". [There are various types of witnesses, e.g., expert witnesses, character witnesses, observing witnesses, etc. Expert witnesses are witnesses who are experts on a particular subject, e.g., an experienced surveyor, to answer hypothetical questions about surveys or resurveys; a commercial timber expert to testify as to the value of the timber removed. Expert witnesses are paid by the party for whom they are testifying. Observing witnesses are persons who saw or heard relevant facts.] After each witness testifies, the defendant's attorney may cross examine the witness. The Plaintiff (perhaps a BLM official in this case) usually testifies as a witness. Then the defendant's attorney calls the witnesses for the Defendant (Hudspeth) and each is examined by the defense attorney and cross examined by the plaintiff's attorney.

During the trial, evidence may be introduced into the trial proceedings, e.g., certified copies of the official field notes, a survey, etc. The judge rules on whether or not to accept items as evidence. Once accepted, the evidence becomes a numbered exhibit and questions can be asked of witnesses about the exhibits. Too, attorneys can make objections to anything which transpires in the trial. An attorney may object to an opponent's witness's testimony, e.g., as not being relevant; or he may object to the evidence that was introduced, etc. The judge rules on whether or not the objection is valid. The judge will state "objection overruled" or "objection sustained". If the objection is overruled, the

attorney may proceed. Also, attorneys may make certain motions before the court, for example, to dismiss the case without prejudice. (This means dismissing the suit from the court; however, subsequent action can be filed again and retried.) Or a motion may be made for summary judgement which means no real issue of fact exists between the parties and the judge may decide the case on the law.

After all witnesses have testified, the attorneys rest their cases.

Next the attorneys make their closing arguments. [Closing arguments are simply remarks to the jury and/or judge.] The plaintiff's attorney closes first, followed by the defense attorney who makes his/her argument. Then the plaintiff's attorney has time for a rebuttal argument.

Following the arguments, if the trial was before a jury, the jury is given a list of jury instructions and questions to answer. In a civil trial they are asked to answer the questions based on a preponderance (weight) of the evidence. [Please note: In a civil action, the plaintiff has the burden of proving "by a preponderance of the evidence" that the plaintiff is entitled to the relief sought. If the plaintiff fails to produce enough evidence to carry the burden of proof, the verdict will be for the Defendant. It is important to keep this in mind if you are to understand why the Defendant (Hudspeth) won.] Example: Does the jury believe John Hudspeth was on private land more than they believe John Hudspeth was on BLM land? [In a criminal case, there can be no doubt in the jury's minds. They must unanimously find that the Defendant did an act which was in violation of a criminal law "beyond a reasonable doubt".]

After the jury receives its instructions, it then deliberates (discusses) what went on in the trial. The jurors review testimony by witnesses, examine exhibits, and in general, talk about the

trial proceedings. Then the jury decides on questions asked of them in the jury questions. Example: 1. Do you find from a preponderance of the evidence that Plaintiff accurately resurveyed the lines in question in accordance with the original surveys? Answer yes or no. 2. If issue number one is answered in the affirmative, what volume of timber did Defendant cut and remove from lands of the Plaintiff?

After deliberation, the jury then returns and the jury foreman reads the jury's findings. Based on their findings, either plaintiff or defendant will win the suit.

The controlling legal question (issue) in this case would be whether there was sufficient "evidence to support" a decision by the court (finding) that the resurvey portion of the township in which Hudspeth allegedly cut and removed timber from federally owned lands had or had not accurately retraced and resurveyed the original lines.

Assume here that the jury decided that the government's evidence in the case was insufficient. So the Defendant Hudspeth wins and the Plaintiff United States loses.

This case is somewhat atypical. The key determining factor was that a resurvey is only *some* evidence of the location of the original lines. You are probably wondering about what more the surveyor could have done as he had followed the procedures outlined in the *Manual* and had kept field notes. Actually, Hudspeth did not win this case because of any fault of the surveyor. You must remember "burden of proof". It was not enough for the government to merely *claim* that the surveyor had done everything that he was supposed to; the government had the burden of proving that the surveyor had *accurately* resurveyed and retraced the original lines. On this point, the government produced no evidence, and, having failed to

meet its burden, the Defendant won. (The actual Hudspeth case will be discussed again in **SECTION III, CASE LAW.**)

I.M. WRIGHT,
U.S. Attorney for Appellant

Date _____

Appeal. Since the United States (Plaintiff) lost the case, the United States may want to appeal. If this happened, the appeal would be from the federal district trial court to the federal court of appeals which has jurisdiction over that particular federal district court, that is, to the 9th Federal Judicial Circuit. [The 9th Circuit Court of Appeals has jurisdiction over federal district courts in the states of Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon and Washington.]

The appeal by the United States would begin with a petition of appeal to the 9th Circuit Court of Appeals. The petition would be filed with the Court and assigned a docket number (a different number than the case was assigned at the trial court). [At the Court of Appeals level the party's names change *from* Plaintiff and Defendant *to* Appellant and Appellee. The party appealing (losing in the trial court) is the appellant; the party who has to answer the appeal becomes the appellee.]

The United States — Appellant will file a brief supporting the reasons why the Appellant believes the trial court (federal district court) was wrong in finding for the defendant.

The Appellant's brief will contain the name of the court, a file number (docket number), the names of the parties and the attorney. Example of the form used:

IN THE COURT OF APPEALS
NINTH CIRCUIT

File No. _____

UNITED STATES, Plaintiff-Appellant

v.

JOHN HUDSPETH, Defendant-Appellee
on appeal from Oregon District Court
BRIEF FOR APPELLANT

The substance of the brief would have (1) a Statement of Facts — a basic story of what the case is all about, (2) Questions Presented which Appellant wants the court to rule on, (3) Argument — points made with explanations supported by law (cases and statutes) by which Appellant tries to convince the Appellate Court that the trial court was wrong on the legal issues.

As in the trial court, Hudspeth would again be notified of this appeal. His attorney will have a certain number of days to file a brief on his behalf (Appellee's Brief) responding to the points made by the United States-Appellant.

Then the Court will set a time for each side to present oral arguments to the court. These oral arguments are presented to a judge or a panel of federal appellate judges and are based on the points brought out in the briefs. The judges may ask questions of the attorneys to better understand the case.

It should be noted that only those matters contained in the briefs and which transpired at the trial court can be discussed at the appellate level. In other words, no new evidence or testimony or exhibits, etc., can be brought into the appellate court.

After the oral arguments, the judges discuss the case argued and vote (render a decision). Example: If there are three judges and two vote in favor of the Appellee and one votes in favor of the Appellant, then Hudspeth, the Appellee, wins 2-1. The two judges voting for the Appellee (Hudspeth) are the Majority Judges; the one judge voting for the Appellant is the Minority Judge. The most common decisions that Appellate judges render or decide on are as follows:
1. Affirmed — this means the majority of the

judges support the lower court's decision; 2. Reversed — this means that the majority of the judges believe the lower court was wrong and therefore reverse the judgement of the trial court.

Following the vote of the judges, they may write an opinion. An opinion contains a short statement of facts, a presentation of legal issues which were the basis of the appeal and law (cases and statutes) (1) supporting their decision on each question and (2) supporting the final decision of the case.

Usually only one opinion is written by one of the judges in the majority (called a majority opinion). However, *all* judges have the right to produce a separate opinion if they choose to do so. If, for example, the one judge who

decided against Hudspeth feels strongly enough about his reasons for so deciding, then he can write a "minority" or "dissenting" opinion in this case.

The attorney for each side is sent a copy of the decision and the opinion.

Most decisions and opinions of appellate courts are published. In the case of *The United States v. Hudspeth*, the Court of Appeals will publish their decision and opinion in a volume of the *Federal Reporter*, 2d series.

To illustrate a published opinion and the various parts of a case, read the case of *United States v. Hudspeth*, 384 F.2d 683 (9th Cir. 1967) and note the specific features. This case will also be used to illustrate other books and publications in subsequent sections.

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Cite as 384 F.2d 683 (1967)

Leonard A. Peto, pro se.

Roy L. Reardon, New York City (John C. Diller, Simpson, Thacher & Bartlett, Emil N. Levin, Abraham L. Bienstock, and Sidney O. Friedman, New York City, on the brief), for appellees.

Before HAYS, ANDERSON and FEINBERG, Circuit Judges.

PER CURIAM:

This is an action under the Sherman and Clayton Acts, 15 U.S.C. § 1 et seq., for treble damages. In the district court defendants were granted summary judgment on the ground that plaintiff's claim is barred by the applicable statute of limitations. We affirm.

[1,2] Peto instituted this action in March 1958 alleging that defendants have established a monopoly in the professional hockey industry and that they conspired to prevent plaintiff from constructing and operating a hockey arena which would have competed with defendants' enterprises. Section 4B of the Clayton Act, 15 U.S.C. § 15b, bars actions not commenced within four years after the cause of action accrued. A "right of action for a civil conspiracy under the antitrust laws accrues from the commission of the last overt act causing injury or damage." Garelick v. Goerlich's, Inc., 323 F.2d 854, 855 (6th Cir. 1963). In the material submitted in opposition to the motion for summary judgment plaintiff failed to establish that there was any triable issue as to the occurrence within four years of the time the action was commenced of any overt act in furtherance of the alleged conspiracy.

[3,4] Plaintiff resorts to the provisions of Section 5(b) of the Clayton Act, 15 U.S.C. § 16(b), in an effort to bring himself within the statutory period of limitation. Under Section 5(b) the statute of limitations is tolled for a private action which is "based in whole or in part on any matter complained of" in a proceeding brought by the United States. Plaintiff cites United States v. International Boxing Club of N. Y. Inc., 150

F.Supp. 397 (S.D.N.Y.1957), aff'd, 358 U.S. 242, 79 S.Ct. 245, 3 L.Ed.2d 270 (1959), as having the effect of tolling the statute applicable to his claim. But the government's suit must bear "a real relation to the private plaintiff's claim for relief." Leh v. General Petroleum Corp., 382 U.S. 54, 59, 86 S.Ct. 203, 15 L. Ed.2d 134 (1965). Comparing the claims asserted in the present case with those asserted in the International Boxing Club case, we find that the conspiracies to which they refer are entirely different, involve different sports activities and cover different periods of time. The only similarity between the two actions is found in the fact that some of the defendants are the same. This is obviously insufficient to provide a ground for tolling the statute of limitations.

The judgment is affirmed.



UNITED STATES of America,
Appellant,
v.
John HUDSPETH et al., Appellees.
John HUDSPETH et al., Appellants,
v.
UNITED STATES of America,
Appellee.
Nos. 20905, 20906.
United States Court of Appeals
Ninth Circuit.
Sept. 11, 1967.

Action by government for damages for cutting and removing timber from lands allegedly federally owned. The United States District Court for the District of Oregon, John F. Kilkenny, J., entered judgment of dismissal without prejudice to right of government to insti-

FEDERAL REPORTER CITATION

ELEMENTS OF A PUBLISHED CASE

STYLE OR NAME OF CASE

DOCKET NUMBER ASSIGNED TO CASE BY COURT

COURT

DATE OF DECISION

CASE SYNOPSIS (EXPLAINS NATURE OF CASE)

**HOLDING
OF THE COURT**

tute an action based on a certain survey, and the government appealed. The Court of Appeals, Browning, Circuit Judge, held that evidence supported finding that surveyor instructed by Secretary of Interior to resurvey portion of township in which defendants allegedly cut and removed timber from federally owned lands had not accurately retraced the original lines.

**DECISION OF COURT
(THE COURT OF APPEALS
AFFIRMED THE TRIAL
COURT'S DECISION)**

Affirmed.

**DIGEST TOPIC AND
KEY NUMBER**

1. Courts ⇨406.9(2)

Although district court's findings and conclusions in action by government for damages for cutting and removal of timber from lands allegedly federally owned were general, they were sufficient, in context of the whole record, to review the basis for the decision and thus permit review.

**INDEX TO DISCUSSION
OF POINT IN TEXT
OF OPINION**

2. Boundaries ⇨37(3)

Evidence supported finding that surveyor instructed by Secretary of Interior to resurvey portion of township in which defendants allegedly cut and removed timber from federally owned lands had not accurately retraced the original lines.

**HEADNOTE OR
SYLLABUS
(SUMMARY OF PART
OF THE OPINION)**

3. Appeal and Error ⇨169

It is ordinarily inappropriate to reverse upon a ground not submitted to district court, and this is true though the appellant be the United States.

4. Appeal and Error ⇨169

Reversal of judgment unfavorable to government was not appropriate on basis of contentions not made in district court.

5. Boundaries ⇨40(1)
Constitutional Law ⇨72

The accuracy of surveys of public lands before their disposition is committed exclusively to the Executive Branch, but in disputes with or between private owners after disposition by the government, the questions of where the lines run by such survey lie on the ground and whether any particular tract is on one side or the other of the line are factual and are always open to inquiry in the courts.

6. Public Lands ⇨28

Generally, a resurvey of public lands is evidence, though not conclusive, of location of the original line.

7. Courts ⇨406.1(18)

The government could not on its appeal fault trial court for proceeding as both parties had requested to determine as a fact issue whether the government had accurately resurveyed a certain township in accordance with original surveys, in action for damages for alleged cutting and removing of timber from federally owned lands.

8. Courts ⇨406.9(9)

Remand for consideration of new issues rather than dismissal may be appropriate where dismissal would obviously result in plain miscarriage of justice.

9. Courts ⇨406.9(9)

Remand by Court of Appeals of government's unsuccessful damages action for consideration of new issues was not appropriate on theory that dismissal would obviously result in plain miscarriage of justice, where district court's dismissal had been without prejudice to new trial.

10. Federal Civil Procedure ⇨1837

The public interest in obtaining redress for past destruction of public property and in fixing boundary of public lines against future trespass justified discretionary dismissal without prejudice to new trial of government's action for damages for cutting and removing timber from lands federally owned according to resurvey not binding on defendants who admitted that some trespass had occurred.

11. Public Lands ⇨13

A good faith mistake as to location of boundary between public and private lands will not exonerate a trespasser who cuts timber on what actually is public land.

12. Public Lands ⇨13

The government, which sought to recover damages for cutting and removing timber from lands allegedly federally owned, had burden of establishing that

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the timber which defendants cut was in fact government timber.

Sidney Lezak, U. S. Atty., Portland, Or., Edwin L. Weisl, Jr., Asst. Atty. Gen., Roger P. Marquis, William M. Cohen, Attys., Lands Division, Dept. of Justice, Washington, D. C., for appellant & cross-appellee.

Bodie & Minturn, Prineville, Or. Cake, Jaureguy, Hardy, Buttler & McEwen, Donald W. McEwen, Portland, Or., for appellees & cross-appellants.

Before CHAMBERS, Circuit Judge, MADDEN, Judge of the Court of Claims, and BROWNING, Circuit Judge.

BROWNING, Circuit Judge:

The United States sought damages from the Hudspeths for cutting and removing timber from federally owned lands in Township 11 South, Range 19 East, Willamette Meridian, Oregon. The Hudspeths contended that the lands from which most of the timber was removed were privately owned lands adjoining those owned by the government. Thus the principal issue at trial was the proper location of the boundary between the properties.

The west side of Township 11 was officially surveyed by David Thompson in 1871. The remaining exterior lines of the Township, and its interior lines, were officially surveyed by John S. Kincaid in 1872. In 1958 and 1962, after the alleged trespasses, Floyd A. Brooks resurveyed a portion of the Township on instructions of the Secretary of Interior issued pursuant to 43 U.S.C. § 772 (1964).¹

The parties agree that the true boundary between their properties is determined by the position of the exterior and interior lines of the Township on the

ground as located by the Thompson and Kincaid surveys. They also agree that even if these lines were incorrectly located on the ground by the Thompson and Kincaid surveys, the boundary fixed by reference to them could not be altered by the Brooks' resurvey, conducted after the government had transferred the land. 43 U.S.C. § 772 (second proviso); State of New Mexico v. State of Colorado, 267 U. S. 30, 41, 45 S.Ct. 202, 69 L.Ed. 499 (1925); United States v. State Inv. Co., 264 U.S. 206, 212, 44 S.Ct. 289, 68 L.Ed. 639 (1924); Cragin v. Powell, 128 U.S. 691, 698-699, 9 S.Ct. 203, 32 L.Ed. 566 (1888).

The pretrial order specified two issues of fact to be decided by the court: "1. Did plaintiff accurately resurvey" the lines in question "in accordance with the original surveys?"; and, "2. If issue No. 1 is answered in the affirmative, what volume of timber did defendants cut and remove from lands of the plaintiff?" A single issue of law was stated: "Are defendants bound by plaintiff's resurvey?"

The government's case consisted almost entirely of documents and testimony describing the procedures followed and the conclusions reached by Mr. Brooks. The boundary as located by Mr. Brooks revealed a substantial area of trespass.

In defense, the Hudspeths sought to show that Mr. Brooks had not accurately retraced the Kincaid lines. Their principal contention was that Mr. Brooks based his resurvey upon a number of markers which he mistakenly identified as original corner monuments placed by Mr. Kincaid. They offered evidence that none of these monuments were properly marked, and that none were located where they should have been according to the distances and directions in Mr.

sential to properly mark the boundaries of the public lands remaining undisposed of: *Provided*. That no such resurvey or retracement shall be so executed as to impair the bona fide rights or claims of any claimant, entryman, or owner of lands affected by such resurvey or retracement * * *

1. 43 U.S.C. § 772:

The Secretary of the Interior may, as of March 3, 1909, in his discretion cause to be made, as he may deem wise under the rectangular system on that date provided by law, such resurveys or retracements of the surveys of public lands as, after full investigation, he may deem es-

NAMES OF LAWYERS REPRESENTING EACH PARTY

JUDGES WHO HEARD CASE ON APPEAL

JUDGE WHO WROTE THE OPINION

BEGINNING OF OPINION (BRIEF STATEMENT OF FACTS IS WRITTEN FOLLOWED BY COURT'S OPINION ON LEGAL ISSUES IN THIS CASE)

LEGAL ISSUE TO BE DECIDED BY THE COURT

FOOTNOTE

Kincaid's field notes. Their evidence indicated that several of the monuments had been placed by private surveyors long after Mr. Kincaid completed his work.

The Hudspeths contended that in fact Mr. Kincaid had placed few if any interior monuments in the Township.² They therefore introduced evidence locating the Kincaid lines on the ground without reference to the interior monuments relied upon by Mr. Brooks. This evidence projected the interior lines of the Township in accordance with the directions and distances in Mr. Kincaid's notes from monuments on the west boundary of the Township which both parties accepted as original monuments placed by Mr. Thompson a year prior to Mr. Kincaid's survey. This reconstruction indicated that Mr. Brooks' resurvey located the Township to the north and west of the ground position fixed by Mr. Kincaid. Locating the boundary in accordance with the Hudspeths' evidence eliminated most of the area of trespass.

[1] The district court found: "Defendants, on the facts of this case, are not bound by * * * [the Brooks' resurvey]. Plaintiff has failed to establish by a preponderance of the evidence that defendants trespassed on plaintiff's land, the lines of which were established by the John S. Kincaid survey in 1872. The evidence establishes that such trespasses occurred, but since the plaintiff tried the case on the basis of the alleged dependent

2. The survey of the Township postulated by the government would have required Mr. Kincaid to traverse about 119 miles of very rough terrain and place about 120 monuments. Mr. Kincaid completed his work in approximately five days. Yet Mr. Brooks took more than five months to resurvey approximately one third of the Township.

Although the record is not entirely clear, it appears that eight of thirteen original Thompson monuments were identified on the west boundary; and but only eleven possible Kincaid markers (seven on exterior lines and four on interior corners) out of the 120 which Mr. Kincaid supposedly set were identified even arguably despite repeated searches.

resurveys there was no way that the Court could fix the extent of such trespasses."³ The court concluded: "Defendants are entitled to a judgment of dismissal, without prejudice, to the right of the plaintiff, to institute an action based on the Kincaid survey."⁴

Based upon phrases culled from remarks of the trial judge and his findings and conclusions, the government argues that the court mistakenly thought Mr. Brooks sought to establish the pertinent lines of the Township anew rather than relocate the Thompson and Kincaid lines, and that the court rejected the line drawn by Mr. Brooks simply because his resurvey came after the alleged trespass in point of time.

[2] But it is clear from the record as a whole that the district court fully understood that the boundary was determined by the Thompson and Kincaid lines; that the sole legitimate purpose of the Brooks' resurvey was to relocate and retrace those lines in the alleged trespass area; and that the factual issue which the parties submitted to the court was whether Mr. Brooks had accurately retraced the original lines. It is also clear that the action was dismissed because the court concluded that the government failed to carry its burden of proof on this issue for the reasons suggested in the above outline of the evidence. We are satisfied that the court did not clearly err in weighing the evidence.

3. The government does not dispute the court's conclusion that the government's proof did not permit a determination of the value of the timber cut on any basis other than the line fixed by the Brooks' resurvey.

4. Although the court's findings and conclusions are general, we think they are sufficient, in the context of the whole record, to reveal the basis for the court's decision and thus permit review. See *Graham v. United States*, 243 F.2d 919, 923 (9th Cir. 1957). We therefore reject the government's contrary contention.

TEXT OF OPINION
FROM WHICH EDITOR
EXTRACTED HEADNOTE
2. EACH HEADNOTE
NUMBER CORRESPONDS
TO THE BRACKETED
NUMBER IN THE
OPINION.

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[3, 4] The government advances the argument, in a variety of forms, that the district court should have accorded the Brooks' resurvey a more controlling role than that of mere evidence on a disputed question of fact. None of these contentions appears to have been made below. It is ordinarily inappropriate to reverse upon a ground not submitted to the district court. *Chi Sheng Liu v. Holton*, 297 F.2d 740, 744 (9th Cir. 1961); *First Fed. Sav. & Loan Ass'n of Bremerton v. United States*, 295 F.2d 481, 482-483 (9th Cir. 1961). This is true though the appellant be the United States. *United States v. Hoth*, 207 F.2d 386, 389 (9th Cir. 1953). We see no reason to depart from that principle here.

EXAMPLE OF CASES
CITED BY THE COURT

The first of these contentions is that the Hudspeths were precluded from challenging the results of Brooks' resurvey because they failed to exhaust their administrative remedies. The government points out that the Brooks' resurvey was authorized by the Secretary of Interior pursuant to statute (43 U.S.C. § 772); was conducted by an official surveyor in accordance with official standards appearing in the Manual of Surveying Instructions, Department of Interior, 1947; and was officially approved by the Chief of the Branch of Cadastral Engineering, Bureau of Land Management. They argue that approval of the resurvey constituted an administrative decision which the Hudspeths should have appealed to the Director of the Bureau of Land Management and the Secretary of Interior pursuant to 43 C.F.R. §§ 1842, 1844 (revised as of January 1, 1966), if they felt aggrieved.

EXAMPLE OF FEDERAL
STATUTE CITED
THE COURT

EXAMPLE OF FEDERAL
REGULATION CITED
BY THE COURT

5. Compare *United States v. McCrillis*, 200 F.2d 884, 885 (1st Cir. 1952), and *Smith v. United States*, 199 F.2d 377, 381-383 (1st Cir. 1952), with *Poulos v. State of New Hampshire*, 345 U.S. 395, 408-409, 73 S.Ct. 760, 97 L.Ed. 1105 (1953); *Yakus v. United States*, 321 U.S. 414, 430-431, 443-444, 64 S.Ct. 660, 88 L.Ed. 834 (1944); *Falbo v. United States*, 320 U.S. 549, 554, 64 S.Ct. 346, 88 L.Ed. 305 (1944); *Washington v. Robertson*, 227

Because the contention was not made below, it is not clear from the record that the suggested remedy was applicable to administrative action of this type, or that it was available to the Hudspeths. If it was an applicable and available remedy, the record does not show that the Hudspeths failed to exhaust it. Assuming that they did fail to exhaust it, there was no opportunity for the district court to consider (1) whether Congress intended that such a failure should preclude persons in the Hudspeths' position from asserting in subsequent litigation that the resurvey was in error and deprived them of bona fide rights based on the original survey contrary to the express proviso of 43 U.S.C. § 772;⁵ or (2) whether, even assuming an affirmative answer to this question, "the particular circumstances which exist make the case an appropriate one for relaxation of or strict adherence to the rule." *Donato v. United States*, 302 F.2d 468, 470 (9th Cir. 1962).

[5-7] Similar considerations apply to the government's contention that the district court's review of the Brooks' survey should have been limited to determining whether it was contrary to law, not supported by substantial evidence, or arbitrary or capricious; and to its alternate argument that the judicial function was limited to inquiring whether the Brooks' resurvey was conducted in accordance with the Manual of Surveying Instructions (Dept. of Interior, 1947). As we have said, the government joined the Hudspeths in framing the issue as the simple question of fact, noted again below,⁶ to be determined by the court in the usual way. The trial proceeded

F.2d 480, 482 (7th Cir. 1955), and *United States v. Carter*, 197 F.2d 903, 905 (10th Cir. 1952); *United States v. Sharp*, 188 F.2d 311 (9th Cir. 1951). See generally *Jaffe, Judicial Control of Administrative Action* 424-58 (1965).

6. "Did plaintiff accurately resurvey Township 11 South, Range 19 East, W.M., Oregon in accordance with the original surveys?"

on this basis.⁷ The government cannot now fault the trial court for proceeding as both parties requested. And even if we were to assume that either of the government's present views as to the applicable legal standard is correct, we could not know how the record might have differed had the court been asked to apply that standard at trial.

[8, 9] Remand for consideration of new issues, rather than dismissal, may be appropriate where dismissal "would obviously result in a plain miscarriage of justice." *Hormel v. Helvering*, 312 U.S. 552, 558, 61 S.Ct. 719, 722, 85 L.Ed. 1037 (1941). But this is not such a case, for the dismissal was without prejudice to a new trial.

[10] The Hudspeths urge that this conditional dismissal was error. They did not object to the form of the judgment in the trial court. But in any event, they admitted that some trespass had occurred, and the public interest in obtaining redress for past destruction of public property, and in fixing the boundary against future trespass, justified the exercise of the court's admitted discretion [*Safeway Stores v. Fannan*, 308 F. 2d 94, 99 (9th Cir. 1962)] to specify that the dismissal should be without prejudice to a new trial.

7. This appears to be the usual approach.

The accuracy of surveys of the public lands of the United States prior to their disposition is a matter committed exclusively to the executive branch. But in disputes with, or between, private owners after disposition by the government "where the lines run by such survey lie on the ground, and whether any particular tract is on one side or the other of the line, are questions of fact always open to inquiry in the courts." *Russell v. Maxwell Land-Grant Co.*, 158 U.S. 253, 259, 15 S.Ct. 827, 830, 39 L.Ed. 971 (1895). See also *United States v. State Inv. Co.*, 264 U.S. 206, 211-212, 44 S.Ct. 239, 68 L.Ed. 639 (1924).

In *State Inv. Co.* the Supreme Court seemed to hold that government resurveys subsequent to disposition were not admissible evidence of the location of the original lines. See also *Moscip v. Web-*

The government argues that there is no way to determine the location of the boundary except by a resurvey conducted in accordance with the official Manual of Surveying Instructions; that the Brooks' resurvey was so conducted; and, therefore, that the effect of the trial court's rejection of the Brooks' resurvey is to make a determination of the boundary impossible. However, at another trial the government may be able to offer more convincing evidence that the markers upon which Brooks' resurvey was based are in fact original Kincaid markers; or, if such evidence is not available, the government can retrace the Kincaid line by conducting a resurvey which does not rely upon questionable markers, and can offer the results of that resurvey in evidence.

[11, 12] The cases which the government cites for the proposition that it is the duty of a person cutting timber to determine the location of his boundary line⁸ hold only that a good faith mistake as to the location of the boundary will not exonerate a trespasser. They afford no authority for shifting the burden of proof which rested upon the government to establish that the timber which the Hudspeths cut was in fact government timber.

Affirmed.

ster Lumber Co., 163 Minn. 476, 204 N.W. 326, 328 (S.Ct.1925). But the generally accepted rule is that a subsequent resurvey is evidence, although not conclusive evidence, of the location of the original line. See *Ben Realty Co. v. Gothberg*, 56 Wyo. 294, 109 P.2d 455, 459-460 (S.Ct.1941); *Dancer v. Meyers*, 103 Neb. 856, 174 N.W. 845, 845-846, (S.Ct.1919). This is also implicit in such cases as *Marr v. Shrader*, 142 Colo. 106, 349 P.2d 706, 708, 710 (S.Ct.1960); *Ward v. Rodriguez*, 43 N.M. 191, 88 P.2d 277, 279 (S.Ct. 1939); and *Hickman v. Jones*, 106 Neb. 466, 183 N.W. 980 (S.Ct.1921).

8. *Gordon Creek Tree Farms, Inc. v. Layne*, 230 Or. 204, 368 P.2d 737, 741 (1962); *Longview Fibre Co. v. Johnson*, 193 Or. 385, 238 P.2d 722, 728-729 (1951); *United States v. Firchau*, 234 Or. 241, 380 P.2d 800 (1963).

END OF OPINION

DECISION OF COURT
RESTATED

So, Hudspeth won again. It is still possible to have one more appeal. Assume the following:

If the United States still feels strongly that it should have won in either the federal district court or the Court of Appeals because of some legal error, the United States Supreme Court is the last appellate court to which the United States can appeal the Hudspeth case. In the United States Supreme Court the United States would be called the Petitioner, that is the party petitioning the court; Hudspeth would be the Respondent, that is, the party responding to the petition. Basically, the same procedure is followed as in the Court of Appeals, that is, filing of briefs, arguments, decision and opinion. The entire process, from initial filing of the suit through two appeals, can take as long as four or more years.

Remember, the Hudspeth case you just read is the case as reported by the 9th Circuit Court of Appeals. The case originated in a federal trial court, i.e., U.S. District Court and was subsequently appealed to the 9th Circuit Court of Appeals. If necessary, review **SECTION I, INTRODUCTION**, pages 3-10, to more fully understand the steps a case goes through from trial court to appellate courts.

Administrative Remedy

The Hudspeth case discussed the administrative remedy which the Hudspeths could have exercised (see page 15, middle first column). According to the United States, the Defendants (Hudspeths) did not exercise their administrative remedy. As stated in the opinion (see page 15), there is ambiguity as to the administrative remedy available to the Hudspeths and whether such remedy was applicable to them.

Points of clarification: First, the appellate court can only review what is brought to the

court of appeal, i.e., the District Court record. Since such record is silent as to what the Hudspeths did or did not do relative to their administrative remedy, the court ruled in the Hudspeths' favor on the government's claim that they did not exhaust their administrative remedies. The court stated that "If it was an applicable and available remedy, the record does not show that the Hudspeths failed to exhaust it." So the question of administrative remedy becomes moot at the appellate court level.

Second, by law, the administrative remedy may not be available after suit is brought. And, since the United States brought suit, the United States may have thus precluded the Hudspeths from an administrative remedy *after* the suit was filed. Therefore, the United States is precluded from bringing this point (contention) up at this time. They should have hashed all this out at the District Court trial.

To understand the complex network of statutes, cases and administrative processes, study the chart on page 19.

The left side of the chart illustrates the legislative process (statutory law) including the administrative rule-making process. Congress enacts public laws which are published in the *United States Statutes at Large* and which are codified, subsequently, in the *United States Code*. Congress and the President of the United States both have power to direct agency rule-making. (See ① on the chart.) The rule-making is delegated to the agencies by Congress when an agency is created. However, if the law is not specific, 43 U.S.C. 2 (1977) authorizes the Secretary of Interior to perform all executive duties pertaining to public lands. Presidential delegation of his authority is from the United States Constitution or power given to him by Congress in a law. The President delegates his authority by Executive Orders, Presidential Proclamations, and Reorganization Plans. The delega-

tions are published in the *Federal Register*, the *Code of Federal Regulations*, *Congressional Record*, *Weekly Compilation of Presidential Documents*, *United States Code Congressional & Administrative News*, *House and Senate Documents* and other places.

When rules are proposed they are published in proposed form with notices given about the time and place of public hearings on these rules. After the hearings, changes may be made in the rules, which are then published in final form in the *Federal Register* (see ② on chart).

Departmental delegation of authority by the Secretary of Interior to his staff is done only via the *Departmental Manual*. [The Secretary of Interior has not delegated below the Assistant Secretarial level the authority to sign regulations or Public Land Orders (PLO). PLO's withdraw lands from operation of some of the public land laws or revoke such withdrawals. (See **SECTION II, STATUTES** and **SECTION III, B.6.b. (1)iii(c) — PLO's.**)

Bureau delegation from the Director to his staff is mostly from Bureau Order 701 and amendments. Some minor delegations are in the *BLM Manual and Instruction Memos and Directives*. (See ③ on the chart.)

If not prohibited from doing so, field officials (State Directors and District Managers) can redelegate authority to their subordinates such as division and branch chiefs and area managers. However, redelegation must be approved by either the Director (for State Director's redelegation) or by the State Director for his staff's redelegation. Many redelegations are published in the *Federal Register*.

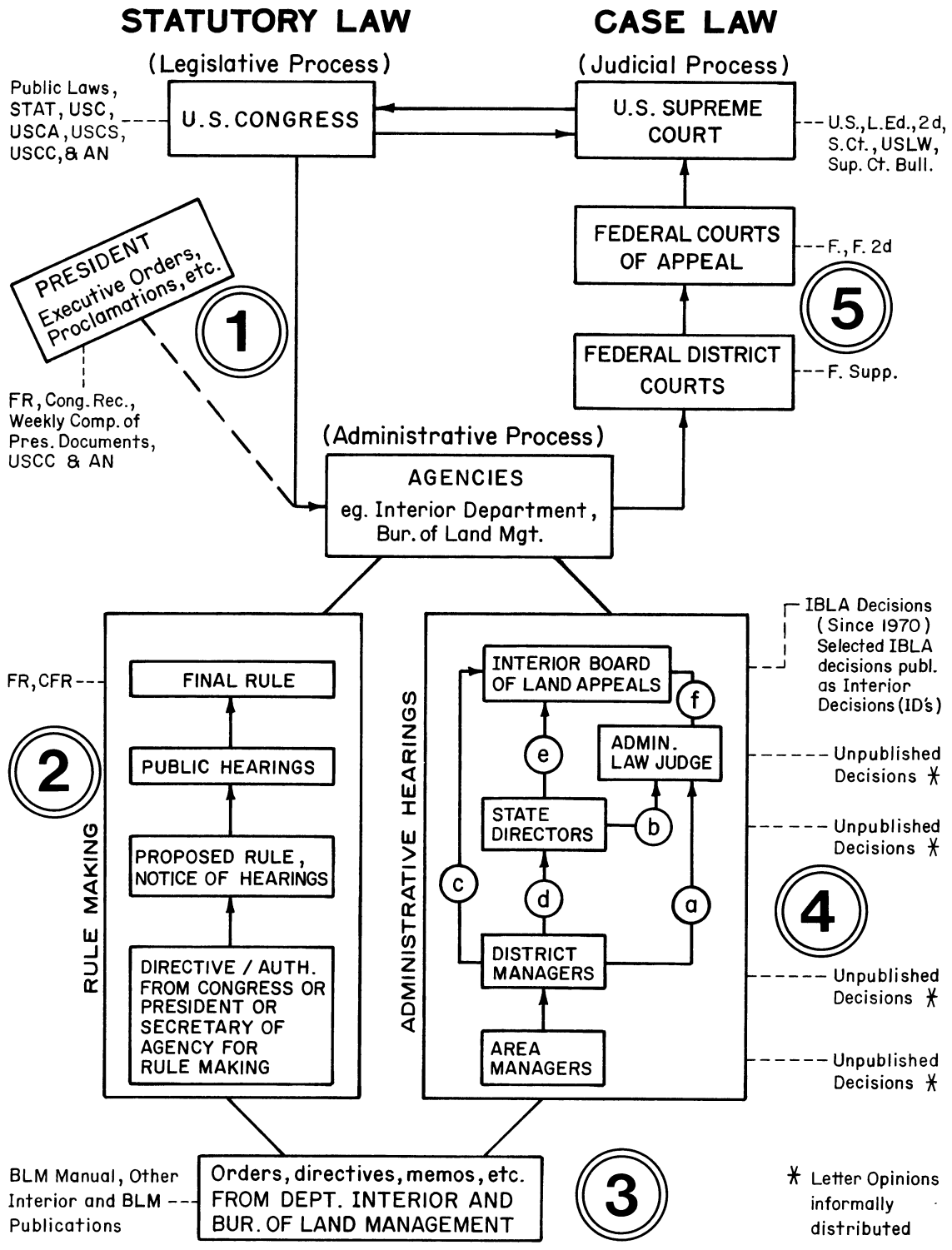
The right side of the chart illustrates the judicial process (case law) of federal trial and appellate courts and the federal administrative hearing process. Presently, there is a one-step

appeals for BLM related adjudicative-type decisions, i.e., from State or District office Decision to Interior Board of Lands Appeals (IBLA), the highest appellate level for BLM appeals (④ c & e on chart). Exceptions to the one-step appeals are (1) matters relating to land classification decisions (2) situations involving property rights and/or factual issues. Examples: contests of surveys, mining claims, right of way grants, allowed homestead entries, etc. In these examples, decisions by the state director are appealed to the Administrative Law Judge (ALJ), then to the IBLA. Had the Hudspeths exercised their administrative remedy contesting a survey, their appeal would have fallen under this exception, that is, appeal of the State Director's decision to the administrative law judge, then on to IBLA. See ④b & f on chart.)

A grazing lands decision from a BLM district manager, however, can be appealed directly to an administrative law judge (ALJ) and the ALJ's decision then can be appealed to the IBLA. (See ④a & f on chart.)

After IBLA issues a decision, the administrative appeal process usually ends (the Secretary of Interior can review and overrule an IBLA case.) At this point, the case can only be appealed to the federal court system (⑤ on the chart) but *only* by a private party. The government cannot appeal an IBLA decision. However, once in the stream of the federal court system, the government does have the right of appeal. This was brought out in the *Hudspeth* case where the government appealed from the federal district court to the Ninth Circuit Court of Appeals.

As mentioned earlier, the publications referred to on the chart and in this introduction will be discussed in the sections which follow.



SECTION I. INTRODUCTION

Review Exercise I.

There are 6 questions, worth a total of 100 points. Point values are noted in parentheses. If your score is less than 70% you should review this section again. Answers follow this exercise.

1. The two categories of law are statutory law and _____ law. (10)
2. Legislative history is often very important as it shows the intent of Congress (or legislature) before a law is passed.
True _____ False _____ (10)
3. In the federal court system there are three types of federal courts: (a) U.S. District Courts which are called _____ courts; (b) Intermediate Appellate Courts which are called _____ courts; and, (c) the Highest Appellate Court which is the _____ Court. (30)
4. In a trial the party who initiates the action or suit is called the _____; the party who defends the action or suit is called the _____. (20)
5. In an appellate court the Judges listen to new testimony and review new evidence.
True _____ False _____ (10)
6. The two most common decisions made by appellate judges are _____ or _____. (20)

SECTION I. INTRODUCTION

Review Exercise I

Answers. (Page references are to source of questions and answers in workbook.)

1. case (or appellate case) p. 3
2. True p. 3-4
3. (a) trial (or lower) p. 5
(b) Courts of Appeal (or Circuit Courts)p. 5
(c) United States Supreme p. 5
4. Plaintiff; Defendant p. 6
5. False p. 9
6. Affirmed or Reversed p. 9-10

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SECTION II—STATUTORY LAW

A. Federal Statutes

In the introduction of the workbook, you read how a bill becomes law.

Congress enacts two types of laws: private and public laws. A private law is one which affects an individual or specific group, the subject of which will seldom be litigated, that is, contested in court. Example: a private law giving franking privileges to a president's widow to allow her to use the U.S. mails without paying for the postage. A public law, on the other

hand, is one that potentially affects most U.S. citizens.

After enactment, a new federal public law will be published first as a "slip law". A slip law is an individual publication in pamphlet form of the law as enacted by Congress. Slip laws are published by the Government Printing Office. Slip laws are issued in chronological order by the public law number, e.g., Public Law 95-625, November 10, 1978.

(See illustration [1].)

These slip laws are later compiled by the Government Printing Office in a set of volumes known as ***The United States Statutes at Large*** (STAT). (For more detailed information about this set, see Appendix, p. 216.) However, these bound volumes are very slow in coming out, having a lag time of 2 to 3 years.

The *Statutes at Large* have been published since 1789. Approximately five volumes of *Statutes at Large* (STAT) are published each congressional session. These volumes contain public laws in the first part of the volume followed by private laws, presidential proclamations, reorganization plans and constitutional amendments. Individual volumes of the *Statutes at Large* have a subject index.

Researching a federal law in the numerous volumes of the *Statutes at Large* is very difficult as it requires the researcher to practically search each volume to see if the law being traced has been changed by later Congressional enactments.

From 1789 to 1864 there were 17 *Statutes at Large* volumes published. In 1866, Congress decided to codify the laws still valid and in effect from the 17 volumes. (Codification means to "reduce to a code". Codification provides an arrangement of laws in a systematic, classified order.) Codification of the 17 volumes of the *Statutes at Large* resulted in the publication of the *United States Revised Statutes of 1875*. However, it was soon discovered that the *Revised Statutes of 1875* contained many errors. Therefore, a "corrected version" was published in 1878. To date, Congress has not reenacted the 1878 revision into law. So, in effect, unless laws in the *Revised Statutes of 1875* have been changed, subsequently, by Congress, these laws are still "the law" today, errors included. Meanwhile the publication of the *Statutes at Large* continued. Research became more and more cumbersome and difficult as each volume

of the *Statutes at Large* was published. In the early 1920's, Congress authorized another codification. This codification resulted in the publication of the ***United States Code*** (U.S.C.) of 1926. For more detailed information about this set, see Appendix, p. 208.)

The U.S.C. has been officially published by the Government Printing Office since 1926. The set is revised every 6 years. The present code, therefore, is the 1976 edition; the next revision will occur in 1982.

The U.S.C. set has bound cumulative supplements issued annually, about 4-5 volumes per year. Like the *Statutes at Large* volumes, the supplements have a lag time of two years.

The 50 titles into which public laws from the *Statutes at Large* are codified in the U.S.C. are:

- *1. General Provisions.
2. The Congress.
- *3. The President.
- *4. Flag and Seal, Seat of Government, and the States.
- *5. Government Organization and Employees.
- *6. Surety Bonds.
7. Agriculture.
8. Aliens and Nationality.
- *9. Arbitration.
- *10. Armed Forces.
11. Bankruptcy.
12. Banks and Banking.
- *13. Census.
- *14. Coast Guard.
15. Commerce and Trade.
16. Conservation.
- *17. Copyrights.
- *18. Crimes and Criminal Procedure.
19. Customs Duties.
20. Education.
21. Food and Drugs.
22. Foreign Relations and Intercourse.
- *23. Highways.

- 24. Hospitals and Asylums.
- 25. Indians.
- 26. Internal Revenue Code.
- 27. Intoxicating Liquors.
- *28. Judiciary and Judicial Procedure.
- 29. Labor.
- 30. Mineral Lands and Mining.
- 31. Money and Finance.
- *32. National Guard.
- 33. Navigation and Navigable Waters.
- †34. [Navy.]
- *35. Patents.
- 36. Patriotic Societies and Observances.
- *37. Pay and Allowances of the Uniformed Services.
- *38. Veterans' Benefits.
- *39. Postal Service.
- 40. Public Buildings, Property, and Works.
- 41. Public Contracts.
- 42. The Public Health and Welfare.
- 43. Public Lands.
- *44. Public Printing and Documents.
- 45. Railroads.
- 46. Shipping.
- 47. Telegraphs, Telephones, and Radiotelegraphs.
- 48. Territories and Insular Possessions.
- 49. Transportation.
- 50. War and National Defense; and Appendix.

*This title has been enacted as law.

†This title has been eliminated by the enactment of Title 10.

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[Note: Beginning with title 7, Agriculture, the arrangement of the titles of the *U.S. Code* is alphabetical.]

The *United States Code* contains the U.S. Constitution and amendments and the codified laws of the United States in 12 volumes. There is a 4 volume subject index, one of which has *Acts by Popular Name* and various cross reference tables.

The *Acts Cited by Popular Name* is an alphabetical listing of acts which have acquired a popular name. The *Statutes at Large* citation, including amendments, are listed under the popular name of the statute, e.g., the Public Land Sales Act (**See illustration [2]**).

The “tables” sections provide cross references from the *Revised Statutes* and *Statutes at Large* to the U.S.C. citations. The *Statutes at Large* table lists public laws chronologically, first by Congress, then by Public Law number (**See illustration [3]**).

Other tables include cross references of executive orders, proclamations and reorganization plans from the *Statutes at Large* to the U.S.C.

The 50 titles of the U.S.C. are divided into chapters then subdivided into sections. Following each statute section there is historical information showing where to locate data concerning amendments and changes for the section.

The *Statutes at Large* citation to the original public law and its amendments are listed after each section (**See illustration [4]**, section 772 Resurveys.)

There is a four volume subject index to the U.S.C. which is the primary “finding tool” for this set (**See illustration [5]**, Index page to Public Lands).

To update the research in the U.S.C., consult the annual U.S.C. cumulative supplements.

Citation to the *United States Code*: (A citation to a statute is the title or volume number, the name of the set, the section number, and the date where one can find the statute published.)

43 U.S.C. §772 (1976)

Title Section Date

There are two annotated versions of the *U.S. Code*. (In statutory sets, “annotation” means a classified arrangement of summaries from cases which interpret the statute section. These summaries, also called “Notes of Decisions”, follow each statute section.)

The two annotated sets are *United States Code Annotated* (U.S.C.A.) and *United States Code Service* (U.S.C.S.).

United States Code Annotated (U.S.C.A.)
(For more detailed information about this set, see Appendix, p. 209.)

Public laws cannot be copyrighted. So companies like West Publishing Company and Lawyers Cooperative Publishing Company can copy the *U.S. Code* verbatim and reprint it.

The U.S.C.A. is an unofficial publication published by West. In addition to a reprint of the *U.S. Code*, the following features are included in the U.S.C.A.: (1) Library references to West topics and key numbers (**Illustration [6]**), (2) references to the West encyclopedia, C.J.S. (**Illustration [6]**), (3) the annotations (called Notes of Decisions) to the statute section (**Illustration [6]**). (These are summaries of cases which have interpreted the statutory section being researched. If there are numerous such summaries or Notes of Decisions, West prepares an outline of the notes to make the search easier. (**See illustration [6]**).

Like the U.S.C., the U.S.C.A. also has a

Popular Names and Tables volume and a detailed multi-volume subject index. In addition, U.S.C.A. has a separate index at the end of each title as well as a separate index to the United States Constitution and amendments.

Citation to the *United States Code Annotated* can be to either the U.S.C. (simply drop the “A” from the U.S.C.A. citation) or to the U.S.C.A., e.g., 43 U.S.C. §772 (1976) or 43 U.S.C.A. §772 (1976).

Updating the U.S.C.A.: Use (1) pocket parts (2) cumulative pamphlets (3) *U.S. Code Congressional and Administrative News*.

Step 1. Check the pocket part to the U.S.C.A. volume.

All U.S.C.A. volumes are updated by *annual cumulative pocket parts*. (Pocket parts are supplementary pamphlets which update sets of law books such as statutes, digests, encyclopedias, etc. Pocket parts are cumulative from year to year. They are usually published annually, thus the term “annual cumulative pocket parts”. Each pocket part is inserted into a slit or pocket in back of the volume it supplements.) To show the importance of updating research in order to trace and find the most recent changes in the law, compare 43 U.S.C.A. §772 from the main volume of U.S.C.A. (**See illustration [6]**) with 43 U.S.C.A. §772 from the *pocket part* to that volume (**See illustrations [7, 8]**). There you note that the *provided further* paragraph found in the main volume (**illustration [6]**) was struck out by an amendment in 1976 as illustrated in the pocket part (**illustrations [7, 8]**). (Note also the annotation to the *Hudspeth* case in **illustration [8]**.)

In addition to pocket parts, volumes are occasionally updated by separately published paper covered pamphlets. When U.S.C.A. volumes are revised, all supplementary material is included in the volumes.

Step 2. Check for pamphlet supplements updating the pocket parts.

Every 2-3 months, West publishes a cumulative pamphlet service which directly supplements the annual pocket parts. Each pamphlet supplement supersedes the preceding pamphlet supplements.

Steps 1 and 2 update the law to within the last few months.

Step 3. To further update the research, go to a separate set, the *United States Code Congressional and Administrative News (U.S. Code Cong. & Ad. News)* set.

This set is published by West during each Congress, first in advance sheet form, which are later compiled in bound volumes after the Congressional session (for detailed information, see Appendix, p. 211).

U.S. Code Cong. & Ad. News contains all public laws enacted during a congressional session. These public laws are published in chronological order by the public law number. (**See illustration [9] top of page**).

(Note the cross reference in the margin where this public law section will be found later in the *U.S. Code*. (**See illustration [9]**.)

The *U.S. Code Cong. & Ad. News* also contains important pieces of the legislative history for the public laws. (Legislative histories will be discussed in the next section.) Much of the legislative history comes from Congressional reports, hearings, etc. (**See illustration [10]**.)

United States Code Service (U.S.C.S.)
(For more detailed information about this set, see Appendix, p. 212.)

This is another unofficially published annotated version of the *United States Code*. It is published by Lawyers Cooperative Publishing

Company. It, too, contains all of the material found in the *United States Code* (**See illustrations [11, 12]**) and is similar to the U.S.C.A. set in that it provides annotations to statute sections. Special features to the U.S.C.S. are: (1) *Cross References* to other applicable statutes (**See illustration [12]**), including references to Federal Regulations, e.g., C.F.R. (C.F.R. to be discussed later); (2) *Research Guide* with references to L.C.P.'s Total Client Service Library (**See illustration [12]**), and, (3) *Interpretive Notes and Decisions*, i.e., annotations (**see illustration [12]**).

It should be pointed out that L.C.P. "selects" cases to include in their notes of decisions (annotations). Note, for example, that the *Hudspeth* case was *not* selected for inclusion in the U.S.C.S. annotation. West, on the other hand, tends to include as many case references as possible. The *Hudspeth* case is included in the West annotations (compare Notes of Decisions, illustration [8] from the U.S.C.A., with Interpretive Notes and Decisions in U.S.C.S., **Illustration [12]**)

Citation to the U.S.C.S.:

As with the U.S.C.A., one can cite to either the U.S.C. or the U.S.C.S. as follows: 43 U.S.C. §772 (1976) (drop the letter "S" to get the U.S.C. cite), *or* 43 U.S.C.S. §772 (1976).

Updating U.S.C.S.: (1) pocket parts, (2) cumulative pamphlets (3) Lawyers Edition *ADVANCE*.

Step 1. The main volumes of the U.S.C.S. set are supplemented by annual cumulative pocket parts.

Step 2. Like West, L.C.P. provides a cumulative pamphlet giving later case annotations to update their annual pocket parts of the U.S.C.S. volumes.

Step 3. Check the Lawyers Edition *ADVANCE*. To update statutory changes during a Congressional session, L.C.P. publishes the U.S.C.S. Lawyers Edition *ADVANCE* which is a pamphlet service with all public laws published chronologically. In the back of each *ADVANCE* is a cross reference table listing *Statutes at Large* citations by Public Law number to the U.S.C.S.; a table of code sections affected or repealed with references from the U.S.C.S. citation to the Public Law; and U.S.C.S. citations which changed C.F.R. (*Code of Federal Regulations*) section. Each *ADVANCE* has a subject index.

[Note: There are two noteworthy looseleaf publications which contain current Congressional information (Looseleaf publications are covered in **SECTION IV, LOOSELEAFS.**) *U.S. Law Week* (U.S.L.W.) and *Congressional Index*. (For more detailed information see Appendix pp. 214, 190.) Volume II of U.S.L.W. contains some federal statutes. It is not intended, however, to be a statutory publication, rather a looseleaf publication which alerts readers to important current federal statutory matters. The *Congressional Index* is a two volume looseleaf publication which has current information about bills in federal legislation.]

B. State Statutes

There is at least one set of statutes published for each of the 50 states. Some states, like California, have official as well as unofficial sets.

State statutory compilations, especially those published by West, follow the same format of the U.S.C.A. and have the same features, e.g., library references, annotations, pocket parts, etc. (West publishes 21 state statute sets.)

States also publish their session laws. (These are laws passed while a legislature is

in session. State Session laws are analogous to public laws published in the *Statutes at Large*.) These session laws are usually available at the State Library or Archives collection.

C. Municipal Codes (Ordinances)

All incorporated municipalities have a municipal code or compilation of city ordinances. The larger cities have codes which are in bound volumes. In general, city codes are poorly indexed and it is extremely difficult to update ordinance changes.

D. Legislative Histories

1. Federal

As discussed in the introduction, it is often important to find out what the intent of Congress was when they passed a particular bill. Researchers need to find publications which may give this intent. The primary documents necessary to reveal this intent are Congressional bills, reports and hearings, for both houses, as well as the debates on the bills and acts. Most congressional committees publish reports and findings from hearings. Debates from both houses are published in the daily *Congressional Record*. (Note: Few libraries have all reports, hearings, and debates. Inquire at a library which has been designated a Federal Depository for U.S. Government documents as to the availability of reports, hearings and debates.)

Unofficial Publications Which Contain Legislative Histories

(a) *United States Code Congressional and Administrative News* provides excerpts of the more important reports and hearings. This publication also gives the researcher report numbers for the senate and house and *Congressional Record* citations. (See illustration [10].)

(b) *Congressional Index* (for detailed infor-

mation, see Appendix p. 190). This is a two volume looseleaf publication by Commerce Clearing House (CCH). It indexes bills, committee reports, and hearings. It includes sections on such matters as pending bills, bill status tables, members of Congress and their voting records, etc.

(c) *Congressional Information Service* (CIS). This unofficial publication began in 1970. It has in-depth indexes and abstracts on bills, reports, resolutions, executive reports and documents and public laws. Full reprints of these materials are available on the CIS microfiche. To access legislative materials, CIS has Index volumes with detailed subject indexes; references are given to various Congressional material. An accession number is provided to access the CIS documents reprinted on microfiche, or to access abstracts of documents in the Abstracts volumes. Indexes are published monthly, quarterly and annually with multi-year cumulations; abstracts of new documents are added monthly and cumulated annually.

D. Legislative Histories

2. State

It is more difficult to compile a legislative history for state statutes than for federal statutes. Many state legislative committees do not publish their reports and hearings. Even for those which do, the publications are not widely distributed. Few finding tools (indexes, abstracts, looseleaf services) are published for state legislative materials.

E. Administrative Regulations [Note: Rules and regulations mean the same thing.]

1. Federal

Federal administrative agencies are created by Congress. Their regulations, orders, etc., have as much impact on citizens as statutes; their decisions, have the same authority as case law.

Agencies get their rule-making authority from federal statutes or from Presidential Executive Orders.

Agencies can do the following: (1) write rules or regulations; (2) issue orders (orders are final dispositions of matters before the agencies); (3) issue licenses (permits) to operate or act under agency control; (4) issue advisory opinions (advice) about their regulations; and (5) conduct hearings. Agencies hear matters which arise from violation of their rules or controversies over interpretations of their rules and regulations. Agency hearings are conducted by administrative law judges or review boards, e.g., Interior Board Land Appeals (IBLA).

All rules and regulations issued by an agency must be published in the *Federal Register* in order to put the public “on notice”. The *Federal Register* system of publication is comprised of two publications, the daily *Federal Register* and the annually revised *Code of Federal Regulations*. The two publications work together to provide an up-to-date version of any agency regulation.

a. **The Federal Register.** (For more detailed information, see Appendix, p. 192.)

The *Federal Register* (FR) is a daily magazine-like publication which is published by the Government Printing Office. For rules and regulations, the FR is like the *Statutes at Large* for federal statutes. Found in the front of any *Federal Register* issue is this statement: “The *Federal Register* provides a uniform system for making available to the public, regulations and legal notices issued by Federal agencies. These include Presidential Proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Acts of Congress and other Federal agency documents of public interest.”

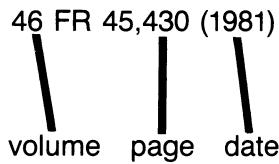
The *Federal Register* issues are arranged as follows:

- (1) Contents. This is a comprehensive list of documents in each issue arranged by agency and type of document (rule, proposal, or notice). **(See illustration [13])**
- (2) Rules and regulations by agency.
- (3) Notices by agency. This includes notices of orders, opinions and agency changes. **(See illustration [14].)**
- (4) Proposed rules by each agency are also included.
- (5) Reminders. A daily list of Public Laws and a list of rules going into effect on the date of that issue. Each Wednesday, three additional categories are included: Next Week’s Deadlines for Comments on Proposed Rules; Next Week’s Public
- (6) List of CFR Parts Affected. Rules and proposals that appear in the issue are arranged by Part number.
- (7) Cumulative List of Parts Affected — Monthly. Rules and proposals that have appeared so far in that month’s Federal Registers. Hearings, and meetings. **(See illustration [14].)**
- (8) *Federal Register* Pages and Dates. A parallel table of the inclusive pages and corresponding dates for the Federal Registers of the month.

Accessing the *Federal Register* is through the *Federal Register* indexes found in each daily issue, which are published monthly and cumulated for twelve months. An annual index is then published.

Agency abbreviations used in the *Federal Register* are published monthly in the first issue of the month.

Citation to the *Federal Register*:



b. **Code of Federal Regulations (CFR)** (For detailed information, see Appendix, p. 187.)

The CFR is a codification of the current, general and permanent regulations of the various agencies. The CFR is divided into 50 titles which represent broad subject areas subject to regulatory action. Titles are divided in chapters, parts and sections (**see illustration [15]**). Approximately half of the CFR titles cover the same subjects as the U.S. Code titles. Example: the subject “Public Lands” is title 43 in the U.S.C. and in CFR If a regulation stems from statutory authority, the statute citation is included in CFR (**see illustration [16]**). The CFR is to the FR what the U.S.C. is to the *Statutes at Large*. For certain titles, there are more than one volume. Example: Title 43 CFR (1981) is in three volumes.

Revision of the CFR is done on an annual basis. One fourth of CFR is revised quarterly.

Titles 1-16 are revised by January 1.

Titles 17-27 are revised by April 1.

Titles 28-41 are revised by July 1.

Titles 42-50 are revised by October 1.

Research in the *Federal Register* System using FR and CFR can be most difficult. One needs to know (1) what is contained in both publications (2) how FR and CFR are indexed and (3) how to update a federal regulation.

A typical CFR volume contains the same kinds of information as are found in the Table of Contents for title 43.

Table of Contents

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| Title 43: | |
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- a. This section of a CFR volume contains the regulations for each agency which were codified from their original FR source.
- b. Appendix — Table of Public Land Orders, 1942-1980. This Appendix is found in title 43 CFR and gives information for Public Land orders. (**See illustration on p. 33.**)
- c. Index. A CFR title may have two indexes. The index volume to the set is always available and, for some titles, a title index exists. The CFR indexes are harder to use than most statutory indexes because subject entries are broad and general and fewer entries are used. (**See illustration [17].**)

The CFR index is a subject/agency index. It is revised twice a year, January 1st and July 1st. The index contains the following:

- (1) A subject/agency index for rules currently codified in the *Code of Federal Regulations* (CFR).
- (2) A list of agency-prepared indexes appearing in individual *Code of Federal Regulations* volumes.
- (3) A table of laws and the Presidential documents cited as authority for

regulations currently codified in the *Code of Federal Regulations*.

(4) A list of Acts requiring publication in the Federal Register.

(5) A list of *Code of Federal Regulations* titles, chapters, subchapters, and parts.

(6) An alphabetical list of agencies appearing in the *Code of Federal Regulations*.

References in CFR Indexes are to CFR parts.

To update the CFR semi-annual index, consult the monthly *Federal Register* Index.

d. Table of CFR Titles and Chapters.

This table shows the title and subtitle for each agency.

Example:

Title 43—Public Lands: Interior

SUBTITLE A—Office of the Secretary of the Interior (Parts 0-199)

SUBTITLE B—Regulations Relating to Public Lands

- I Water and Power Resources Service, Department of the Interior (Parts 200-499)**
- II Bureau of Land Management, Department of the Interior (Parts 1600-9299)**

e. Alphabetical List of Agencies Appearing in CFR.

Example:

| | |
|---|------------------|
| Inter-American Foundation | 22, X |
| Intergovernmental Relations, Advisory Commission on | 5, VII |
| Interior Department | |
| Endangered Species Committee | 50, IV |
| Federal Procurement Regulations System | 41, 14 |
| Federal Property Management Regulations System | 41, 114 |
| Fish and Wildlife Service, United States | 50, I, IV |
| Geological Survey | 30, II |
| Heritage Conservation and Recreation Service | 36, XII |
| Indian Affairs, Bureau of | 25, I; 41, 14H |
| Indian Arts and Crafts Board | 25, II |
| Land Management Bureau | 43, II |
| Mines, Bureau of | 30, VI |
| National Park Service | 36, I |
| Secretary of the Interior, Office of | 43, Subtitle A |
| Surface Mining and Reclamation Appeals, Board of | 30, III |
| Surface Mining Reclamation and Enforcement, Office of | 30, VII |
| United States Fish and Wildlife Service | 50, I, IV |
| Water and Power Resources Service | 43, I |
| Water Research and Technology, Office of | 41, 14R |
| Water Resources Research, Office of | 18, IV |
| Internal Revenue Service | 26, I |
| International Boundary and Water Commission, United States and Mexico | 22, XI |
| International Communication Agency | 22, V; 41, 19 |
| International Development, Agency for | 22, II; 41, 7 |
| International Development Cooperation Agency | 22, II; 41, 7 |
| International Joint Commission, United States and Canada | 22, IV |
| International Organizations Employees Loyalty Board | 5, V |
| International Regulatory Agencies (Fishing and Whaling) | 50, III |
| International Trade Administration | 15, III; 19, III |

Appendix—Table of Public Land Orders, 1942–1980

| No. | Date | Subject | 7 FR page |
|-------------|--------------|---|-----------|
| <i>1942</i> | | | |
| 1 | June 20..... | California, withdrawing public lands for use of the War Department for campsite and maneuver purposes. | 4866 |
| 2 | June 22..... | Arizona, withdrawal of land for use in connection with the San Carlos Indian Irrigation Project. | 4805 |
| 3 | June 23..... | California, withdrawing public lands for use as sources of sand, water, etc., supply for Sierra Ordnance Depot, War Department. | 4866-7 |
| 4 | June 25..... | Florida, withdrawal of lands for use as aerial gunnery range, War Department. | 4934 |
| 5 | June 26..... | Alaska, withdrawal of public lands for military purposes ¹ | |
| 6 | June 26..... | Nevada, withdrawing public lands for War Department air base..... | 5281 |
| 7 | June 29..... | New Mexico, withdrawing public lands for War Department air base..... | 5281 |
| 8 | June 30..... | Arizona, withdrawing public lands for national defense purposes..... | 5281 |
| 9 | July 3..... | New Mexico, withdrawing lands for War Department practice bombing range. | 5449 |
| 10 | July 8..... | South Dakota, withdrawing public lands War Department ordnance depot. | 5449 |
| 11 | July 8..... | Oregon, withdrawing public lands for use of War Department campsite. | 5575 |
| 12 | July 20..... | Alaska, withdrawing public lands pending definite location and construction of Canadian-Alaskan military highway. | 5917 |
| 13 | July 21..... | Colorado, withdrawing public lands for military purposes..... | 5917 |
| 14 | July 21..... | California, withdrawing public lands for Naval supply depot..... | 5917 |
| 15 | July 21..... | Utah, withdrawing lands as ammunition storage depot for Chemical Warfare Service. | 5917-8 |
| 16 | July 21..... | Arizona, withdrawal of lands for War Department field artillery range..... | 5918 |
| 17 | July 21..... | Alaska, air navigation site withdrawal No. 179 ³ | |
| 18 | July 29..... | New Mexico, withdrawing public land for use of War Department practice bombing range. | 6230 |
| 19 | Aug. 4..... | Alaska, enlarging Air Navigation Site withdrawal No. 149 ³ | |
| 20 | Aug. 4..... | Alaska, withdrawing public lands for use of the War Department for military purposes ¹ | |
| 21 | Aug. 6..... | New Mexico, withdrawal of public lands for practice bombing range for War Department. | 6376 |
| 22 | Aug. 6..... | Arizona, withdrawing public lands for bombing range, War Department. | 6376 |
| 23 | Aug. 7..... | Washington, withdrawal for Swift Creek Administrative site, in connection with Columbia National Forest. | 6622 |
| 24 | Aug. 11..... | Wyoming, withdrawal for military purposes..... | 6500 |
| 25 | Aug. 12..... | California, withdrawal of public lands for defense training school for aircraft pilots. | 6607 |
| 26 | Aug. 12..... | California, withdrawal of public lands for War Department campsite..... | 6690-1 |
| 27 | Aug. 12..... | Nevada, withdrawal for military purposes..... | 6691 |
| 28 | Aug. 12..... | California, withdrawal for military purposes..... | 6691 |
| 29 | Aug. 14..... | Idaho, partial revocation of Executive Order No. 4796 of Jan. 19, 1928, and air navigation site withdrawal No. 106. | 6691 |
| 30 | Aug. 14..... | Florida, withdrawal of lands for Department of the Navy..... | 7182 |
| 31 | Aug. 14..... | California, withdrawal of public lands for War Department air base..... | 6691 |
| 32 | Aug. 18..... | Alaska, withdrawal of public lands in aid of construction of Trans-Canadian Alaskan Railway. | 6780 |
| 33 | Aug. 20..... | Utah, withdrawal of public lands for prosecution of the war..... | 6907-8 |
| 34 | Aug. 25..... | Alaska, withdrawal of public lands for military purposes..... | 7039-40 |
| 35 | Aug. 27..... | Idaho, Utah, Wyoming, withdrawal of public lands for military purposes. | 7040 |
| 36 | Sept. 7..... | Alaska, withdrawal of public lands for military purposes ¹ | |
| 37 | Sept. 7..... | Wisconsin, withdrawal of public lands for military purposes..... | 7295 |
| 38 | Sept. 8..... | Washington, withdrawal for Navy Department aviation purposes..... | 7295 |

See footnotes at end of table.

f. Redesignation Tables

From time to time changes occur in the organization of the various federal agencies resulting in changes where their regulations are published. Redesignation Tables give the cross reference from the "old" citations to the "new" citations. It is important to

check these tables when researching a CFR citation which predated the change. Example: If one has a CFR citation prior to March 31, 1964 to "old" BLM chapter I, the Redesignation Tables must be checked to find where this citation is now located.

Illustration:

Redesignation Table No. 1

Explanation: At 29 FR 4302, Mar. 31, 1964, former Chapter I of this title (Bureau of Land Management) was redesignated Chapter II, and former Chapter II of this title (Bureau of Reclamation) was redesignated Chapter I. The part heading "Part 230—Reclamation of Arid Lands of the United States" and §§ 230.54 through 230.62, 230.64 through 230.100, and 230.115 through 230.121 were transferred to redesignated Chapter I—Bureau of Reclamation. The regulations in redesignated Chapter II—Bureau of Land Management have been rearranged, renumbered, and retitled to conform to the Bureau's subject-function outline. The following table lists the old and new section numbers of the redesignated materials.

| <i>Old</i> | <i>New</i> | <i>Old</i> | <i>New</i> |
|---------------|----------------|------------|--------------------------|
| 51.1 | 2031.1 | 63.8 | 4131.2-1 |
| 51.1 footnote | 2031.2 | 63.9 | 4131.2-2 |
| 52.1 | 1821.3-6 | 63.10 | 4131.2-3 |
| 60.1 | 1821.9-1 | 63.11 | 4131.2-4 |
| 60.2 | (deleted) | 63.12 | 4131.2-5 |
| 60.3 | 1824.9-1 | 63.13 | 4131.2-6 |
| 60.4 | 1862.7 | 63.14 | 4131.5-1 |
| 60.5 | 1821.9-2 | 63.15 | 4131.2-7(a) |
| 61.1 | 2221.9-1(a) | 63.16 | 4131.2-7(b), (c), (d) |
| 61.2 | 2221.9-2 | 63.17 | 4131.2-8 |
| 61.3 | 2221.9-3 | 63.18 | 4131.2-7(e), (f) |
| 61.4 | 2221.9-4(a)(1) | 63.19 | 4131.2-7(g), (h) |
| 61.5 | 2221.9-4(a)(2) | 63.20 | 4131.2-9(a) |
| 61.6 | 2221.9-4(a)(3) | 63.21 | 4131.2-9(b) |
| 61.7 | 2221.9-4(a)(4) | 63.22 | 4131.3, 2013.9-1 |
| 61.8 | 2221.9-4(a)(5) | 63.23 | 4131.5 |
| 61.9 | 2221.9-4(b)(1) | 63.24 | 4131.5-2 |
| 61.10 | 2221.9-4(c) | 63.31 | 4132.0-3 |
| 61.11 | 2221.9-4(b)(2) | 63.32 | 4132.0-5 |
| 61.12 | 2221.9-4(d) | 63.33 | 4132.2-1 |
| 61.13 | 2221.9-4(e) | 63.34 | 4132.1-1 |
| 61.14 | 2221.9-4(f) | 63.35 | 4132.2-2 |
| 61.15 | 2221.9-4(g) | 63.36 | 4132.1-2 |
| 61.16 | 2221.9-4(h) | 63.37 | 4132.1-4 |
| 61.17 | 2221.9-1(b) | 63.38 | 4132.1-3 |
| 62.1 | 2235.2-1 | 63.39 | 4132.2-3 |
| 62.2 | 2235.2-2 | 63.40 | 4132.2-4(a) |
| 62.3 | 2235.2-3(a) | 63.41 | 4132.2-4(b) |
| 62.4 | 2235.2-3(b) | 63.42 | 4132.2-5 |
| 62.5 | 2235.2-4(a) | 63.43 | 4132.2-6 |
| 62.6 | 2235.2-4(b) | 63.44 | 4132.2-8 |
| 62.7 | 2235.2-4(c) | 63.45 | 4132.2-9 |
| 62.8 | 2235.2-5 | 63.46 | 4132.2-7 |
| 62.9 | 2235.2-6 | 63.47 | 4132.2-9 |
| 62.10 | 2235.2-7 | 63.48 | 4132.3 |
| 62.11 | 2235.2-8 | 63.49 | 4132.1-5, 2013.9-2 |
| 62.12 | 2235.2-9(a) | 63.50 | 4132.3 |
| 62.13 | 2235.2-9(b) | 63.51 | 4132.4, 9239.3-3 |
| 62.14 | 1840 | 64.1 | 2233.9-1(a) |
| 63.1 | 4131.0-3 | 64.2 | 2233.9-1(b) |
| 63.2 | 4131.0-2 | 64.3 | 2233.9-1(c) |
| 63.3 | 4131.0-5 | 64.4 | 2233.9-1(d) |
| 63.4 | 4131.1-1 | 64.5 | 2233.9-1(e) |
| 63.5 | 4131.1-2 | 64.6 | 2233.9-1(f) |
| 63.6 | 4131.1-3 | 64.7 | 2233.9-2(a) |
| 63.7 | 4131.1-4 | 64.8 | 2233.9-2(b) |

g. List of CFR Sections Affected

It is very important to understand how these lists are used to “update” a CFR citation, i.e., to trace changes which may have occurred subsequent to a rule’s initial promulgation.

The lists are referred to as “L.S.A.,” meaning “Lists of Sections Affected” in the CFR. The L.S.A. lists are designed to lead users of the CFR to amendatory actions published in the Federal Register. The lists are cumulative and appear in the following places:

UPDATING A REGULATION IN CFR BY USING L.S.A.

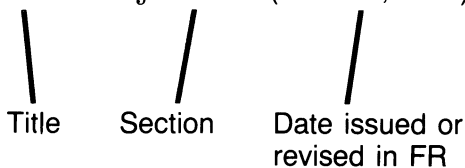
| Book to Use Year of Regulation | Bound CFR Cumulation Volume (L.S.A.) | Back of CFR volumes (L.S.A.) | Current Monthly L.S.A. Pamphlet | Last issue of any succeeding months' Federal Register (L.S.A. Section for month) | Latest issue of this month's Federal Register (L.S.A. Section Cumulative to date of FR issue checked) |
|-----------------------------------|--------------------------------------|------------------------------|---------------------------------|--|---|
| 1949-1963 (1v.) | x | x | x | x | x |
| 1964-1972 (2v.) | x | or x | x | x | x |
| 1973- | | x | x | x | x |
| Current Year | | | x | x | x |

To find all forms of a regulation, i.e., temporary or interim rules, in addition to those found in the CFR, one must check in the L.S.A. for every year since the promulgation of the rule. Upon reaching the current year, update the regulation as shown above.

(A problem showing how to use the L.S.A. follows this section.)

Citation to *Code of Federal Regulations*:

43 C.F.R. §9239.0-8 (June 13, 1970)



To illustrate how the *Federal Register* System (FR & CFR) works, work through the following problem:

What is the *current* regulation covering the measure of damages for unauthorized removal of timber from BLM land in a state which has its own state laws covering such trespasses? Find and update this regulation.

STEP 1. *Using CFR Indexes.*

1(a) Use of CFR (General) Index.

If the citation to this regulation in CFR is not known, one can check either the CFR Index (this is the general index to the entire set and is found at the end of the CFR set) *or* one can check the Title 43 index which is found in the Title 43 volume.

Ordinarily, when using statutory indexes, a researcher would look under terms like *trespass, measure of damages, damages, timber, removal of timber*, etc. However, none of these terms can be found in the CFR Index. The key is to look under *Land Management Bureau*, then for specific terms such as *trespass, timber*, etc. (See illustrations [18][19][20].) (See marked entries.)

Under the entry, Land Management Bureau, is found a reference to *trespassing on public lands* with a citation to 43 CFR 9230. There is *no* entry for “measure of damages” for unauthorized removal of timber from BLM land. Thus, by using the CFR Index, the closest a researcher could get to a citation is to

“trespassing on public lands”, 43 CFR 9230. [Note: The CFR Index reference is to Part 9230.]

At this point, one may want to go to the CFR Volume containing title 43 CFR Part 9230 (the Part is divided in sections). Looking over the section analysis for mention of “measure of damage”, one will find these entries: (**See illustration [21].**)

§9239.0-8 Measure of damage
and
§9239.1-3 Measure of damages, when not prescribed by state law.

Thereafter, it is a matter of reading the appropriate section, which in this case would be §9239.0-8 Measure of damages, in CFR (**See illustration [21].**)

1(b) Using Index to Title 43 (alternative step).

If one had elected to go to the index for this title, instead of the general index, one would have found the information provided in **illustration [22].**

[Note: the *only* entry which refers to the correct part, that is, Part 9230 which contains Section 9239.0-8, is the term “trespass”. This lack of adequate search terms in the CFR indexes makes research more difficult than it should be (as mentioned above, other types of indexes would probably have entries under Timber, Trespass, Measure of Damages, and other terms).]

If one already had the citation to the Section, one could skip Step 1 and begin with Step 2. Step 2 is *always necessary*.

STEP 2. *Updating regulation* 43 CFR §9239.0-8 Measure of Damage.

2(a) Check 43 CFR Part 9230 (which includes section 9239.0-8) and find when this regulation was issued or revised (see Source which follows the Analysis, **illustration [21]**). There one would find that Part 9230 was issued in 35 FR 9800,

June 13, 1970, which is its source.

Next, to update §9239.0-8 to see whether any changes occurred *since* June 13, 1970, go to Step 2(b).

2(b) Go to the L.S.A. section in back of the CFR volume containing 43 CFR §9239.0-8. There one will find listings of changes which occurred in the title 43 sections. These listings are arranged by year. To update §9239.0-8 from 1970 to date, check this section in each listing by year, e.g., 1971, 1972, 1973, etc. (**See illustrations [23-26].**)

Note that no changes occurred. This step updates the research through the last year listed, i.e., 1979-80. (**See illustration [26].**)

To update the search from 1980 to the current date, go to Step 2(c).

2(c) Each month an L.S.A. pamphlet is published. These monthly L.S.A. publications are cumulative from the date the title being researched was revised. In this case, title 43 is updated in the cumulative monthly L.S.A.’s from October 1, 1980 (**See illustration [27]**). The August, 1981 pamphlet used to illustrate *updating* L.S.A. for this problem will update 43 CFR 9239.0-8 through August 31, 1981 (**See illustration [28]**). In this pamphlet, turn to the L.S.A. for title 43 and check to see whether §9239.0-8 is listed (**See illustration [28]**). In this L.S.A. there is no citation to §9239.0-8.

Now the research is updated from 1970 through August 31, 1981.

Next, to update the section to a more current date, go to Step 2(d).

2(d) The last FR issue published each month has an L.S.A. table in back of the issue. In checking title 43 §9239.0-8 in **illustration [29]**, one finds no changes.

The research is updated from 1970 through September 30, 1981.

Next, go to Step 2(e) to bring the CFR research to the most current issue of FR.

2(e) Check the last daily issue of the FR. In back of each issue is a cumulative L.S.A. from the beginning of that month to the last FR issue published. (For this problem, the last FR issue is dated October 16, 1981.) **(See illustration [30].)**

In addition to the *Federal Register* and the *Code of Federal Regulations*, other publications which are useful when working with federal regulations are discussed in the following sections c., d., e., and f.

c. *Shepard's Code of Federal Regulations Citations* (Shepard's Citations sets will be discussed in **SECTION IV, FINDING TOOLS, CITATORS.**)

The *Shepard's CFR Citations* lists cases which have cited a particular regulation from CFR. In *Shepard's CFR Citations* the arrangement of the CFR citations is by CFR title. Example: if one wants to see if any cases cited 43 CFR §1842, refer to the *Shepard's Code of Federal Regulations Citations* volume. Turn to title 43 at top of page; find section 1842 **(See illustration [31]).**

[Note that the *Hudspeth* case, 384 F.2d 687, is cited **(See illustration [31]).**]

The *Shepard's CFR Citations* volume is supplemented by a cumulative pamphlet. To update *Shepard's CFR Citations*, check title 43 Section 1842 in this cumulative pamphlet **(See illustration [32]).** Note: Section 1842 is not listed which means no additional cases have cited 43 CFR 1842.

(CFR is now available in full text in WESTLAW and LEXIS computer services. Updating CFR by computer is quicker than manual search since it is a one step process.)

d. *Federal Regulatory Week*

This is a one volume looseleaf service by Prentice-Hall Inc. It provides the user with the latest important regulatory developments. Each weekly pamphlet publication contains digests of proposed, final and interim regulations. These are arranged by department and agency. There is also a CFR parts affected section. Calendars of the various agencies giving deadlines for proposed rules, effective dates of rules and hearing schedules for pending rules are included. There is a cumulative subject index.

Often, looseleaf services like *U.S. Law Week*, *Environment Reporter* and the like, will also refer to regulatory changes.

e. *United States Government Manual*

This one volume publication is published annually by the Government Printing Office. It contains data about each agency and its subdivisions. In it can be found the names of officials, history of the creation of an agency and its functions, addresses, phone numbers of field offices, etc. It is a very useful manual for government employees in particular. **(See illustrations [33-35]** for information included in the *United States Government Manual*, 1981/82 about the Department of Interior and BLM.)

f. *Presidential Documents, Executive Orders and Proclamations and Messages*

Presidential documents are published in the *Federal Register*, *Code of Federal Regulations*, *Weekly Compilation of Presidential Documents* and *United States Code Congressional and Administrative News*.

Presidential Papers, Executive Orders and Proclamations are published in the *Federal Register*, *Code of Federal Regulations*, *U.S. Statutes at Large*, the *U.S. Code* and the *United States Code Congressional and Administrative*

News as well as in the *Weekly Compilation of Presidential Documents*.

Presidential messages are published in the *Congressional Record*, *House and Senate Journals*, the *United States Code Congressional and Administrative News* and in the *Weekly Compilation of Presidential Documents*.

Reorganization Plans are published in the *Congressional Record*, *Code of Federal Regulations*, *U.S. Code*, *United States Statutes at Large*, the *United States Code Congressional*

and *Administrative News* and in the *Weekly Compilation of Presidential Documents*.

Another important publication is the *Codification of Presidential Proclamations and Executive Orders*. (For more detailed information about this publication, see Appendix, p. 189.) The *Codification* is published to provide in one convenient place proclamations and Executive Orders with general applicability and continuing effect. This publication is arranged by CFR title number. Following is an illustration of Executive Order 10950:

CHAPTER 43—PUBLIC LANDS

Executive Orders

- 10950 Designating the Secretary of the Interior as the representative of the President to approve selections by the State of Alaska of public lands lying north and west of the National Defense Withdrawal Line.
- 10967 Administration of Palmyra Island.
- 11021 Administration of the Trust Territory of the Pacific Islands by the Secretary of the Interior.
- 11200 Providing for establishing user fees pursuant to the Land and Water Conservation Fund Act of 1965.
- 11237 Prescribing regulations for coordinating planning and the acquisition of land under the outdoor recreation program of the Department of the Interior and the open space program of the Housing and Home Finance Agency.
- 11487 Designation of officers of the Department of the Interior to act as Secretary of the Interior.
- 11643 Environmental safeguards on activities for animal damage control on Federal lands.
- 11644 Use of off-road vehicles on the public lands.
- 11989 Off-road vehicles on public lands.
- 12001 Transferring certain Bicentennial functions to the Secretary of the Interior.

Executive Order 10950—Designating the Secretary of the Interior as the representative of the President to approve selections by the State of Alaska of public lands lying north and west of the National Defense Withdrawal Line

SOURCE: The provisions of Executive Order 10950 of June 27, 1961, appear at 26 FR 5787, 3 CFR, 1959–1963 Comp., p. 478, unless otherwise noted.

By virtue of the authority vested in me by section 6(b) of the Alaska Statehood Act of July 7, 1953 (72 Stat. 339), and as President of the United States, I hereby designate the Secretary of the Interior as my representative to exercise the authority vested in me by section 6(b) of the act to approve selections of land made by the State of Alaska under the provisions of section 6(b) in instances in which those selections include land lying north and west of the line described in section 10(b) of the act: *Provided*, That no selection by the State shall be approved pur-

E. Administrative Regulations

2. State:

A few states publish their state rules and

regulations. Check your local jurisdiction for publications of this type. Example: *Colorado Register* (CR) and *Code of Colorado Regulations* (CCR).

PUBLIC LAW 95-625—NOV. 10, 1978

92 STAT. 3467

Public Law 95-625
95th Congress

An Act

To authorize additional appropriations for the acquisition of lands and interests in lands within the Sawtooth National Recreation Area in Idaho.

Nov. 10, 1978
[S. 791]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "National Parks and Recreation Act of 1978".

National Parks and Recreation Act of 1978.

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.
Sec. 2. Definition.
Sec. 3. Authorization of appropriations.

TITLE I—DEVELOPMENT CEILING INCREASES

Sec. 101. Specific increases.
Agate Fossil Beds National Monument.
Andersonville National Historic Site.
Andrew Johnson National Historic Site.
Biscayne National Monument.
Capitol Reef National Monument.

16 USC 1 note.

CITATION TO STAT

PUBLIC LAW NO. AND DATE

DATE AND SENATE NO.

SHORT TITLE OF ACT

CITATIONS WHERE CODIFIED SECTIONS WILL BE FOUND IN USC

PUBLIC LAW 95-625—NOV. 10, 1978

92 STAT. 3473

TITLE II—ACQUISITION CEILING INCREASES

ACQUISITION CEILINGS

Sec. 201. The limitations on appropriations for the acquisition of lands and interests therein within certain units of the National Park System are amended as follows:

Appropriation authorizations.

(1) Big Cypress National Preserve, Florida: Section 8 of the Act of October 11, 1974 (88 Stat. 1258), is amended by changing "\$116,000,000" to "\$156,700,000".

16 USC 698m.

(2) Buffalo National River, Arkansas: Section 7 of the Act of March 1, 1972 (86 Stat. 44), is amended by changing "\$30,071,500" to "\$39,948,000".

16 USC 460m-14.

(3) Cumberland Island National Seashore, Georgia: Section 10 of the Act of October 23, 1972 (86 Stat. 1066), is amended by changing "\$10,500,000" to "\$28,500,000".

16 USC 459i-9.

SAWTOOTH NATIONAL RECREATION AREA

Sec. 202. Section 13 of the Act of August 22, 1972 (86 Stat. 612), is amended by changing "\$19,802,000" to "\$47,802,000".

16 USC 460aa-12.

TITLE III—BOUNDARY CHANGES

REVISION OF BOUNDARIES

Sec. 301. The boundaries of the following units of the National Park System are revised as follows, and there are authorized to be appropriated such sums as may be necessary, but not exceed the amounts specified in the following paragraphs for acquisitions of lands and interests in lands within areas added by reason of such revisions:

Appropriation authorizations.

(1) Bent's Old Fort National Historic Site, Colorado: To add approximately six hundred and twenty-two acres as generally depicted on the map entitled "Boundary Map, Bent's Old Fort National Historic Site, Colorado", numbered 417-80,007-A, and dated June 1976: \$842,000.

(2) Cape Cod National Seashore: To add approximately thirteen acres as generally depicted on the map entitled "Boundary Map, Cape Cod National Seashore, Massachusetts", numbered 417-80,007-B, and dated June 1976: \$842,000.

(FROM VOL. 12
USC, POPULAR
NAMES & TABLES.)

| ACTS CITED BY POPULAR NAME | | Page 212 |
|--|--|--|
| Public Health Service Acts—Continued | Pub. L. 92-310, title II, § 210, June 6, 1972, Oct. 8, 1976, Pub. L. 94-460, title I, § 110(a), 111-117, title II, §§ 201, 209, 210, 211, 212, 253, 1945-1956 (Title 42, §§ 201, 209, 210, 211, 212, 253, 415) | Pub. L. 92-310, title II, § 210, June 6, 1972, Oct. 8, 1976, Pub. L. 94-460, title I, § 110(a), 111-117, title II, §§ 201, 209, 210, 211, 212, 253, 1945-1956 (Title 42, §§ 201, 209, 210, 211, 212, 253, 415) |
| Public Land Administration Act | Pub. L. 86-649, July 14, 1960, 74 Stat. 506 (Title 43, §§ 1361-1364, 1371-1374, 1381-1383) | Pub. L. 86-649, July 14, 1960, 74 Stat. 506 (Title 43, §§ 1361-1364, 1371-1374, 1381-1383) |
| Public Lands Sales Acts | Aug. 3, 1846, ch. 78, § 5, 9 Stat. 51 (Title 43, § 1171) Feb. 26, 1895, ch. 133, 28 Stat. 687 (Title 43, § 1171) June 27, 1906, ch. 3554, 34 Stat. 517 (Title 43, § 1171) Mar. 28, 1912, ch. 67, 37 Stat. 77 (Title 43, § 1171) Mar. 9, 1928, ch. 164, 45 Stat. 253 (Title 43, § 1171) June 28, 1934, ch. 865, § 14, 48 Stat. 1274 (Title 43, § 1171) July 30, 1947, ch. 383, 61 Stat. 630 (Title 43, § 1171) Sept. 19, 1964, Pub. L. 88-607, 78 Stat. 986 (Title 43, §§ 1411-1418) Sept. 19, 1964, Pub. L. 88-608, 78 Stat. 988 (Title 43, §§ 1421-1427) Sept. 26, 1968, Pub. L. 90-516, 82 Stat. 870 (Title 43, §§ 1431-1435) | 89 Stat. 421 (Title 43, § 1171) Pub. L. 94-261, Apr. 11, 1976, § 2 (Title 44, §§ 3318, 3322) Pub. L. 94-273, § 28, Apr. 21, 1976, 90 Stat. 380 (Title 44, § 1111) Pub. L. 94-391, Aug. 19, 1976, 90 Stat. 1192 (Title 44, § 2301) Pub. L. 94-575, §§ 2(a)(1)-(3), 3(a), 4, Oct. 21, 1976, 90 Stat. 2723-2727 (Title 44, §§ 2103, 2108, 2111, 2112, 2901, 2902, 2904, 2906, 2907, 3102, 3103, 3107, 3301, 3302) |
| Public Safety Officers' Benefits Act of 1976 | Pub. L. 94-430, Sept. 29, 1976, 90 Stat. 1346 (Title 42, §§ 3701 note, 3768, 3796-3796c) | Pub. L. 94-430, Sept. 29, 1976, 90 Stat. 1346 (Title 42, §§ 3701 note, 3768, 3796-3796c) |
| Public Salary Tax Act of 1939 | Apr. 12, 1939, ch. 59, 53 Stat. 574 (See Title 4, § 111) | Apr. 12, 1939, ch. 59, 53 Stat. 574 (See Title 4, § 111) |
| Public Utilities Review Act | May 14, 1934, ch. 283, 48 Stat. 775 (See Title 28, § 1342) | May 14, 1934, ch. 283, 48 Stat. 775 (See Title 28, § 1342) |
| Public Utility Act of 1935 | See Federal Power Act and Public Utility Holding Company Act | See Federal Power Act and Public Utility Holding Company Act |
| Public Utility Holding Company Act | Aug. 26, 1935, ch. 687, title I, 49 Stat. 803 (Title 15, §§ 79 to 79z-6) Aug. 28, 1958, Pub. L. 85-791, § 15, 72 Stat. 322 (Title 15, § 79x) | Aug. 26, 1935, ch. 687, title I, 49 Stat. 803 (Title 15, §§ 79 to 79z-6) Aug. 28, 1958, Pub. L. 85-791, § 15, 72 Stat. 322 (Title 15, § 79x) |
| Public Printing and Documents | Pub. L. 90-620, Oct. 11, 1968, title II, § 214 | Pub. L. 90-620, Oct. 11, 1968, title II, § 214 |

EXAMPLE OF
POPULAR NAME
OF AN ACT

CITATIONS TO
PUBLIC LAWS
AND STATS
RELATING TO
PUBLIC LANDS
SALES ACTS

EXAMPLE OF
PUBLIC LAW
CROSS REFER-
ENCE TO USC
CITATION

| Page 1355 | | STATUTES AT LARGE | | | | U.S.C. | | Status |
|------------|----------|-------------------|-----------|------|-------|---------|--|--------|
| 94th Cong. | 90 Stat. | Pub. L. | Section | Page | Title | Section | | |
| 1976—Oct. | 18 | 94-546 | 1(33) | 2521 | 14 | 631 | | |
| | | | 1(34) | 2521 | 14 | 647 | | |
| | | | 1(35) | 2521 | 14 | 650 | | |
| | | | 1(36) | 2522 | 14 | 651 | | |
| | | | 1(37) | 2522 | 14 | 655 | | |
| | | | 1(38) | 2522 | 14 | 829 | | |
| | | 94-547 | 1 | 2523 | 45 | 231 nt | | |
| | | | 2(a), (b) | 2524 | 45 | 231c | | |
| | | | 2(c) | 2525 | 45 | 231c nt | | |
| | | | 3(a) | 2525 | 45 | 231n | | |
| | | | 3(b) | 2526 | 45 | 231n nt | | |
| | | | 4(a) | 2526 | 45 | 231 | | |
| | | | 4(b) | 2526 | 26 | 3231 | | |
| | | | 4(c)(1) | 2527 | 45 | 231 nt | | |
| | | | 4(c)(2) | 2527 | 26 | 3231 nt | | |
| | | 94-549 | 1(1) | | | | | |
| | | | 1(2) | | | | | |
| | | | 1(3) | | | | | |

§ 770

TITLE 43—PUBLIC LANDS

Page 212

(FROM 43 USC)

§ 770. Rectangular mode of survey; departure from

The Secretary of the Interior may, by regulation, provide that departures may be made from the system of rectangular surveys whenever it is not feasible or economical to extend the rectangular surveys in the regular manner or whenever such departure would promote the beneficial use of lands.

(R.S. § 2410; Apr. 29, 1950, ch. 134, § 2, 64 Stat. 93.)

CODIFICATION

R.S. § 2410 is from act Mar. 3, 1853, ch. 145, § 4, 10 Stat. 245.

AMENDMENTS

1950—Act Apr. 29, 1950, eliminated the limitation that, when there are departures from the rectangular surveys, the lands shall not be surveyed into less than 160 acres or subdivided into less than 40 acres, and by substituting a general provision for those departures.

§ 771. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029

Section, R.S. § 2411, related to compensation for surveying by the day instead of by the mile in Oregon and California.

§ 772. Resurveys or retracements to mark boundaries of undisposed lands

The Secretary of the Interior may, as of March 3, 1909, in his discretion cause to be made, as he may deem wise under the rectangular system on that date provided by law, such resurveys or retracements of the surveys of public lands as, after full investigation, he may deem essential to properly mark the boundaries of the public lands remaining undisposed of: *Provided*, That no such resurvey or retracement shall be so executed as to impair the bona fide rights or claims of any claimant, entryman, or owner of lands affected by such resurvey or retracement.

(Mar. 3, 1909, ch. 271, 35 Stat. 845; June 25, 1910, No. 40, 36 Stat. 884; Oct. 21, 1976, Pub. L. 94-579, title VII, § 705(a), 90 Stat. 2792.)

AMENDMENT

1976—Pub. L. 94-579 struck out proviso authorizing that not more than 20 per centum of relevant appropriations be used for resurveys and retracements under this section.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 705(a) of Pub. L. 94-579 provided in part that this section is amended effective on and after Oct. 21, 1976.

SAVINGS PROVISIONS

Amendment by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a Savings Provisions note under section 1701 of this title.

§ 773. Resurveys or retracements of township lines, etc.

Upon the application of the owners of three-fourths of the privately owned lands in any township covered by public-land surveys, more than 50 per centum of the area of which townships is privately owned, accompanied by a deposit with the Secretary of the Interior, or such

officer as he may designate, of the proportionate estimated cost, inclusive of the necessary work, of the resurvey or retracement of all the privately owned lands in said township, the Secretary, or such officer as he may designate, shall be authorized in his discretion to cause to be made a resurvey or retracement of the lines of said township and to set permanent corners and monuments in accordance with the laws and regulations governing surveys and resurveys of public lands. The sum so deposited shall be held by the Secretary of the Interior or such officer as he may designate, and may be expended in payment of the cost of such survey, including field and office work, and any excess over the cost of such survey and the expenses incident thereto shall be repaid pro rata to the persons making said deposits or their legal representatives. The proportionate cost of the field and office work for the resurvey or retracement of any public lands in such township shall be paid from the current appropriation for the survey and resurvey of public lands, in addition to the portion of such appropriation otherwise allowed by law for resurveys and retracements. Similar resurveys and retracements may be made on the application, accompanied by the requisite deposit, of any court of competent jurisdiction, the returns of such resurvey or retracement to be submitted to the court. The Secretary of the Interior is authorized to make all necessary rules and regulations to carry this section into full force and effect.

(Sept. 21, 1918, ch. 175, 40 Stat. 965; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

For transfer of functions of the other officers, employees, and agencies of the Department of the Interior, with certain exceptions, to the Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

"Supervisor of Surveys" was changed to the "Secretary of the Interior, or such officer as he may designate,"; the words, "Commissioner of the General Land Office subject to the supervisory authority of the Secretary of the Interior," were changed to "Secretary, or such officer as he may designate,"; and reference to "Supervisor of Surveys or commissioner" was changed to "Secretary of the Interior or such officer as he may designate," all on authority of section 403 of Reorg. Plan No. 3 of 1946. See note under section 1 of this title.

Act Mar. 3, 1925, abolished the office of surveyor general and transferred the administration of all activities in charge of surveyors general to the Field Surveying Service under the jurisdiction of the United States Supervisor of Surveys.

§ 774. Protection of surveyor by marshal

Whenever the President is satisfied that forcible opposition has been offered, or is likely to be offered, to any surveyor or deputy surveyor in the discharge of his duties in surveying the public lands, it may be lawful for the President to order the marshal of the State or district, by himself or deputy, to attend such surveyor or deputy surveyor with sufficient force to protect such officer in the execution of his duty, and to remove force should any be offered.

(R.S. § 2413.)

TITLE 43 USC SECTION 772

STATUTE SECTION

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Ch. 18

SURVEY OF PUBLIC LANDS

43 § 772

Historical Note

Derivation. Act Mar. 3, 1853, c. 145, § 4, 10 Stat. 245. 1950 Amendment. Act Apr. 29, 1950, generalized the provisions permitting departures, and eliminated the limitation that, when there are departures from the rectangular surveys, the lands shall not be surveyed into less than 160 acres or subdivided into less than 40 acres.

Notes of Decisions

1. Construction with other laws This and other acts and regulations of the surveyor general as to form of subdivisions of public lands did not apply to lands in grant from Mexico to the city of San Francisco. Burk v. Howe, 1915, 152 P. 434, 171 Cal. 242.

§ 771. Repealed. Dec. 16, 1930, c. 14, § 1, 46 Stat. 1029

Historical Note

Section, R.S. § 2411, related to compensation for surveying by the day instead of by the mile in Oregon and California.

§ 772. Resurveys or retracements to mark boundaries of undisposed lands

The Secretary of the Interior may, as of March 3, 1909, in his discretion cause to be made, as he may deem wise under the rectangular system on that date provided by law, such resurveys or retracements of the surveys of public lands as, after full investigation, he may deem essential to properly mark the boundaries of the public lands remaining undisposed of: Provided, That no such resurvey or retracement shall be so executed as to impair the bona fide rights or claims of any claimant, entryman, or owner of lands affected by such resurvey or retracement: Provided further, That not to exceed 20 per cent of the total annual appropriation for surveys and resurveys of the public lands shall be used for the resurveys and retracements authorized hereby. Mar. 3, 1909, c. 271, 35 Stat. 845; June 25, 1910, No. 40, 36 Stat. 884.

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Surveys and resurveys 1

closed by an act of Congress directing a resurvey, based on the fact of obliteration of the lines and marks. Cox v. Hart, Cal.1922, 43 S.Ct. 154, 200 U.S. 427, 67 L.Ed. 332.

A government surveyor is not invested with authority to determine the character of land surveyed or left unsurveyed or to classify it as within or without the operation of particular laws, and his error in failing to extend his survey over islands in a river did not make them less a part of the government domain, and the government was not thereby divested of title or prevented from subsequently surveying them and assert-

Library references
Public Lands § 23.
C.J.S. Public Lands § 33.

1. Surveys and resurveys
A purpose to annul or abandon a survey of public lands may be dis-

TITLE 43 SECTION 772 FROM USCA
NOTE: TEXT SAME AS USC
ILLUSTRATION [4]

OUTLINE OF NOTES
OF DECISIONS

REFERENCE TO
(1) TOPIC-KEY NUMBER

REFERENCE TO
(2) ENCYCLOPEDIA

EXAMPLE OF
(3) ANNOTATION OR
NOTES OF DECISIONS

PUBLIC LANDS

43 § 772

ments thereof, and upon application by any person desiring to have an official survey made such officers as the Secretary of the Interior may designate shall furnish a number or numbers for such survey or surveys, together with an order directing a qualified deputy surveyor to make the same, and such application, order, and the fee required to be paid shall be transmitted to the Secretary of the Interior or such officer as he may designate: *Provided*, That all surveys thus made shall be approved by the Secretary of the Interior or such officer as he may designate. Mar. 2, 1907, c. 2537, § 4, 34 Stat. 1232; Mar. 3, 1925, c. 462, 43 Stat. 1144; Oct. 9, 1942, c. 584, § 2, 56 Stat. 779; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.

Change of Name. References to "receivers" were changed to "registers" by Act Oct. 9, 1942. See notes under former sections 366, 367 of Title 48, Territories and Insular Possessions.

Transfer of Functions. All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24,

1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Functions of Supervisor of Surveys and Registers were transferred to the Secretary of the Interior or those officers as he may designate by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

Act Mar. 3, 1925, abolished the office of surveyor general and transferred the administration of all activities in charge of surveyors general to the Field Surveying Service under the jurisdiction of United States Supervisor of Surveys.

§ 752. Boundaries and contents of public lands; how ascertained

Supplementary Index to Notes

State laws 9a

9. Jurisdiction

The Department of Interior does not have authority to determine ownership of land through surveys. *U. S. v. State of La.*, D.C.La.1964, 229 F.Supp. 14.

9a. State laws

Ark.Stats. § 12-1220 specifying that county surveyor's record would be prima facie evidence was binding upon federal court even in suit to which United States was party. *Forshee v. Canard*, D.C.Ark. 1930, 488 F.Supp. 521.

31. True corners

Under both this section and Ark.Stats. § 12-1210, corners marked in original survey were established as proper corners. *Forshee v. Canard*, D.C.Ark.1930, 488 F. Supp. 521.

62. — Monuments

If monuments cannot be located, they may be reestablished from survey field notes, and if they can be so reestablished they will not be considered "lost" monuments. *U. S. v. Reimann*, C.A.Utah, 1974, 504 F.2d 135.

70. Administrative determinations

The United States, through its officers and agents, would be enjoined from offi-

cially filing in the office of the Manager, Land Office, a plat setting forth that certain lands in question were open to application, location, selection and petition under the Public Land Laws, where such official filing would result in a determination of the issues of ownership of the land involved and require defendants to proceed administratively for redress thus disturbing the status quo of the res in a suit brought by the government to quiet its title. *U. S. v. State of La.*, D.C.La.1964, 229 F.Supp. 14.

75. Burden of proof

Plaintiffs in boundary suit had burden of persuasion, and failed to overcome testimony of surveyor whose survey was consistent with two earlier surveys by two of his predecessors in office of county surveyor. *Forshee v. Canard*, D.C. Ark.1930, 488 F.Supp. 521.

105. Fractional sections

Where government patent conveyed Lot 7 of Section 15 according to official plat, and there existed over lower part of Lot 7 a non-meandered lake which cut across eastern and western boundaries of Lot 7 and left small triangular piece of land 2.10 acres, which was land in dispute, in southwest corner of lot, government would be deemed to have intended to convey triangular piece as part of Lot 7. *Weaver v. Knudson*, 1964, 127 N.W.2d 217, 23 Wis.2d 426.

§ 753. Lines of division of half quarter sections; how run

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Questions considered 5

5. Questions considered

In resolving dispute as to location of boundary between two parcels in south-

west quarter of section, trial judge should first have determined whether the southwest corner of the section was lost or obliterated; if lost, restoration of corner would have to be by a double proportionate measurement. *Cornia v. Putnam*, 1971, 489 P.2d 1001, 26 Utah 2d 354.

§ 772. Resurveys or retracements to mark boundaries of undisposed lands

The Secretary of the Interior may, as of March 3, 1909, in his discretion cause to be made, as he may deem wise under the rectangular sys-

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1980 P.P.

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TITLE 43 SECTION 772 FROM
POCKET PART OF USCA
TEXT CONTINUED ON
ILLUSTRATION [8]

COMPARE TEXT OF ILLUSTRATION [6] WITH THIS TEXT. NOTE "PROVIDED FURTHER..." NOT FOUND IN LATER SECTION IN POCKET PART.

NOTE EXPLAINING AMENDMENT TO SECTION 772

HUDSPETH CASE NOTE

43 § 772

PUBLIC LANDS

tem on that date provided by law, such resurveys or retracements of the surveys of public lands as, after full investigation, he may deem essential to properly mark the boundaries of the public lands remaining undisposed of: *Provided*, That no such resurvey or retracement shall be so executed as to impair the bona fide rights or claims of any claimant, entryman, or owner of lands affected by such resurvey or retracement.

As amended Oct. 21, 1976, Pub.L. 94-579, Title VII, § 705(a), 90 Stat. 2792.

1976 Amendment. Pub.L. 94-579 struck out proviso authorizing that not more than 20 per centum of relevant appropriations be used for resurveys and retracements under this section.

Effective Date of 1976 Amendment. Section 705(a) of Pub.L. 94-579 provided in part that this section is amended effective on and after Oct. 21, 1976.

Savings Provisions. Amendment by Pub.L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see note under section 1701 of this title.

Legislative History. For legislative history and purpose of Pub.L. 94-579, see 1976 U.S.Code Cong. and Adm.News, p. 6175.

Means to be used to locate lost monuments or corners include collateral evidence such as boundary fences that have been maintained, which should not be disregarded by surveyor, and artificial monuments such as roads, poles, and improvements may not be ignored; surveyor should also consider information from owners and former residents of property in the area. *Id.*

Proper procedures for restoration of lost or obliterated corners are stated in supplemental manual on Restoration of Lost or Obliterated Corners and Subdivisions of Sections of the Bureau of Land Management. *Id.*

2. Original survey controls. Second government survey, which was the last accepted survey of township centerline prior to issuance of patent for tracts bounded on north by such centerline, was the controlling survey as to location of northern and southern boundaries of tracts, though it was subsequently determined that second survey was "fatally defective" and that first survey had been correct. *U. S. v. Reimann, C.A.Utah 1974, 504 F.2d 135.*

Original survey as it was actually run on ground controls, even if boundary was incorrect as originally established. *U. S. v. Doyle, C.A.Colo.1972, 468 F.2d 633.*

Conclusiveness of inaccurate original survey is not affected by fact that it will set awry the shapes of sections and subdivisions. *Id.*

When two officially accepted surveys conflict and result in an overlap, the survey which is senior in time controls. *U. S. v. Macmillan, D.C.Nev.1971, 331 F.Supp. 435.*

3. Rights or claims, impairment of. Provision of this section that the Secretary of Interior may require surveys or retracements of the surveys of public lands to be made to properly mark the boundaries of public lands and that no resurvey or retracement should be executed so as to impair the bona fide rights or claims of any claimant or entryman was not applicable to case in which the lands had originally been surveyed in 1876 but where a 1957 survey discovered lands which had been "omitted" by the fraudulent or grossly inaccurate 1876 survey; by definition, the omitted lands were surveyed for the first time in 1957. *U. S. v. Ruby Co., C.A.Idaho 1978, 588 F.2d 697, certiorari denied 99 S.Ct. 2838, 442 U.S. 917, 61 L.Ed.2d 284.*

Precisely accurate resurvey cannot defeat ownership rights flowing from original grant and boundaries originally marked off. *U. S. v. Doyle, C.A.Colo.1972, 468 F.2d 633.*

Hiatus lands created as a result of two inconsistent approved surveys remained in the public domain, even though resurvey corrected the misalignment; where the patent issued to railroad, defendants' predecessor in title, could only have been based upon the incorrect survey, no patent was requested by the railroad or issued to it for additional lands added by the resurvey, and railroad and its successor in interest executed releases to the United States of all claims to lands that should have been granted by Congress, which releases preceded the defendants'

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- Review 8
- Suit against Secretary 7

¼. Generally. Government has no power to control previously disposed of lands. *U. S. v. Reimann, C.A.Utah, 1974, 504 F.2d 135.*

1. Surveys and resurveys. Prior to passing title from United States, government has power to survey and resurvey, establish and reestablish boundaries on its own lands, but once patent has issued, rights of patentees are fixed and government has no power to interfere with such rights, as by a corrective resurvey. *U. S. v. Reimann, C.A.Utah 1974, 504 F.2d 135.*

The accuracy of surveys of public lands before their disposition is committed exclusively to the Executive Branch, but in disputes with or between private owners after disposition by the government, the questions of where the lines run by such survey lie on the ground and whether any particular tract is on one side or the other of the line are factual and are always open to inquiry in the courts. *U. S. v. Hudspeth, C.A.Or. 1967, 384 F.2d 683.*

Generally, a resurvey of public lands is evidence, though not conclusive, of location of the original line. *Id.*

1a. Law governing. Where there is no controlling federal legislation or rule of law, questions involving ownership of land are determined under state law, even where government is a party. *U. S. v. Doyle, C.A.Colo.1972, 468 F.2d 633.*

1b. Location of lost corners. For corners to be lost, they must be so completely lost that they cannot be replaced by reference to any existing data or other sources of information, and before courses and distances can determine boundary, all means for ascertaining location of the lost monuments must first be exhausted. *U. S. v. Doyle, C.A.Colo. 1972, 468 F.2d 633.*

PUBLIC LAW NUMBER,
HOUSE NUMBER AND DATE

PUBLIC LAW 96-487 [H.R. 39]; December 2, 1980

TITLE OF ACT

**ALASKA NATIONAL INTEREST LANDS
CONSERVATION ACT**

LEGISLATIVE
HISTORY REFERENCE

*For Legislative History of this and other Laws, see Table 1, Public
Laws and Legislative History, at end of final volume*

SHORT DESCRIPTION
OF ACT

An Act to provide for the designation and conservation of certain public lands
in the State of Alaska, including the designation of units of the National
Park, National Wildlife Refuge, National Forest, National Wild and Scenic
Rivers, and National Wilderness Preservation Systems, and for other pur-
poses.

CITATION OF ACT

*Be it enacted by the Senate and House of Representatives of the
United States of America in Congress assembled,*
**SECTION 1. This Act may be cited as the "Alaska National Interest
Lands Conservation Act".**

Alaska National
Interest Lands
Conservation
Act.
16 USC 3101
note.

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TITLE I—PURPOSES, DEFINITIONS, AND MAPS

Sec. 101. Purposes.
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REFERENCE TO
ACT IN USC

16 USC 3101.

TEXT OF ACT

TITLE XV—NATIONAL NEED MINERAL ACTIVITY RECOMMENDATION
PROCESS

Sec. 1501. Areas subject to the national need recommendation process.
Sec. 1502. Recommendations of the President to Congress.
Sec. 1503. Expedited congressional review.

TITLE I—PURPOSES, DEFINITIONS, AND MAPS

PURPOSES

SEC. 101. (a) In order to preserve for the benefit, use, education, and
inspiration of present and future generations certain lands and
waters in the State of Alaska that contain nationally significant
natural, scenic, historic, archeological, geological, scientific, wilder-
ness, cultural, recreational, and wildlife values, the units described in
the following titles are hereby established.

(b) It is the intent of Congress in this Act to preserve unrivaled
scenic and geological values associated with natural landscapes; to
provide for the maintenance of sound populations of, and habitat for,
wildlife species of inestimable value to the citizens of Alaska and the
Nation, including those species dependent on vast relatively undevel-
oped areas; to preserve in their natural state extensive unaltered
arctic tundra, boreal forest, and coastal rainforest ecosystems; to
protect the resources related to subsistence needs; to protect and
preserve historic and archeological sites, rivers, and lands, and to
preserve wilderness resource values and related recreational oppor-
tunities including but not limited to hiking, canoeing, fishing, and
sport hunting, within large arctic and subarctic wildlands and on

REFERENCE TO ACT IN
STATUTES AT LARGE

94 STAT. 2374

LEGISLATIVE HISTORY
P.L. 96-487

**ALASKA NATIONAL INTEREST LANDS
CONSERVATION ACT**

P.L. 96-487, see page 94 Stat. 2371

House Report (Interior and Insular Affairs Committee) No. 96-97(I),
Apr. 18, 1979 [To accompany H.R. 39]

House Report (Merchant Marine and Fisheries Committee)
No. 96-97(II), Apr. 23, 1979 [To accompany H.R. 39]

Senate Report (Energy and Natural Resources Committee)
No. 96-413, Nov. 14, 1979 [To accompany H.R. 39]

Cong. Record Vol. 125 (1979)

Cong. Record Vol. 126 (1980)

DATES OF CONSIDERATION AND PASSAGE

House May 16, 1979; November 12, 1980

Senate August 19, 1980

The Senate Report is set out.

SENATE REPORT NO. 96-413

REFERENCES TO CONGRES-
SIONAL INFORMATION ABOUT
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TEXT OF LEGISLATIVE HISTORY

The Committee on Energy and Natural Resources to which was referred the act (H.R. 39) to provide for the designation and conservation of certain public lands in the State of Alaska, including the designation of units of the National Park, National Wildlife Refuge, National Forest, National Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes, having con-

43 USCS § 770

PUBLIC LANDS

INTERPRETIVE NOTES AND DECISIONS

1. Generally

43 USCS § 770 applies only to public land and land which was within grant from Mexico to San Francisco, and afterwards confirmed by United

States, is not public land subject to its regulations. *Burk v Howe* (1915) 171 Cal 242, 152 P 434.

§ 771. [Repealed]

HISTORY; ANCILLARY LAWS AND DIRECTIVES

This section (R. S. § 2411) was repealed by Act Dec. 16, 1930, ch 14, § 1, 46 Stat. 1029. It related to compensation for surveying by the day instead of by the mile in Oregon and California.

Other provisions:

Savings provisions. Act Dec. 16, 1930, ch 14, § 2, 46 Stat. 1029, provided that rights or liabilities existing under this section on Dec. 16, 1930, are not affected by this repeal.

TITLE 43 SECTION 772
FROM USCS. NOTE: TEXT
SAME AS USC ILLUS. [4]

§ 772. Resurveys or retracements to mark boundaries of undisposed lands

The Secretary of the Interior may, in his discretion, cause to be made, as he may deem wise under the rectangular system now [on Mar. 3, 1909] provided by law, such resurveys or retracements of the surveys of public lands as, after full investigation, he may deem essential to properly mark the boundaries of the public lands remaining undisposed of: Provided, That no such resurvey or retracement shall be so executed as to impair the bona fide rights or claims of any claimant, entryman, or owner of lands affected by such resurvey or retracement.

(Mar. 3, 1909, ch 271, 35 Stat. 845; June 25, 1910, No. 40, 36 Stat. 884; Oct. 21, 1976, P. L. 94-579, Title VII, § 705(a), 90 Stat. 2792.)

HISTORY OF ACT

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Amendments:

1910. Act June 25, 1910, in the second proviso. substituted "twenty per centum" for "five per cent".

1976. Act Oct. 21, 1976 (effective on and after 10/21/76, as provided by § 705(a) of such Act), deleted "": Provided further, That not to exceed twenty per centum of the total annual appropriation for surveys and resurveys of the public lands shall be used for the resurveys and retracements authorized hereby".

Other provisions:

Savings provisions. Act Oct. 21, 1976, P. L. 94-579, Title VII, § 701(a), 90 Stat. 2786, located at 43 USCS § 1701 note, provided that nothing in Act Oct. 21, 1976, shall be construed as terminating any valid lease, permit, patent, right-of-way, or other land use right or authorization existing on Oct. 21, 1976.

SURVEY OF PUBLIC LANDS

43 USCS § 772, n 5

CROSS REFERENCES

Resurveys or retracements of township lines, 43 USCS § 773.

CROSS REFERENCE TO OTHER STATUTES

RESEARCH GUIDE

Am Jur: 63 Am Jur 2d, Public Lands §§ 39, 41.

REFERENCE TO L.C.P.'S TOTAL CLIENT SERVICE LIBRARY

INTERPRETIVE NOTES AND DECISIONS

I. RESURVEYS

- 1. Generally
- 2. Construction of resurvey
- 3. Assertion of rights under prior survey
- 4. Disappearance of lines or marks
- 5. Fraud or mistake

OUTLINE OF NOTES OF DECISIONS

II. PRACTICE AND PROCEDURE

- 6. Jurisdiction
- 7. Standing
- 8. Injunction
- 9. Evidence
- 10. New trial

be found, or places where they were originally established, if that can be definitely determined, are conclusive on all persons owning or claiming to hold with reference to such survey and monuments placed by original surveyor without regard to whether they were correctly located or not. See Ben Realty Co. v Gothberg (1941) 56 Wyo 294, 109 P2d 455.

2. Construction of resurvey

Government has right to resurvey public land, as corrective and as retracing, but such survey will be construed to have and follow lines of original United States survey where it would affect bona fide private rights held under such original survey. Ward v Rodriguez (1939) 43 NM 191, 88 P2d 277, cert den 307 US 627, 83 L Ed 1511, 59 S Ct 837.

3. Assertion of rights under prior survey

If United States has previously parted with title, new survey does not preclude prior purchaser from asserting whatever title he has acquired by his older patent as against one claiming under new survey. Greene v United States (1921, CA5 La) 274 F 145, affd 260 US 662, 67 L Ed 448, 43 S Ct 236.

4. Disappearance of lines or marks

If lines of survey have disappeared to such degree that for practical purposes they became nonexistent, land may be considered as unsurveyed land, and act of Congress providing for resurveying of certain lands shows that lands described therein were, for purposes of settlement, unsurveyed lands at time act was passed. Cox v Hart (1922) 260 US 427, 67 L Ed 332, 43 S Ct 154.

5. Fraud or mistake

If public land is improperly omitted from survey in consequence of surveyor treating as under water what at time of survey was actually high land, land department, upon discovering error, has power to cause such land to be surveyed and dispose of it. Jeems Bayou Hunting &

I. RESURVEYS

1. Generally

Although, prior to title passing from United States, Government has power to survey and resurvey as well as to establish and re-establish boundaries on its own lands, once patent has issued, rights of patentees are fixed and government has no power to interfere with these rights, as by corrective resurvey. United States v Reimann (1974, CA10 Utah) 504 F2d 135.

Lands in Arkansas, once surveyed, platted, and patented to state by federal government cannot be affected by subsequent survey and plat covering same lands. Missouri P. R. Co. v Sale (1939) 197 Ark 1111, 127 SW2d 133.

If lands are sold by general government with regard to survey that has already been made, no resurvey can be made so as to affect, limit, or change boundaries of lands which were theretofore conveyed. Churchill Co. v Beal (1929) 99 Cal App 482, 278 P 894.

Original surveys of public lands by United States, on faith of which property rights have been acquired, control over surveys subsequently made by government which affect such rights. Hickman v Jones (1921) 106 Neb 466, 183 NW 980.

Resurvey cannot disturb title which parties have acquired up to time that it is made. Porter v Carstensen (1929) 40 Wyo 156, 274 P 1072.

It is general rule that original corners as established by government surveyors, if they can

HUDSPETH CASE NOT INCLUDED IN USCS ANNOTATIONS. COMPARE WITH ILLUSTRATION [8]

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EXAMPLE OF NOTICE



[W-46391]

Wyoming; Termination of Classification

1. By a classification decision dated July 24, 1974, the following described lands were classified for disposal through private exchange.

Sixth Principal Meridian, Wyoming

- T. 26 N., R. 114 W.,
Sec. 3, lot 4, SW $\frac{1}{4}$ NW $\frac{1}{4}$;
- Sec. 4, lots 1, 2, and 3, SE $\frac{1}{4}$ NE $\frac{1}{4}$.
- T. 27 N., R. 114 W.,
Sec. 33, E $\frac{1}{2}$ SE $\frac{1}{4}$;
- Sec. 34, NE $\frac{1}{4}$ SW $\frac{1}{4}$.

The areas described aggregate 360.47 acres.

2. The proposed exchange could not be completed and the applicants withdrew their application. It has been determined that the classification should be terminated.

3. Pursuant to the regulations set forth in 43 CFR Part 2450, the classification set forth in paragraph 1, above is hereby terminated.

4. Acceptance of the withdrawal of the private exchange application removed the segregative effect of the exchange application segregating the lands from the public land laws and mining laws.

5. At 7:45 a.m. on October 1, 1981, the lands shall be open to the public land laws generally subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law.

6. At 7:45 a.m. on October 1, 1981, the lands will be open to location under the United States mining laws subject to valid existing rights, the provisions of existing withdrawals and applicable law.

7. The lands have been and will continue to be open to mineral leasing.

Dated: September 1, 1981.

Maxwell T. Lieurance,
State Director.

[FR Doc. 81-26604 Filed 9-10-81; 8:45 am]

BILLING CODE 4310-84-M

EXAMPLE OF NOTICE OF MEETING



Ely District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting.

SUMMARY: The Ely District Advisory Council will conduct a meeting on Wednesday, October 21, 1981. The meeting will convene at 9:30 a.m. in the Conference Room of the Ely District BLM Office, Pioche Highway, Ely, Nevada. The following events and topics will be included on the agenda for the meeting:

- (1) Minutes of the last meeting
- (2) Committee reports
- (3) Acting District Manager's comments
- (4) Update on Schell MFP for Wilderness
- (5) Public comment period
- (6) Update on activities by Resource Area
- (7) Council recommendations
- (8) Determination of next meeting date and place
- (9) White Pine Power Project proposed site visitations

The meeting is open to the public. Written comments may be filed with the District Manager for the Council's consideration, and oral statements will be heard between 10:00 and 10:30 a.m., October 21, 1981. Depending on the number of persons wishing to make a statement, a per person time limit may be established by the District Manager. Those persons other than Council members wishing to attend the field trip must provide their own transportation.

Summary minutes of the meeting will be available for public inspection at the Ely District Office within 30 days following the meeting.

DATE: October 21, 1981.

ADDRESS: Bureau of Land Management, Star Route 5, Box 1, Ely, Nevada 89301.

FOR FUTURE INFORMATION CONTACT: Ms. Cleone McDonald, 702-289-4865.

Date Signed: September 2, 1981.

G. Duncan MacDonald,
Acting District Manager.

[FR Doc. 81-26487 Filed 9-10-81; 8:45 am]

BILLING CODE 4310-84-M

The January, 1975 list of CFR titles follows:

1. General Provisions.
2. Clemency.
3. The President.
- 3A. The President, Appendix.
4. Accounts.
5. Administrative Personnel.
6. Economic Stabilization.
7. Agriculture.
8. Aliens and Nationality.
9. Animals and Animal Products.
10. Energy.
11. Federal Elections.
12. Banks and Banking.
13. Business Credit and Assistance.
14. Aeronautics and Space.
15. Commerce and Foreign Trade.
16. Commercial Practices.
17. Commodity and Securities Exchanges.
18. Conservation of Power and Water Resources.
19. Customs Duties.
20. Employees' Benefits.
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38. Pensions, Bonuses and Veterans' Relief.
39. Postal Service.
40. Protection of Environment.
41. Public Contracts and Property Management.
42. Public Health.
43. Public Lands: Interior.
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49. Transportation.
50. Wildlife and Fisheries.

DIVISION OF CFR TITLES

BASIC NUMBERING

Title 44

- **Subtitle A**

Chapter I

- **Subchapter A**

Part 10

- **Subpart A**

Section 10.1 (§ 10.1)

- **Paragraph (a)**

TYPICAL CFR PAGE

TITLE 43
SECTION 2783.3

STATUTORY AUTHORITY
FOR REGULATION

Chapter II—Bureau of Land Management

§ 2783.4

§ 2783.3 Requirements when lands are to be claimed by Bureau of Reclamation.

(a) Section 3 of the Act of May 15, 1922 (42 Stat. 542; 12 U.S.C. 773), provides as follows:

That upon the execution of any contract between the United States and any irrigation district pursuant to this Act, the public lands included within such irrigation district when subject to entry, and entered lands within such irrigation district, for which no final certificates shall have been issued and which may be designated by the Secretary of the Interior in said contract, shall be subject to all the provisions of the Act entitled "An Act to promote the reclamation of arid lands," approved August 11, 1916: *Provided*, That no map or plan is required by section 3 of the said Act need be filed by the irrigation district for approval by the Secretary of the Interior.

(b) This section is construed as an amendment of the Act of August 11, 1916 (39 Stat. 506; 43 U.S.C. 621-630), in that it makes unnecessary the filing of a map or plan of the district for the approval of the Secretary of the Interior in those cases where the lands within a district are to be reclaimed by the Bureau of Reclamation under a contract between the Secretary of the Interior and the irrigation district entered into under the Act of June 17, 1902 (32 Stat. 388), and acts amendatory thereof, and in lieu thereof provides for the designation by the terms of such contract of the public lands included in such a district where subject to entry and entered lands on which no final certificates shall have been issued, such designation to make the land subject to all the provisions of the act of August 11, 1916.

(c) Accordingly it will not be necessary for a district, under such circumstances, to file formal application for the designation of the land, as provided for in the Act of August 11, 1916, but in connection with its negotiations with the Secretary of the Interior for the construction of the irrigation system or for repayment of cost if already constructed, it should make request for the designation of the lands under the Act of August 11, 1916, filing a list thereof.

(d) In such a case the contract between the Secretary of the Interior and the irrigation district must con-

tain a description according to the approved plats of survey of the lands within such district, properly subject to designation under said Act of August 11, 1916, and the approval of such a contract by the Secretary unless otherwise stipulated, will have the effect of designating the lands as provided for in said act and making them subject to all the provisions thereof.

(e) The Bureau of Reclamation will require the district to present a list of the land which it desires to have designated under the Act of August 11, 1916. From this list the Bureau of Reclamation will eliminate tracts which for any reason will not be irrigated (at least to such an extent as to make the irrigable portion more valuable than the whole tract when unreclaimed) by the system as constructed or to be constructed.

(f) These lists should then be referred by the Bureau of Reclamation to the Bureau of Land Management with a view to the elimination of any lands not subject to entry, whereupon the remaining tracts will be included in the contract between the district and the Secretary of the Interior.

(g) The Commissioner of the Bureau of Reclamation will furnish the Director of the Bureau of Land Management with two copies of all such contracts, together with two blue-print maps of the district.

§ 2783.4 Taxes and assessments.

(a) Where an irrigation district has been approved by the Secretary of the Interior the district must, after each assessment, file with the authorizing officer of the proper office for the district within which the lands of the irrigation district are situated, an officially certified list showing the amount assessed against each smallest legal subdivision of unentered or entered and unpatented public land within the district, which list shall contain a statement that such assessment was made in due form in compliance with the provisions of the State law and of this Act. Any assessment or sale, or attempted sale, of such lands prior to the approval of the district is without authority of law and void.

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Chapter II—Bureau of Land Management

§ 9239.0-9

Group 9200—Protection

[35 FR 9800, June 13, 1970, as amended at 42 FR 4460, Jan. 25, 1977]

PART 9230—TRESPASS

§ 9239.0-7 Penalty for unauthorized removal of material.

Subpart 9239—Kinds of Trespass

The extraction, severance, injury, or removal of timber or mineral materials from public lands under the jurisdiction of the Department of the Interior, except when authorized by law and the regulations of the Department, is an act of trespass. Trespassers will be liable in damages to the United States, and will be subject to prosecution for such unlawful acts.

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9239.0-3 Authority.
9239.0-7 Penalty for unauthorized removal of material.

§ 9239.0-8 Measure of damage.

9239.0-9 Sale, lease, permit, or license to trespassers.

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9239.1-3 Measure of damages, when not prescribed by State law.

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9239.6 Materials.

9239.6-1 Turpentine.

9239.7 Right-of-way.

9239.7-1 O&C lands.

AUTHORITY: R.S. 2478; 43 U.S.C. 1201.

SOURCE: 35 FR 9800, June 13, 1970, unless otherwise noted.

Subpart 9239—Kinds of Trespass

§ 9239.0-3 Authority.

(a) Sections 9239.0-3 to 9239.7 are issued under the authority of R.S. 2478; 43 U.S.C. 1201.

(b) In addition to liability for trespass on the public lands, as indicated in this part, persons responsible for such trespass may be prosecuted criminally under any applicable Federal law. Penalties are prescribed by the following statutes:

(1) Timber trespass. 18 U.S.C. 1852, 1853.

(2) Turpentine trespass. 18 U.S.C. 1854.

(3) Coal trespass. 18 U.S.C. 1851; 30 U.S.C. 201(b)(4).

§ 9239.0-8 Measure of damage.

The rule of damages to be applied in cases of timber, coal, oil, and other trespass in accordance with the decision of the Supreme Court of the United States in the case of *Mason et al. v. United States* (260 U.S. 545, 87 L. ed. 396), will be the measure of damages prescribed by the laws of the State in which the trespass is committed, unless by Federal law a different rule is prescribed or authorized.

§ 9239.0-9 Sale, lease, permit, or license to trespassers.

(a) For the purpose of this section, a trespasser is any person, partnership, association, or corporation responsible for the unlawful use of, or injury to, property of the United States.

(b) The authorized officer may refuse to sell to a trespasser timber or materials, or to issue to him a lease, permit, or license if, after a demand for payment has been served by certified or registered mail on the trespasser, a satisfactory arrangement for payment of the debt due the United States has not been made within reasonable time, and there is reason for the authorized officer to believe payment will not be made. Satisfactory arrangement shall be deemed to have been made by:

(1) Payment by the trespasser of the amount found to be due by the authorized officer, by a final judgment of a court, or pursuant to a compromise settlement accepted by the United States; or

(2) Execution by the trespasser of a promissory note or installment agree-

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| | <p>§2091.5 369FS1367 *1972</p> | <p>§2232.2-1(e) 298FS382 ^Δ1969</p> | <p>§2410.0-3 303FS829 ^Δ1969</p> |
| | | <p>Part 2234 418F2d414 ^Δ1969</p> | <p>§2410.0-3(a)(2) 449F2d606 *1964</p> |

* followed by a year refers to the CFR edition, if cited. If not cited, ^Δ followed by a year indicates the date of the citing reference

SHEPARD'S CFR CITATIONS

| CODE OF FEDERAL REGULATIONS | | TITLE 43 | |
|--|---|--|---|
| §442.15(a) 640F2d264 ^Δ 1981 | §448.3(b)(2)(iii) 511FS1093 ^Δ 1981 | §4.1 654F2d84 *1980 509FS165 ^Δ 1981 515FS309 ^Δ 1981 | §192.42(e)(3)(iii) 653F2d1038 *1962 |
| §442.30(c) 651F2d40 ^Δ 1981 | §448.3(b)(2)(iv) 511FS:093 ^Δ 1981 | §4.1(b)(2) 512FS1098 ^Δ 1981 | §192.42(e)(4)(i) 653F2d1037 *1954 |
| §442.101 640F2d264 *1979 | §448.3(c)(1)(iv) 517FS1041 ^Δ 1981 | §4.1(b)(3) 648F2d500 ^Δ 1980 654F2d84 *1980 | §192.43a 653F2d1038 *1965 |
| §442.201 640F2d264 *1979 | §448.3(c)(2) Mass 417NÆ454 *1977 | §4.1(b)(5) 648F2d500 ^Δ 1980 | §1881.0-5(b)(2) 513FS1042 ^Δ 1981 |
| §442.311(c) 447US791 *1979 | §448.3(c)(2)(ii) Mass 417NÆ455 *1977 | §4.5(a)(1) 648F2d501 ^Δ 1980 517FS1213 *1980 | Part 2564 648F2d500 ^Δ 1980 |
| §§442.321 to 442.323 639F2d675 ^Δ 1981 | §448.3(c)(3) Mass 417NÆ454 *1977 | §4.5(a)(2) 648F2d501 ^Δ 1980 517FS1213 *1980 | §2564.6 512FS835 *1978 |
| §447.15 Mass 421NÆ475 *1980 Minn 305NW313 *1980 | §448.3(c)(4) Mass 417NÆ455 *1977 | §4.20 et seq. 512FS1097 ^Δ 1981 | §2651.2 Alk 626P2d101 *1979 |
| §447.45(d) 67ØS342 ^Δ 1981 | §449.10(b)(15)(v) 651F2d35 *1977 | §4.26(a) 645F2d639 *1980 | Part 2800 643F2d599 ^Δ 1981 515FS310 *1981 |
| §447.205 517FS504 ^Δ 1981 | §450.30(b)(1) 376Mas572 *1977 | §4.200 et seq. Mont 631P2d288 ^Δ 1981 | §2802.1-2 V515FS308 *1975 |
| §447.205(a) 517FS507 ^Δ 1981 | §455.11 122CA3d341 ^Δ 1981 | §4.241(c) 512FS1100 ^Δ 1981 | §2802.1-2(a)(1) V515FS315 *1975 |
| §447.205(b) 517FS507 ^Δ 1981 | §455.13 122CA3d341 ^Δ 1981 | §4.402 508FS845 ^Δ 1981 | §2802.1-2(a)(3) V515FS310 *1975 |
| §447.205(d)(1) 517FS507 ^Δ 1981 | §456.1 et seq. 122CA3d341 ^Δ 1981 | §4.410 648F2d500 ^Δ 1980 509FS165 ^Δ 1981 517FS1213 *1980 | §2802.1-2(a)(4) V515FS310 *1975 |
| §447.276 512FS724 ^Δ 1981 | §456.1 122CA3d338 ^Δ 1981 | §4.411 508FS843 ^Δ 1981 509FS165 ^Δ 1981 | §2802.1-2(a)(5) V515FS311 *1975 |
| §447.279 95W2d760 ^Δ 1981 | §456.3 122CA3d340 ^Δ 1981 | §4.415 508FS844 ^Δ 1981 | §2802.1-2(a)(6) V515FS311 *1975 |
| §447.281(a) 95W2d760 ^Δ 1981 | §456.23 122CA3d340 ^Δ 1981 | §4.450-1 509FS165 ^Δ 1981 | §2802.1-2(a)(7) V515FS311 *1975 |
| §447.302 95W2d758 ^Δ 1981 | §456.606 640F2d264 *1979 | §4.450-2 509FS165 ^Δ 1981 | §2802.1-2(a)(8) V515FS315 *1975 |
| §447.303 95W2d758 ^Δ 1981 | §456.608 447US784 *1979 | §4.451-1 649F2d779 ^Δ 1981 | §2802.1-2(b)(1) V515FS311 *1975 |
| §447.331(a) La 397So2d1305 *1979 | §489.16(b)(1) 640F2d264 ^Δ 1981 | §4.530(d) 646F2d863 *1978 | §2803.1-1 V515FS308 *1980 |
| §447.333 La 397So2d1305 ^Δ 1981 | §489.53(a)(3) 654F2d1237 *1980 | §21.4 641F2d692 *1979 | Part 2850 643F2d599 ^Δ 1981 |
| §447.334 La 397So2d1305 ^Δ 1981 | §489.53(b)(1) 654F2d1244 *1980 | §21.4(b) 641F2d694 *1979 | §2921.0-6(a) 101SC2894 ^Δ 1981 |
| §448.3(b)(1) 179Ct94 *1978 179Ct471 *1977 Conn 427A2d810 *1977 | TITLE 43 | §21.7 641F2d691 *1979 | Parts 3100 to 3112 653F2d1037 *1980 |
| | §4.1 et seq. 645F2d639 *1980 | | §3100.0-5(b) 653F2d1038 *1979 655F2d106 *1977 517FS139 *1978 |

NO LISTING FOR SECTION 1842

* followed by a year refers to the CFR edition, if cited. If not cited,
^Δ followed by a year indicates the date of the citing reference
 See 1981 Bound Volume for earlier citations

Bureau of Indian Affairs

The Bureau of Indian Affairs was created in the War Department in 1824 and transferred to the Department of the Interior at the time of its establishment in 1849. The Snyder Act of 1921 (42 Stat. 208; 25 U.S.C. 13) provided substantive law for appropriations covering the conduct of activities by the Bureau of Indian Affairs. The scope and character of the authorizations contained in this act were broadened by the Indian Reorganization Act of 1934 (48 Stat. 984; 25 U.S.C. 461 et seq.).

The principal objectives of the Bureau are to actively encourage and train Indian and Alaska Native people to manage their own affairs under the trust relationship to the Federal Government; to facilitate, with maximum involvement of Indian and Alaska Native people, full development of their human and natural resource potential; to mobilize all public and private aids to the advancement of Indian and Alaska Native people for use by them; and to utilize the skill and capabilities of Indian and Alaska Native people in the direction and management of programs for their benefit.

Functions In carrying out these objectives, the Bureau works with Indian and Alaska Native people, other Federal agencies, State and local governments, and other interested groups in the development and implementation of effective programs for their advancement.

The Bureau seeks for them adequate educational opportunities in public education systems, assists them in the creation and management of educational systems for their own benefit, or provides from Federal resources the educational systems needed; actively promotes the improvement of their social welfare by working with them to obtain and provide needed social and community development programs and services; works with them in the development and implementation of programs for their economic advancement and for full utilization of their natural resources consistent with the principles of resource conservation.

Area Offices—Bureau of Indian Affairs

| Area | Headquarters |
|----------------------------|---|
| Aberdeen, S. Dak. 57401 | 115 4th Ave. SE. |
| Albuquerque, N. Mex. 87108 | 5301 Central Ave. NE. |
| Anadarko, Okla. 73005 | Federal Bldg., P.O. Box 368. |
| Billings, Mont. 59101 | 316 N. 26th St. |
| Juneau, Alaska 99802 | Box 3-8000. |
| Minneapolis, Minn. 55402 | Chamber of Commerce Bldg., 15 S. 5th St. |
| Muskogee, Okla. 74401 | Federal sBldg. |
| Window Rock, Ariz. 86515 | Navajo Area Office. |
| Phoenix, Ariz. 85011 | 3030 N. Central, P.O. Box 7007. |
| Portland, Oreg. 97208 | 1425 NE. Irving St., P.O. Box 3785. |
| Sacramento, Calif. 95825 | 2800 Cottage Way. |
| Eastern Area | 1951 Constitution Ave. NW., Washington, D.C. 20245. |

The Bureau also acts as trustee for their lands and moneys held in trust by the United States, assisting them to realize maximum benefits from such resources.

For further information, contact the Public Information Staff, Bureau of Indian Affairs, Department of the Interior, Washington, D.C. 20240. Phone, 202-343-7445.

Bureau of Land Management

The Bureau of Land Management (BLM) was established July 16, 1946, by the consolidation of the General Land Office (created in 1812) and the Grazing Service (formed in 1934). This was done in accordance with the provisions of sections 402 and 403 of Presidential Reorganization Plan 3 of 1946 (5 U.S.C. App.).

The Federal Land Policy and Management Act of 1976 (90 Stat. 2743) enacted into law on October 21, 1976, repealed and replaced many obsolete or overlapping statutes. It provides a basic mission statement for BLM and establishes policy guidelines and criteria for the management of public lands and resources administered by the Bureau, with the exception of the Outer Continental Shelf which is administered under other authority.

The Bureau's basic organization consists of a headquarters in Washington, D.C.; a Service Center in Denver, Colo., and a Fire Center in Boise, Idaho, that have bureauwide support responsibilities;

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and a field organization of State, district, resource area, and Outer Continental Shelf offices. The Bureau also utilizes a

system of Advisory Councils to assist in the development of management plans and policies.

Field Offices—Bureau of Land Management

| State Offices | Area of Responsibility | Address/Phone |
|--|--|--|
| Alaska | Alaska | 701 C St., Box 13, Anchorage, Alaska 99513. Phone, 907-271-5076. |
| Arizona | Arizona | 2400 Valley Bank Center, Phoenix, Ariz. 85073. Phone, 602-261-3873. |
| California | California | Federal Bldg., Sacramento, Calif. 95825. Phone, 916-484-4676. |
| Colorado | Colorado | Colorado State Bank Bldg., Denver, Colo. 80202. Phone, 303-837-4325. |
| Eastern States | All States bordering on and east of the Mississippi River. | 350 S. Pickett St., Alexandria, Va. 22304. Phone, 703-235-2833. |
| Idaho | Idaho | Federal Bldg., Boise, Idaho 83724. Phone, 208-334-1401. |
| Montana | Montana, North Dakota, South Dakota. | Granite Tower Bldg., 222 N. 32d St., Billings, Mont. 59107. Phone, 406-657-6461. |
| Nevada | Nevada | Federal Bldg., Reno, Nev. 89520. Phone, 702-784-5451. |
| New Mexico | New Mexico, Oklahoma, Texas | Federal Bldg., Santa Fe, N. Mex. 87501. Phone, 505-988-1217. |
| Oregon | Oregon, Washington | 729 NE. Oregon St., Portland, Ore. 97208. Phone, 503-231-6251. |
| Utah | Utah | University Club Bldg., 136 E. South Temple St., Salt Lake City, Utah 84111. Phone, 801-524-5311. |
| Wyoming | Wyoming, Kansas, Nebraska | 2515 Warren Ave., Cheyenne, Wyo. 82001. Phone, 307-778-2326. |
| Outer Continental Shelf (OCS) Offices | | |
| Alaska | Alaska OCS | 800 A St., Anchorage, Alaska 99510. Phone, 907-276-2955. |
| New Orleans | Gulf of Mexico and Florida OCS | Hale Boggs Federal Bldg., 500 Camp St., New Orleans, La. 70130. Phone, 504-589-6541. |
| New York | Atlantic OCS (north from Florida-Georgia State line). | Federal Bldg., Suite 32-120, 26 Federal Plaza, New York, N.Y. 10278. Phone, 212-264-2960. |
| Pacific | Pacific OCS (including Hawaii OCS). | 300 N. Los Angeles St., Los Angeles, Calif. 90012. Phone, 213-688-7234. |
| Service and Support Offices | | |
| Denver Service Center | | Federal Center Bldg. 50, Denver, Colo. 80225. Phone, 303-234-2329. |
| Boise Interagency Fire Center | | 3905 Vista Ave., Boise, Idaho 83705. Phone, 208-384-9421. |

The Bureau is responsible for the total management of 341 million acres of public lands. These lands are located primarily in the Far West and Alaska, however, scattered parcels are located in other States. In addition to minerals management responsibilities on the public lands and the Outer Continental Shelf, BLM is also responsible for subsurface resource management of an additional 169 million acres where mineral rights have been reserved to the Federal Government.

Resources managed by the Bureau include timber, minerals, oil and gas, geothermal energy, wildlife habitat, endangered plant and animal species, rangeland vegetation, recreation and

cultural values, wild and scenic rivers, designated conservation and wilderness areas, and open space. Bureau programs provide for the protection (including fire suppression), orderly development, and use of the public lands and resources under principles of multiple use and sustained yield. Land use plans are developed with public involvement to provide orderly use and development while maintaining and enhancing the quality of the environment. The Bureau also manages watersheds to protect soil and enhance water quality; develops recreational opportunities on public lands; administers programs to protect and manage wild horses and burros; and, under certain conditions, makes land

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available through sale to individuals, organizations, local governments, and other Federal agencies when such transfer is in the public interest. Lands may be leased to State and local government agencies and to nonprofit organizations for certain purposes.

The Bureau has responsibility to issue rights-of-way, in certain instances, for crossing Federal lands under other agencies' jurisdiction. It also has general enforcement authority. Receipts from the public lands and related resources administered by BLM totaled \$5.1 billion in fiscal year 1980.

The Bureau is responsible for the survey of Federal lands and establishes and maintains public land records and records of mining claims. It administers a program of payments in lieu of taxes based on the amount of federally owned lands in counties and other units of local government.

For further information, contact the Office of Public Affairs, Bureau of Land Management, Department of the Interior, Washington, D.C. 20240. Phone, 202-343-4151.

Bureau of Land Management

Program Information The Bureau occasionally sells tracts of land, but always at public auction and never for less than fair market value. It acts as the leasing agent for mineral rights on public and other federally administered lands. Information may be obtained from any of the State offices, any of the Outer Continental Shelf offices, or from the Bureau of Land Management, Office of Public Affairs, Department of the Interior, Washington, D.C. 20240.

Reading Room All State offices provide facilities for individuals who wish to examine status records, tract books, or other records relating to the public lands and their resources.

Contracts Contracts for public land projects are awarded by the Contracting Officer at the Denver Service Center. Outer Continental Shelf baseline studies are contracted in the Washington Office.

Small Business Activities Contracting Officer to be contacted in the Denver Service Center.

Publications The following publications relating to public lands are available from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402: *Our Public Lands*, a periodical, published quarterly; and *All Around You, An Environmental Study Guide*.

Employment Initial appointments to the Bureau are made from registers established by the Office of Personnel Management as a result of examination announcements issued by area offices of the Office of Personnel Management throughout the country. The following Office of Personnel Management announcements are applicable to most professional positions within the Bureau. Announcement No. 421, Biological and Agricultural Sciences; Announcement No. 424, Engineering, Physical Sciences and Related Professions. The Professional and Administrative Career Examination (PACE), Mid-Level, and Senior-Level registers are also used in a limited

SECTION II—STATUTORY LAW

Review Exercise II.

There are 12 questions, worth a total of 100 points. Point values are noted in parentheses. If your score is less than 70% you should review this section again. Answers follow this exercise.

1. The *United States Code* is a codification of Public Laws from the *Statutes at Large*. True _____ False _____ (5)
2. How would you cite Section 772 of title 43, Public Lands, from the 1976 *United States Code*? _____ (5)
3. There are two unofficial publications of the U.S.C. What are they? _____ and _____ (10)
4. The two sets in Question 3 are annotated. What does annotation mean as used with statute sets?

_____ (15)
5. The two sets in Question 3 are kept up to date by annual cumulative _____. (5)
6. All rules (regulations) issued by a federal agency must be published in the _____. (5)
7. The publication in Question 6 publishes additional material for and by agencies. Check the correct items listed below:
Proposed rules _____
Notices of orders _____
U.S. Public Laws _____
Meeting notices _____
Notice of public hearings _____
Popular Names Table _____ (20)
8. CFR means _____. This set codifies rules from the _____. (10)
9. Public Lands: Interior is title (number) _____ in the CFR (5)
10. Lists of Sections Affected (L.S.A.) are published in CFR and FR and are necessary to check when updating a federal regulation. To update 43 CFR 9260 (issued in 1980), you would check the L.S.A. in the following:
a) L.S.A. in back of current _____ volume for 1980.
b) L.S.A. current monthly pamphlet.
c) L.S.A. in last issue of last month's FR.
d) L.S.A. in latest issue of the _____. (10)
11. The CFR indexes contain many terms and are easy to use. True _____ False _____ (5)
12. *Shepard's Code of Federal Regulations* lists cases which have cited federal regulations. True _____ False _____ (5)

SECTION II—STATUTORY LAW

Review Exercise II

Answers. (Page references are to source of questions and answers in workbook.)

1. True p. 24
2. 43 U.S.C. §772 (1976) p. 26
3. *United States Code Annotated* (U.S.C.A.)
and *United States Code Service* (U.S.C.S.)
p. 26
4. Annotation means a classified arrangement of summaries from cases which interpret the statute section. p. 26
5. pocket parts p. 27
6. *Federal Register* p. 30
7. Proposed rules p. 30
Notices of Orders
Meeting Notices
Notice of Public Hearings
8. *Code of Federal Regulations* p. 31
Federal Register p. 31
9. 43 p. 31
10. a) 43 C.F.R. p. 35
b) *Federal Register* (FR) p. 35
11. False p. 35-36
12. True p. 37

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| a. Administrative Agency Reports | 88 |
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| iii. <i>Administrative Decisions ("A")</i> | 91 |
| iv. <i>Interior Board Land Appeals Decisions (IBLA)</i> | 91 |
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| b) Decisions by the Director of BLM, State Directors, Administrative Law Judges, District Managers, and Area Managers | 93 |

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| 1) Interior and BLM related materials | 93 |
| a) Manuals | 93 |
| <i>i. Departmental Manuals</i> | 93 |
| <i>ii. BLM Manual (Local)</i> | 94 |
| <i>iii. BLM Manual (Other States)</i> | 94 |
| b) Organic Act Directives — Federal Land Policy and Management Act (FLPMA) | 94 |
| c) Public Land Orders (PLO) | 95 |
| d) Memoranda | 95 |
| <i>i. Information</i> | 95 |
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| <i>Environment Reporter (BNA)</i> | 95 |
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| 2) <i>Public Land and Resources Law Digest</i> | 98 |
| 3) <i>Directives Digest Bulletin</i> | 98 |
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SECTION III - CASE LAW

A. Glossary of Terms

1. **Annotation:** There are two ways this term is used in law: “case annotations” and “statutory annotations”.

Case annotations are referred to when using Lawyers Cooperative Publishing Company’s (LCP) *American Law Reports* (ALR) discussed later in this Section. In ALR, the term “annotation” means detailed, text-book analyses written by LCP editors about selected appellate cases. The editors who write case annotations choose interesting cases — cases with application of law to specific facts — and editorialize on the law and cases. For example, the editors compare a case selected to other cases in different jurisdictions and write a comparative analysis. Annotations in ALR can be several pages — even hundreds of pages — long.

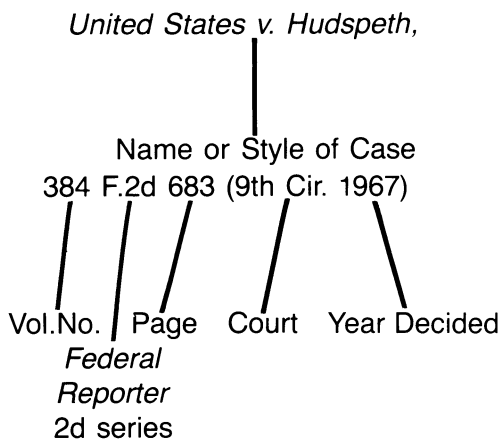
The second use of the term “annotation” is used with statutes. (This was discussed in **SECTION II - STATUTES**.)

2. **Advance Sheets:** These are preliminary (temporary) pamphlet-like publications published before there is sufficient amounts of material to warrant a bound volume of reported cases. Advance sheets are most commonly used by West Publishing Company to update their numerous reporters. Because advance sheets are temporary publications, they are printed on newspaper-quality paper. Several advance sheets (five to ten) comprise one reporter volume. Advance sheets are uniform in size and pagination (about the same number of pages for each). They are sent to subscribers on a weekly basis to allow the subscribers to have current reported cases in their library as soon as possible. If the subscriber had to wait for the bound volume, it would take several

weeks. The material in the advance sheets will be published later in the bound volume with the same page numbering as was used in the advance sheets. When the subscriber receives the bound volume, the advance sheets for that volume are discarded. (**See example in photo, Appendix p. 193**).

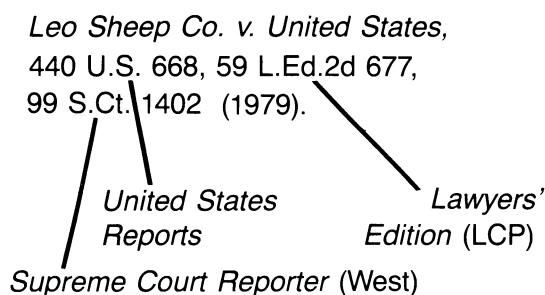
3. **Slip Opinions:** These are separate opinions published by some courts in pamphlet format, one pamphlet per case. Example: slip opinions are published by the United States Supreme Court. Like advance sheets, slip opinions are later published in bound volumes.
4. **Precedent:** Precedent, also referred to in law as *stare decisis*. This term comes from an English law heritage. It means that when an appellate court has decided an issue and written a rule in its opinion about that issue, the court will adhere or follow the precedent it has set. In other words, in a subsequent case, if the same or similar facts arise again and the case is appealed, the court will follow its precedent set earlier unless a compelling case is shown why the precedent should be changed. The only courts which can change the precedent is the court which originally set it or one of higher authority.
5. **Citation:** A citation to a case is the name (style) and numerical designation of the volume (book) number, the report(er) name and page where an appellate case is reported. In short, it is the exact address where one can find the case in a legal publication.

Example:



A researcher who had this citation could go to a law library having the *Federal Reporter* (to be discussed later) and look for volume number 384 of the *Federal Reporter* 2d series. (Many reporter sets end the first series at some point and continue with a second series, third series, designation. Example: the *Federal Reporter* has volumes 1-300; *Federal Reporter, Second Series* has volume 1 to date.) A researcher must be careful of the series number when reading or writing citations so as not to end up in the wrong set. If uncertain of what citation abbreviations mean, look them up in the table of abbreviations contained in any legal bibliography text or law dictionary. See also the section on abbreviations, **SECTION IV A. 4. ABBREVIATIONS.**

6. **Parallel Citations:** A Parallel Citation is a cross reference to the same case in another set. Example:



The same case can be read in any of these

three publications. (These sets are discussed in this section.)

It should be noted that reported cases are “public documents” (public domain) and cannot be copyrighted. Therefore, private companies are free to copy these cases and put them in any format into their own publications. However, be aware that the *feature* of a privately published volume, other than the case itself, are copyrightable by each publishing company. (Examples of such features will be discussed later in this section.)

7. **Court Reports:** Court reports are volumes for various jurisdictions which contain reported appellate decisions and opinions. These opinions are written by appellate judges. Reports do not contain trial court information such as evidence, transcripts, etc.

There are reports or reporters for every appellate jurisdiction, i.e., United States Supreme Court, Federal Courts of Appeal, and state appellate courts. Reports are usually the official version of published appellate cases. An official publication is one which is published by or for a branch of government. Example: the *U.S. Reports* are the United States Supreme Court cases published *officially* by the United States Printing Office. The term reporters usually refers to unofficial versions published by private publishing companies. Example: *Supreme Court Reporter* by West Publishing Company, St. Paul, Minnesota. About one-third of the state appellate courts have stopped publishing an “official” version since the same material is privately published by West in its *National Reporter System* (to be discussed later in this section). The difficulty with official reports is there are no finding tools to accompany the entire official reports sets. Finding tools (digests, encyclopedias,

Shepard's Citations, etc. will be discussed later) are published by private companies. Unless one had a citation to a case it would be difficult to find cases in the reports without the finding tools because, in the reports, cases are published in chronological order.

8. **Reports(ers)**: are published by jurisdiction. Example: the *Federal Reporter* (to be discussed later) includes all Federal Courts of Appeals cases. So it can be said that the Federal Reporter is a "jurisdictional" reporter. Geographical report(ers) cover a specific geographical area. Example: The *Southern Reporter* covers state appellate cases for the states of Louisiana, Mississippi, Alabama, and Florida.

B. Reports and Reporters

Each year, there are almost 50,000 appellate cases printed in the various reports(ers), bringing the total of published cases currently to over 3 million. In the various reports(ers) these cases are reported chronologically and are published officially by courts and agencies and unofficially published by private companies. The majority of reporters (unofficially published) are published by two companies: West Publishing Company,* St. Paul, Minnesota, and Lawyers Cooperative Publishing Company,* Rochester, New York.

Features of Reports(ers): Each volume generally contains:

- Table of Cases
- Table of Judges
- Cases by Court
- Statutes, rules construed
- Headnotes
- Opinions

In West Reporters, additional features are:
Headnotes with the West Key number reference

Statutes Construed
Words and Phrases
Digest Section

In Lawyers Cooperative Publishing Company Reporters (LCP), additional features are:

Annotations and references to other LCP publications.

1. United States Supreme Court Reports(ers)

The United States Supreme Court cases are published in the following sets:

Bound Volumes:

- a. *United States Reports*
- b. *United States Reports, Lawyers' Edition*,
1st and 2d series
- c. *Supreme Court Reporter*

Looseleaf Services:

- d. *U.S. Law Week*
- e. *U.S. Supreme Court Bulletin*

Descriptions of Sets

a. *United States Reports*

(For more detailed information about this set, see Appendix, p. 214, *United States Reports*.)

This set is published officially by the United States Government Printing Office. Cases are first published in slip opinions, then in advance sheets, then in permanently bound volumes. For each court term the

*Free pamphlets explaining West and Lawyers Cooperative publications are available. Write: West Publishing Co., P.O. Box 3526, St. Paul, MN 55165, for *West's Law Finder*. Write: Lawyers Cooperative Publishing Co., Aqueduct Bldg., Rochester, NY 14603, for *The Living Law*.

advance sheets cumulate 1300 to 1500 pages. These pages are later published in bound volume format, typically 4-5 volumes per year. Each volume contains orders and opinions of the Court, including Chamber Opinions of the Court. (Each U.S. Supreme Court Justice is assigned one or more United States Court of Appeals [Circuit Court] to monitor. The Justices, at times, sit on these Courts of Appeals when the U.S. Supreme Court is recessed. Chamber Opinions, therefore, are opinions written by a Supreme Court Justice when sitting on a Court of Appeals.) Each volume of the *United States Reports* has a table of cases and a subject index.

From 1789 to 1874 the reports were cited by the name of the reporters (referred to as “nominative reports”), e.g., 1 *Dallas* 1. Since 1875, the *U.S. Reports* have been cited by U.S. volume number. In 1875, the earlier volumes of the *U.S. Reports* were re-numbered 1-91 U.S. So, 1 *Dallas* 1 is the same as 1 U.S. 1.

Citation to *U.S. Reports*:

***Leo Sheep Co. v. United States*, 400 U.S. 668 (1979).** This citation is only to the official *United States Reports* and is used when citing U.S. cases in the United States Supreme Court and Federal courts. Generally, *no* parallel citations to other U.S. Supreme Court case publications are permitted in the federal court system. However, parallel citations are permitted in other courts, such as in state courts. When parallel citations are allowed, the official citation *always* precedes the unofficial citation.

Note: The *United States Reports* set is a federal depository item and is available in many United States Government Depository Libraries.

- b. ***United States Supreme Court Reports, Lawyers' Edition (L.Ed.)***, 1st and 2d series.

(For more detailed information about this set, see Appendix, p. 197, *Lawyers' Edition*.)

Lawyers' Edition

This set is published unofficially by Lawyers Cooperative Publishing Company. The same cases published in the official *U.S. Reports* are also published in the *Lawyers' Edition (L.Ed.)*. The L.Ed. set is in two series: the first series covers volumes 1 through 349 U.S.; the second series (L.Ed.2d) covers volumes 350 U.S. to date. Cases are first published in *Lawyers' Edition* advance sheets which are subsequently replaced by bound volumes. The *Lawyers' Edition* advance sheets and bound volumes are published earlier than the official *U.S. Reports*.

In addition to the features generally found in reports (reporters), this set has the following additional features:

- (1) Parallel citation references to the official *U.S. Reports* are printed on the spine of each L.Ed.2d volume. (See photos, Appendix p. 197.)
- (2) Within each volume, further parallel citations to the *United States Reports* are printed, first at the beginning of each case (**See illustration [36]**) and, secondly, on top of pages of the case (**See illustration [37]**). Then on each page of the case a cross-reference is given indicating where the same page of the official United States Reports changes (**See illustration [37]**). Citations are provided to give the researcher using the L.Ed.2d the advantage of having cross-references to the exact pages from the L.Ed.2d page to the official *U.S. Reports* pages. This information is not provided

to allow the researcher to consult the official *U.S. Reports* but rather to avoid that necessity. Remember that United States Supreme Court cases are cited only to the *U.S. Reports*.

- (3) Selected United States Supreme Court cases are annotated in the L.Ed.2d volumes (see definition of Annotation, p. 77). If a case is selected for annotation, this is indicated by a reference after the case summary (prefatory statement). **(See illustration [36]**, bottom of page, “Subject of Annotation”). [Note: All Annotations are collected in the back of each L.Ed.2d volume.]
- (4) References to summaries of the briefs of counsel. These references are listed immediately following the case summary of each case. **(See illustration [36]**, bottom of page.)
- (5) Total Client Service Library (T.C.S.L.) references are provided to other Lawyers Cooperative Publishing Company publications such as their encyclopedia, American Jurisprudence series, etc. **(See illustration [38]**, bottom of page.)

L.Ed.2d annotations are updated as follows:

For volumes 1-31 L.Ed.2d there is a separate volume published.

Annotations in volumes 32 L.Ed.2d to date are updated in pocket parts in back of each volume. (A pocket part is a supplementary pamphlet which updates a main volume.)

Citation to L.Ed.2d:

Leo Sheep Co. v. United States, 440 U.S. 668, 59 L.Ed.2d 677 (1979).

c. **Supreme Court Reporter (S.Ct.)**

(For more detailed information, see Appendix, p. 207.)

This set is published unofficially by West Publishing Company. The same cases published in the official *U.S. Reports* are published in the *Supreme Court Reporter* (S.Ct.). The *Supreme Court Reporter* began with volume 106 of the *U.S. Reports*. Cases are first published in *Supreme Court Reporter* advance sheets which are subsequently replaced by bound volumes. As with the *Lawyers' Edition 2d*, the advance sheets and bound volumes of the *Supreme Court Reporter* are published earlier than the official *U.S. Reports*. West currently publishes two or three bound volumes of the *Supreme Court Reporter* during a court term. The first volume has a numerical designation, e.g., 99 S.Ct.; the later volumes have the same numerical designation and the letter “A” or “B” to denote the second or third volume, e.g., 99A S.Ct. However, the “A” is not used as part of the citation. In addition to the features generally found in reports(ers), this set has the following features:

- (1) Parallel citation references to the official *U.S. Reports* are printed on the spine of each *Supreme Court Reporter* volume giving the parallel *U.S. Reports* reference included in the *Supreme Court Reporter* volume. (See photo, Appendix, p. 207.)
- (2) Within the volume, further parallel citations to the *U.S. Reports* are printed, first at the beginning of each case, at the top of the page **(See illustration [39])**, then within each case a cross-reference is given where the page of the official *U.S. Reports* is located. The symbol **⏏** shows the break between the preceding and

next page of the *U.S. Report* volume.
(See illustration [39].)

- (3) Topic and key number headnotes. The West Company is noted for its famous topic and key number system (to be discussed in **SECTION IV, DIGESTS**). Each of the *Supreme Court Reporter* cases have the headnotes with the topic and key number similar to those illustrated in the *Hudspeth* case.

The *Supreme Court Reporter* is part of the *West National Reporter System* (discussed later in this section.)

Citation to *Supreme Court Reporter*:

Leo Sheep Co. v. United States, 440 U.S. 668, 99 S.Ct. 1403 (1979).

A complete citation to the *Leo Sheep Co. v. United States* case, including parallel citations, would be as follows:

Leo Sheep Co. v. United States,
440 U.S. 668, 59 L.Ed.2d 677, 99 S.Ct. 1403
(1979)

Official
Citation

unofficial citations
and parallel citations
to official citations

d. ***United States Law Week (U.S.L.W.)***

(For more detailed information about this set, see Appendix, p. 214, *United States Law Week*.)

This set, published unofficially by the Bureau of National Affairs (BNA), is a two-volume looseleaf set published annually. Looseleaf services contain separate sheets in binders (like 3-ring notebook binders) supplied by the publisher to the subscriber. These services add or replace pages to reflect changes on a frequent basis, e.g., weekly. The material is received by a sub-

scriber much earlier than advance sheets. For example, as soon as a U.S. Supreme Court case is released, services like *U.S. Law Week* print, publish and mail the cases to the subscriber on a weekly basis. The same case in advance sheet form will not be published by the U.S. Government, West, or Lawyers Cooperative Publishing Company for at least 6 to 8 weeks.

Volume I of *U.S. Law Week* contains the following U.S. Supreme Court information: summary of orders, cases filed and arguments; journal of the court; cases docketed; table of cases; topical index; and opinions of the Court.

Citation to *United States Law Week*:

Leo Sheep Co. v. United States, 47 U.S.L.W. 4329 (March 27, 1979).

[Note: *U.S. Law Week* citations are permitted when U.S., L.Ed.2d, or S.Ct. citations are unavailable or not yet published.]

e. ***U.S. Supreme Court Bulletin (Sup.Ct.Bull.)***

(For more detailed information about this set, see Appendix, p. 217.)

This set, published unofficially by Commerce Clearing House (CCH), is a one volume looseleaf which is published annually. The volume contains a subject index, docket number index, status table for cases pending and opinions of the Court. Like the *U.S. Law Week* service, the *Supreme Court Bulletin* cases arrive in the subscribers office within a week after a Supreme Court case is released.

Citation to *U.S. Supreme Court Bulletin*:

Leo Sheep Co. v. United States, 39 CCH S.Ct.Bull. B1611 (March 27, 1979).

[Note: *Supreme Court Bulletin* citations are permitted when U.S., L.Ed.2d, S.Ct., or U.S.L.W. citations are unavailable or not yet published.]

2. Federal Court Reporters

Cases for the Federal Courts of Appeals (Circuit Courts) and Federal District Courts are published in the following sets.

- a. *Federal Cases*
- b. *Federal Reporter*, 1st and 2d series
- c. *Federal Supplement*
- d. *Federal Rules Decisions*
- e. *A.L.R. Federal*

Descriptions of Sets

a. *Federal Cases*

(For more detailed information about this set, see Appendix, p. 191.)

Prior to 1880 and before the existence of the West Publishing Company, federal courts published their opinions in various sets. When West Publishing Company began, it accumulated as many of these cases as possible, over 18,000, and published them in a 31 volume set with the cases alphabetically arranged by name of the case. Each case is assigned a case number. Volume 31 contains the digest and index to the 18,000 cases contained in *Federal Cases*.

Because of the age of the cases this set contains, it is seldom used by researchers.

Citation to *Federal Cases*:

The Maudie Canham, 14 F.Cas. 143 (No. 7621) (C.C.N.D. Ill. 1876).

b. *Federal Reporter*

(For more detailed information about this set, see Appendix, p. 193.)

This set, published unofficially by West, is part of the *National Reporter System*. There is no official report for Courts of Appeals cases. Therefore, the *Federal Reporter* is the only place where all United States Courts of Appeals cases are published other than *Federal Cases*. The *Federal Reporter* is published in two series; first series volume 1-300; second series volume to date. Current volumes of the *Federal Reporter* 2d contain all of the published cases of the Courts of Appeals from the twelve Federal Judicial Circuits in the United States (**See illustration [40]**). The Tenth Circuit, for example, includes the states of Colorado, Kansas, New Mexico, Oklahoma, Utah, and Wyoming.

In addition to cases from the Courts of Appeal, the *Federal Reporter* 2d has cases from the United States Court of Claims, the Court of Customs and Patent Appeals, and the Temporary Emergency Court of Appeals.

Cases in the *Federal Reporter* 2d are first published in advance sheets which are subsequently replaced by bound volumes. Each volume contains the same features common to West Reporters, i.e., Table of Judges, Table of Cases, Cases by Court, Statutes and Rules Construed, Words and Phrases, a Digest section, and the opinions of the courts.

Citation to *Federal Reporter*:

United States v. Hudspeth, 384 F.2d 683 (9th Cir. 1967).

For Circuit Court case citations, include as part of the citation from which circuit (e.g., 9th Cir.) the case originated.

A full case citation must always indicate the court rendering the decision and, therefore, this element is added when it is not

indicated by the name of the reports or reporter.

c. ***Federal Supplement***

(For more detailed information about this set, see Appendix, p. 196.)

This set, published unofficially by West, is another part of the *National Reporter System*.

Federal judicial districts are subdivisions of the federal judicial circuits. Each state has at least one federal district court. More populated or larger states may have several district courts within the state. E.g., Oklahoma has 8 courts, one Eastern District Court in Muskogee, three Northern District Courts in Tulsa, and four Western District Courts in Oklahoma City. As with the Federal Courts of Appeals, there is no official publication for federal district court cases. *The Federal Supplement* was first published in 1933. It is published in one series (it does not have a second series), volume 1 to date. Prior to 1933, cases now published in the *Federal Supplement* were included in the *Federal Reporter*, 1st series and *Federal Cases*.

Presently, the *Federal Supplement* volumes contain cases selected for publication from the United States District Courts and the Court of International Trade.

The federal district court cases published in the *Federal Supplement* are *exceptions* to the rule that only appellate court cases are published and trial court cases are not. In federal district courts, the federal district judge has discretion whether to publish an opinion in cases litigated in his/her court. In other words, the judges and not the publisher makes the choice. Examples of cases published are cases which may set precedent, or unique cases involving legal issues

not dealt with before. Cases designated for publication first appear in the *Federal Supplement* advance sheets. These advance sheets are later replaced by bound volumes. Each volume contains the same features common to a West reporter.

Citation to *Federal Supplement*:

Riley v. Ambach, 508 F.Supp. 1222 (E.D.N.Y. 1980).

In District Court case citations, include, as part of the citation, from which district court (e.g., E.D.N.Y., which means Eastern District of New York) the case originated. Citations to states which are not subdivided into districts are cited thus: *Lima v. United States*, 508 F.Supp. 897, (D. Colo. 1980). This indicates that this case was tried in Colorado and that Colorado has only one federal judicial district.

d. ***Federal Rules Decisions***

(For more detailed information about this set, see Appendix, p. 194.)

This set is published unofficially by West and is part of the *National Reporter System*. The set contains federal district court cases which have interpreted federal rules of procedure and evidence. Because of the technical information contained in this set, it is used primarily by lawyers. In addition to West Reporter features, volumes of the *Federal Rules Decisions* often contain timely articles about the federal rules of procedure. It is the only portion of the National Reporter System to have such auxiliary materials.

Citation to *Federal Rules Decisions*:

Prescott v. Plant Industries, Inc., 88 F.R.D. 257 (S.D.N.Y. 1980).

- e. ***American Law Reports Federal (A.L.R. Fed.)*** contains selected cases which are annotated by Lawyers Cooperative Publishing Company. (This set will be discussed as part of the *American Law Reports*, p. 185.)

3. State Reports - Reporters

State appellate court cases are published in three formats:

- (1) the appellate court cases from each of the 50 states are published in one of the units of the *West National Reporter System* (NRS). (NRS).
- (2) In addition, 32 of the 50 states still publish their own official reports for their intermediate and highest appellate courts. Official state reports do not always have advance sheets. And, as discussed earlier, official publications do not have “finding tools” to complement the official reports.
- (3) The Lawyers Cooperative Publishing Company also publishes duplicate state appellate cases in their *American Law Reports* (ALR) System for those cases (about 10%) they select to annotate.

Descriptions

a. The *National Reporter System* (NRS)

The *National Reporter System* is a network of reporters devised by West. The NRS includes: the *United States Supreme Court Reporter*, the *Federal Reporter*, the *Federal Supplement*, *Federal Rules Decisions*, *West’s Bankruptcy Cases*, and *New York Supplement*, *West’s California Reporter*, *West’s Military Justice Reporter* and seven regional reporters which report all state appellate cases. West divided the nation into regions with each region representing several states. The cases are reported, therefore, in “regional reporters” (See illustra-

tion [41], NRS Map). Example: the *Pacific Reporter* is the largest regional reporter in volumes and number of states. It includes the states primarily in the Western half of the United States: Alaska, Arizona, California, Colorado, Hawaii, Idaho, Kansas, Montana, Nevada, New Mexico, Oklahoma, Oregon, Utah, Washington, Wyoming. All regional reporters now have two series, 1st and 2d, and contain the following features: a table of cases, table of judges, statutes and rules construed, words and phrases, a digest section and the opinions of those state appellate courts reported in that respective regional reporter. Each bound volume is preceded by several advance sheets.

The seven regional reporters are: (For more detailed information, see Appendix, page listed.)

Atlantic 1st and 2d. cited ____ A. ____ or ____ A.2d ____ (p. 185)

North Eastern 1st and 2d. cited ____ N.E. ____ or ____ N.E.2d ____ (p. 200)

North Western 1st and 2d. cited ____ N.W. ____ or ____ N.W.2d ____ (p. 201)

Pacific 1st and 2d. cited ____ P. ____ or ____ P.2d ____ (p. 202)

South Eastern 1st and 2d. cited ____ S.E. ____ or ____ S.E.2d ____ (p. 204)

South Western 1st and 2d. cited ____ S.W. ____ or ____ S.W.2d ____ (p. 206)

Southern 1st and 2d. cited ____ So. ____ or ____ So.2d ____ (p. 205)

New York Supplement 1st and 2d. cited ____ N.Y.S. ____ or ____ N.Y.S.2d ____ (p. 199)

California Reporter cited ____ Calif. ____ (p. 186)

(The highest courts for California and New York are also reported in the *Pacific Reporter* 2d and the *North Eastern* 2d, respectively.)

The N.Y.S. 1st and 2d and *California Reporter* contain *all* appellate court cases for each state from the date of original publication to the present.

When citing cases from those states which still publish official reports, include citations to *both* the official citation *and* the unofficial regional reporter citation. Example: *People v. McKena*, 196 Colo. 367, 585 P.2d 275 (1978). (The 196 Colo. refers to volume 196 of the official *Colorado Reports* which reports Colorado Supreme Court cases; the 585 P.2d refers to the parallel citation to the same case also reported in the *Pacific Reporter*, 2d in volume 585.)

If, however, a state no longer publishes official reports, the regional reporter citation is the only reporter cited. Example: Wyoming no longer publishes its state appellate reports. Therefore, a state appellate case from Wyoming would be cited thus: *Jones v. State*, 612 P.2d 111 (Wyo. 1981). The abbreviation "Wyo." indicates to the reader that this is a Wyoming Supreme Court case. If the citation read *Jones v. State*, 610 P.2d 202 (Wyo. App. 1981), the "Wyo. App." would then refer to the Wyoming intermediate appellate court, i.e., the Wyoming Appellate Court.

There are several ways one can obtain parallel citations to official reported case citations. Example: *Shepard's Citations* (discussed in **SECTION IV, SHEPARD'S CITATIONS**), State Digests (discussed in **SECTION IV, DIGESTS**) and in the *National Reporter Blue Book*. The *National Reporter Blue Book* is a cumulation of cross references *from* official state citations to the corresponding N.R.S. regional reporter citation (**See illustration [42]**). By using **illustration [42]** to find the *Pacific Reporter*, 2d series citation in the *National Reporter Blue Book* for a *Colorado Reports* citation 189 Colo. 28,

first find the *Colorado Reports* section in the *National Reporter Blue Book*, then find the volume number reference, 189. Next, read down the column and find page 28, then read across. This yields the parallel citation 536 P.2d 44; thus the parallel citation to 189 Colo. 28 is 536 P.2d 44.

Special State Editions of the *National Reporter System (NRS)*

A few states have special editions of the N.R.S. These volumes contain the cases from the *regional reporter* for that state only. The other states' cases are deleted. Example: *Southwestern Reporter 2d, Texas Cases Only*. Each volume in this special edition contains only Texas cases from the *Southwestern Reporter 2d*. The regional cases for the other states in the *Southwestern Reporter 2d* are deleted (excised).

Special editions are published primarily for convenience of the subscribers in one state. Citations, including volume and page numbers, are the same as the regional reporter. Subscribers to these special edition reporters receive the advance sheets for that regional reporter since these special editions do not have their own advance sheets. Because there are only one state's cases in these special editions, three or four volumes of the representative regional reporter are combined into one book. Example: volumes 602 to 604 of the *Southwestern Reporter 2d* are bound together in one book of the *Texas Cases Only* edition. Cases from these special editions are cited to the regional reporter, *not* to the title or name of the special edition. Example: Cite a Texas case from *Texas Cases Only* as: *Jones v. Smith*, 602 S.W.2d 411 (Tex. 1979).

4. Annotated Reports

American Law Reports (A.L.R.) System

This series is published by Lawyers Cooperative Publishing Company. The series consists of:

| | |
|------------------|----------------------------|
| ALR (1st series) | 1919-1948 vols. 1-175 |
| ALR 2d | 1948-1965 vols. 1-100 |
| ALR 3d | 1965-1980 vols. 1-100 |
| ALR 4th | 1980-pres. vols. 1 to date |
| <i>ALR Fed</i> | 1969-pres. vols. 1 to date |

A.L.R. is an integral part of L.C.P.'s "total client service library" (T.C.S.L.). The various units in the T.C.S.L. combine to give a coordinated system of legal research materials which are national in scope. The T.C.S.L. units are:

- American Jurisprudence 2d (AmJur2d)*
- American Jurisprudence Legal Forms 2d*
- American Jurisprudence Pleading & Practice Forms, Revised*
- American Jurisprudence Proof of Facts*
- 1st and 2d series
- American Jurisprudence Trials*
- United States Code Service (U.S.C.S.)*
- United States Supreme Court Reports, Lawyers' Edition 2d*
- Federal Procedural Forms*
- The *A.L.R. System* (ALR 1st, 2d, 3, 4th and Fed.)

The above sets in the T.C.S.L. always give cross-references to each other where appropriate.

The *A.L.R. System* collects state and federal appellate cases (about 10%) which are unique in setting precedent in American law. After a case has been selected for annotation, the editors write an in-depth critical analysis of the case. All relevant cases are collected, organized and cited in the annotation. Each case is summarized and discussed as it relates to the others. The anno-

tations are scholarly and are signed by the editor. When an annotation is completed, L.C.P. publishes the annotation in the next volume of the A.L.R. (Currently, ALR 4th for state cases; *ALR Fed* for federal cases, L.Ed.2d for U.S. Supreme Court cases.) Preceding each annotation is the actual case and opinion of the appellate court. Therefore, a researcher with the citation to a state or federal case can read the case in the ALR volume without going to either the official report or West regional reporter. There are no advance sheets for the ALR volumes.

Each ALR volume of ALR 3d, 4th and Federal series has a pocket part in the back of the volume. The pocket part gives summaries of *later cases* which discuss the annotations in the main volume. (When any publication has a pocket part, the researcher should always consult it to note any subsequent changes which may have occurred.)

To access the ALR volumes, L.C.P. publishes a *Quick Index* for all series. The *Quick Index* volumes contain an alphabetical arrangement of law topics and fact words. Annotated case summaries and citations to the ALR annotations are listed under each topic. **(See illustration [43].)**

Each *ALR Quick Index* volume is updated by a pocket part located in the *front* of the *Quick Index* volume.

Another "updating" service is provided by the publisher. It is the Annotation History Table. **(See illustration [44].)** This table provides the researcher with later annotations, if any, which have superseded or supplemented the annotation being researched. This table is found in the *Quick Index* volumes and the *Quick Index* pocket parts.

[The chart **(Illustration [45])** shows the *Annotated Reports System*. **Illustrations**

[46] through [51] show the inclusiveness of an ALR annotation.]

5. Subject Reports

Private companies and the Government Printing Office publish various subject reports. Example: *Tax Court Reports* - reporting tax cases; *American Bankruptcy Reports* - reporting bankruptcy cases. Also, many looseleaf services have subject reports. Example: *Environment Reporter*.

6. Administrative Agency Materials

a. Administrative Agency Reports, including Department of Interior

1) General — Other Agencies

Referring again to the chart in Illustration [52], ① Statutory Law and ② Federal Rules were discussed in **SECTION II, STATUTES**; ⑤ Case Law was covered earlier in this **SECTION III**. The following will cover ③ BLM publications and ④ Administrative procedures and publications.

Thirty-one of the federal agencies publish reports of their cases. Example: *Agricultural Decisions* (Agri. Dec.); *Interstate Commerce Commission Reports* (I.C.C.); *Securities and Exchange Commission*

Decisions and Reports (S.E.C.); *Department of Interior* (I.D.).

Some agencies also publish “finding tools” such as digests, indexes, tables, etc., which complement the reported cases. Example: *Index-Digests of the Department of Interior*.

2) Interior and BLM Decisions [Refer to ④ Administrative Hearings on the chart.]

There are various routes available for different administrative appeals.

Before April 1971 there was a two-step appeal process. Decisions issued by state offices, district managers and hearing examiners were appealed to the director of BLM and then to the Secretary of Interior.

Except for land classification decisions and situations involving property rights and/or factual issues, there is presently a one-step appeal for adjudicative decisions from state or district office to Interior Board of Land Appeals (IBLA). (For more detailed information relative to the Chart, refer back to **SECTION I**, pages 17-18.)

a) Secretary’s Decisions

Since the creation of the Department of Interior, the Secretary’s decisions have been published with different titles and in different formats. The preface of volume 53 *Interior Decisions* provides the historical background:

PREFACE

In 1883 the Department of the Interior began publication of the important decisions of the Land Department with the view to preserving in authentic manner and in permanent form convenient for reference a line of consistent precedents in departmental rulings illustrating the land laws of the United States. Prior to that time the only published decisions of the department were those by private reporters, the more familiarly known being Brainard, Copp, and Lester. As originally conceived the publication entitled "Decisions of the Department of the Interior relating to the Public Lands," and thereafter referred to as the "Land Decisions," pertained almost exclusively to matters coming under the jurisdiction of the General Land Office. Gradually the jurisdiction of the department has been enlarged by the creation of new bureaus, among them being the Bureau of Reclamation, the Geological Survey, and the National Park Service. Many new laws have been enacted and policies established relating to the Indians and Indian affairs. Many new and important problems are constantly arising for solution. Consequently, there has been an increasingly growing demand for the publication of decisions by the Secretary, his Assistant Secretaries, and opinions by the Solicitor relating to other matters than those pertaining to the public lands. On July 7, 1930, the Secretary issued an order amending the title so as to read "Decisions of the Department of the Interior," and directing that thereafter leading decisions and important opinions relating to all activities of the department be published in future volumes. Including this volume, 53 volumes have been published, covering a period from July, 1881, to June 30, 1932. Volumes 1 to 52 are referred to as the "Land Decisions" (L. D.). The abbreviation "I. D." when used in cited decisions of the department and in the opinions of the Solicitor has reference to volume 53 and future volumes of this work.

i. *Land Decisions* (L.D.'s)

Land Decisions were published from July 1881 to December 1929 in volumes 1 to 52. These volumes are titled *Decisions of the Department of the Interior and General Land Offices in Cases Relating to the Public Lands*. Cases reported in these volumes pertained almost exclusively to matters coming under the jurisdiction of the General Land Office. Too, this publi-

cation included important "A" Opinions. (See iii. for coverage of "A" Opinions.) In 1930, beginning with volume 53, the publication's title became *Decisions of the Department of the Interior* (I.D.'s).

[The following abbreviations are cited in the L.D.'s: "B.L.P." refers to *Brainard's Legal Precedents*; "1 C.L.L." to *Copp's Public Land Laws*, Ed. 1875; "2 C.L.L." to *Copp's Public Land Laws*, Ed.

1882; "C.L.O." to *Copp's Land Owner*; "C.M.D." to *Copp's Mining Decisions*; "C.M.L." to *Copp's Mineral Lands*; "Lester" to *Lester's Land Laws and Decisions*; "Rep." to *the Reporter*; and "S.M.D." to *Sickles' Mining Laws and Decisions*.]

Citation to L.D.'s:

Walter Maine, 52 L.D. 510 (1928).

Access to cases in the L.D.'s is through the *Digest of Decisions of the Department of Interior in Cases Relating to Public Lands* (see Table at page 98). Also, each L.D. volume has various tables and an individual index-digest.

ii. *Interior Decisions* (I.D.'s)

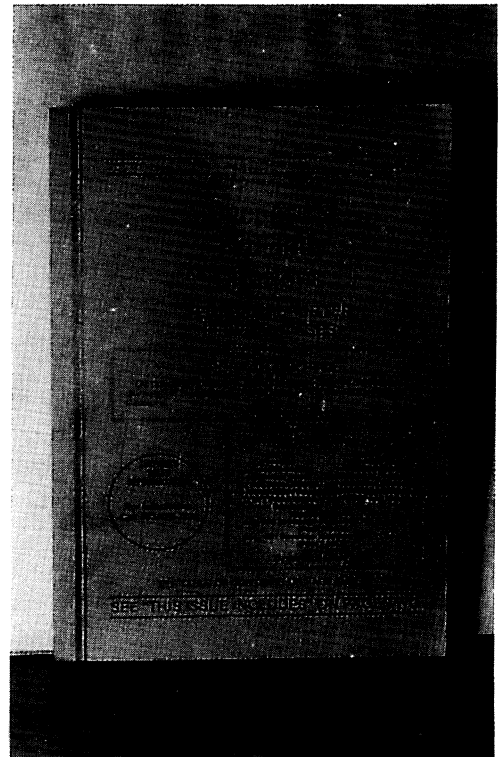
On July 7, 1930, the Secretary issued an order amending the title *Decisions of the Department of the Interior and General Land Office in Cases Relating to Public Lands to Decisions of the Department of the Interior*. Beginning with volume 53, to date, leading decisions and important opinions relating to all activities of the Department are published. *Decisions of the Department of Interior* is a U.S. Government Depository item. *Interior Decisions* are first published in advance sheet form, the contents of which are subsequently bound into the permanent I.D. volumes. **(See illustration [53].)** In addition to Interior Board of Land Appeals (IBLA), current volumes include opinions from other bureaus such as Interior Board of Indian Appeals (IBIA),

Interior Board of Surface Mining and Reclamation Appeals (IBSMA), and Alaska Native Claims Appeal Board (ANCAB) as well as *Solicitors Opinions* ("M" Opinions). Also, from 1930 to 1970, important "A" Opinions were published in the I.D.'s (See iii. for coverage of "A" Opinions.) It should be noted again that only important cases and opinions are selected for publication in the I.D.'s.

Citation to I.D.:

Bureau of Land Management v. Ross Babcock, 32 IBLA 174, 84 I.D. 475 (1977).

Access to the I.D.'s is through the *Index-Digests of the Department of Interior*. Also, each I.D. volume has various tables and individual index-digests. (See also Table at page 98.)



iii. **Administrative Decisions (“A”)**

Administrative Decisions, or “A” Decisions, were unpublished opinions which resulted which resulted from appeals of the Director’s Decisions. “A” Decisions were issued prior to the creation of the Interior Board of Land Appeals (IBLA) July 1, 1970. Department of Interior Libraries, especially those supporting Solicitors and B.L.M. offices, have unpublished “A” Decisions in looseleaf format. (See illustration [54].) Important “A” Decisions were published in the L.D.’s, volumes 1-52 and I.D.’s, volumes 53-77.

Citation to “A” Decisions:

William P. Surman, A-31010
(December 1, 1969)

Date Name Serial #
 of Party of case

Access to “A” Decisions is through the *Index-Digests of the Department of Interior*. (See Table at page 98.)

iv. **Interior Board of Land Appeals Decisions (IBLA)**

The Interior Board of Land Appeals (IBLA) was created on July 1, 1970 within the Office of Hearings and Appeals, Office of the Secretary of Interior. IBLA acts for and on behalf of the Secretary of Interior, thus decisions are usually final concerning the Department’s position. The Decisions are, however, subject to the Secretary of

Interior’s review and to court appeal. IBLA’s replaced the “A” Decisions. Each decision is identified by the name of the party and IBLA file number. Example: *Paul N. Scherbel*, IBLA 81-282 (fiscal year 1981, the 282nd case logged in.) (See illustration [55].)

BLM Libraries keep unpublished IBLA decisions in looseleaf format filed by the IBLA volume and page numbers. Example: 58 IBLA 52. Some BLM offices keep duplicate IBLA decisions by subject, e.g., decisions on coal, color of title, desert land, geothermal leases, grazing lands, homestead, etc. As mentioned earlier, IBLA decisions are unpublished except for the more important decisions which are selected for publication in the I.D.’s Important IBLA decisions are officially published in the *Interior Decisions* (I.D.’s) first in advance sheet format, then in bound I.D. volumes. Also, the *Gower Federal Service* publishes some IBLA decisions.

Citation to IBLA decisions:

(if unpublished in I.D.’s)
Paul N. Scherbel, 58 IBLA 52 (1981)
(if published in I.D.’s)
Bureau of Land Management v. Ross Babcock, 32 IBLA, 174, 84 I.D. 475 (1977)

[Note: If IBLA decisions have been published in the I.D.’s, then both citations are necessary.]

v. **Interior Grazing Decisions (IGD)**

The preface of *Department of the*

Interior Grazing Decisions 1936-1958 explains the purpose and content of this volume:

PREFACE

This publication is a compilation of decisions of the Department of the Interior in cases arising under the Taylor Grazing Act of 1934, as amended (43 U.S.C., sections 315-315r), and the Federal Range Code for Grazing Districts (Title 43, Code of Federal Regulations, Part 161.) The compilation brings together the Department's decisions in cases arising under the foregoing authorities from enactment of the Taylor Grazing Act through 1958. Most of the decisions have not been previously published. Through this compilation they are being made available to all Department and Bureau offices, and others concerned with administration of the Taylor Grazing Act.

As an aid to users of the compilation, an index-digest of the decisions has been included. The subject-matter headings under which the decisions have been indexed are more numerous and specific than those used in the index-digest included in the annual volumes of the Decisions of the Department of the Interior.

The Taylor Grazing Act and the Department's related regulations have been amended or modified from time to time. Therefore, some of the rulings and principles contained in the compiled decisions may not be applicable under the current law and regulations.

This compilation may be cited as "Interior Grazing Decisions," or "IGD —". Some of the compiled decisions were previously reported in the Decisions of the Department of the Interior. These are so noted and should continue to be cited by the volume and page of the Interior Decisions where they appear (e.g. — I.D. —).

No supplements to this compilation are planned. Decisions and opinions of the Department are available, as they are rendered, to all Department and Bureau offices and to the public. Decisions and opinions appearing in the annual volumes of Interior Decisions (i.e., the "I.D." series) are published and copies may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington 25, D.C. Copies of unpublished decisions and opinions may be obtained from the Office of the Solicitor, U.S. Department of the Interior, Washington, 25 D.C.



Director, Bureau of Land Management.

III

Grazing Decisions are issued as unpublished IBLA's. Those selected for publication are found in the L.D.'s and I.D.'s.

Citation to *Grazing Decisions*: If the Decisions are published in the IGD, citation may be to that volume.

Example: *Ed O. Brown*, IGD 370 (1944).

For decisions issued as IBLA decisions, cite to the IBLA decision as shown on top of page 000.

Access to *Grazing Decisions* is through the *Index-Digests of the Department of Interior*.

iv. **Solicitor's Opinions ("M")**

"M" Opinions are matters involving an interpretation of a law or regulation without a specific set of facts, or for a particular case. "M" Opinions are signed only by the Solicitor. Many opinions are written by a Solicitor's office, but "M" Opinions are the really important ones. In some cases, The Solicitor may ratify or approve a subordinate's opinion thereby making it an "M" Opinion. Important "M" Opinions may be selected for publication in the L.D.'s or I.D.'s. (See **illustration [56]**.) Otherwise, the "M" Opinions are unpublished. Solicitors and BLM Libraries keep these "M" Opinions in looseleaf binders. The Opinions are filed by number and date of opinion.

Citation to "M" Opinions: (if unpublished) *BLM's Survey Authority with Respect to Acquired*

Lands, M-12345, (January 21, 1981).

(If published, *always* cite to the published source.) *The Extent to Which the National Historic Preservation Act Requires Cultural Resources to be Identified and Considered in the Grant of a Federal Right-of-Way*, 87 I.D. 27, (1979), M-36917.

Access to published "M" Opinions is through the *Index-Digests of the Department of Interior*.

b) **Decisions by the Director of BLM, State Directors, Administrative Law Judges, District Managers and Area Managers.**

District and State Office Decisions are generally informal "letter" decisions, copies of which are not formally distributed. Such decisions are not binding as precedents. Depending on the type case, administrative appeals are to the State Director, Administrative Law Judge or directly to IBLA. (Refer to Chart, **Illustration [52]**.)

Administrative Law Judges (ALJ) write opinions on factual issues only. Their opinions are not binding as precedents. Appeal from an ALJ decision is to the IBLA. (Refer to Chart, **Illustration [52]**.) ALJ decisions are distributed in photo-reproduced form to various Department of Interior offices.

b. **Other Administrative Agency Materials**

1) **Interior and BLM related materials**

a) **Manuals**

i. **Departmental Manuals**

A *Departmental Manual* is an

internal reference work which contains the organizational structure of Departments and Agencies, the delegations of authority, standards, procedures and policies. The *Departmental Manual* for Interior defines and identifies BLM policies and responsibilities.

Departmental Manuals are cited only for internal purposes.

Example of citation to a *Departmental Manual*:

Eg. 101 DM 6.1A (references are to part, department manual, chapter, and section numbers.)

ii. ***BLM Manual (Local)***

BLM Manuals contain written policies, objectives, procedures, as well as technical information, circulars and general information needed for efficient operation and function of each BLM office. There have been three series of manuals published: (1) the manual prior to 1964, (2) the manual covering 1964-1970 and (3) the current *Manual*, 1971 to date.

In the current *BLM Manual*, the organizational numbering for the subject-function classification system is from 43 CFR *BLM Manual* 1220, Appendix 1, contains this numerical filing system used by the Bureau. Appendix 2 is the alphabetical index to the subject-function classification system, which represents the major functions of the Bureau. These major headings are further subheaded to represent the subfunctions. Each heading has a number code

which ties related sections of the regulations and the *BLM Manual* to correspondence file categories, forms, and report numbers. All official or general correspondence prepared by Bureau personnel not involving an application or other type of serialized case, contains a reference code based on the subject-function classification system. The correspondence is then maintained in central files by subject-function code. Changes in the subject-function classification system are occasionally made by Washington and sent to offices in the form of memoranda. Local offices adapt certain parts of the system to better serve their local needs.

Citation to *BLM Manual*:
BLM 9230.81

(Functions Heading from 43 CFR)

9230 — Trespass

(Subfunction Headings By BLM)

.8 — Doing Business with Trespassers.

.81 — Persons Subject to Restrictions.

iii. ***BLM Manual (Other States)***

As an aid to help local BLM offices keep abreast of out-of-state information, each BLM library receives the Manuals from the other states.

b. ***Organic Act Directives (O.A.D.'s)*** - Federal Land Policy and Management Act (FLPMA)

The Federal Land Policy and Management Act of 1976 (FLPMA) was enacted to establish public land policy; to estab-

lish guidelines for its administration; and to provide for the management, protection, development and enhancement of the public lands. Since 1976 the Washington office of the Department of Interior issued directives — much like instruction memoranda — which deal with FLPMA. However, Director's Office *Instruction Memorandum* No. 81-66 ended the issuance of OAD's as of December 31, 1981. Officials who originated these directives were instructed to review them and convert material which is still valid to the appropriate *BLM Manual* Sections or to *Instruction or Information Memoranda* by January 31, 1982. All OAD's issued are still in effect unless their contents have been incorporated into the *BLM Manual* or they have been otherwise superseded or canceled. (See OAD No. 78-64 and *Director's Instruction Memorandum* No. 81-66 and No. 81-66 Change 1.)

c) **Public Land Orders (PLO)**

P.L.O.'s are orders signed by the Secretary or Assistant Secretary withdrawing lands from operation of some of the public land laws, or orders revoking withdrawals.

For a list of P.L.O.'s, see 43 CFR 823, Appendix-Table of Public Land Orders, 1942-1980.

d) **Memoranda**

i. **Information** ii. **Instruction**

Office issue and receive two types of memoranda: *Information Memoranda* disseminate information; *Instruction Memoranda* instruct or direct some action, and interpret existing instructions,

regulations and policies.

Both types of memoranda are filed in looseleaf binders by year and memoranda number. If an instruction memoranda contains a permanent order, it is filed in the *BLM Manual* by subject-function classification number.

Since there are numerous offices (e.g. Washington, Service Center, State, District) issuing memoranda, local offices usually file the memoranda in color-coded binders to distinguish the issuing office and types of memoranda.

To access memoranda which are issued as directives, consult the individual offices for their *Directives Digest Bulletins*.

2) **Private Publications related to Interior matters**

a) **Rocky Mountain Mineral Law Foundation**

- i. *Gower Federal Service*
- ii. *Rocky Mountain Institute*

b) **Looseleaf Services**

Several looseleaf services report on BLM matters. Example: Environment Reporter (Bureau of National Affairs), Energy Management (Commerce Clearing House), Oil and Gas Reporter (Southwestern Legal Foundation).

c. **Finding Tools**

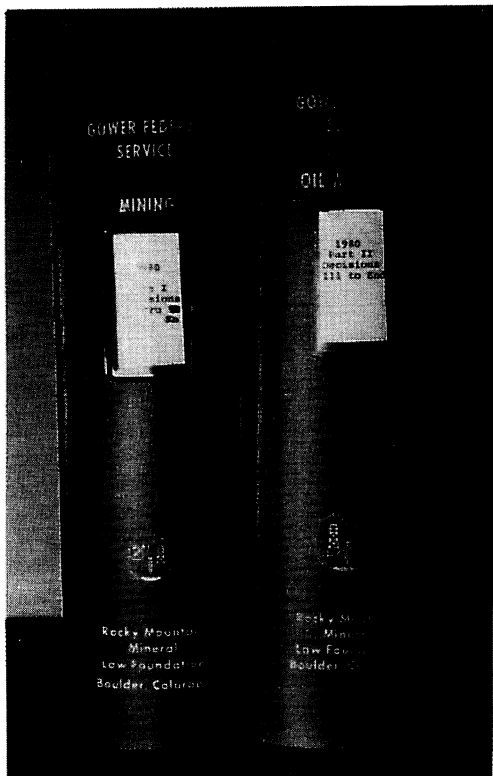
1) **Digests of Decisions of the Department of the Interior** (Titles vary)

These index-digest volumes contain various tables and digested summaries of cases and opinions from the LD's and

ID's, and, in some index-digests, summaries of unpublished cases and opinions.

Also, individual volumes of LD's and ID's have similar tables and index-digests.

The following chart gives a list of volumes necessary to access the LD's and ID's from volume 1 to date.



The Rocky Mountain Mineral Law Foundation was organized in 1955 as a non-profit Colorado corporation in order to provide needed publications and continuing legal education for legal practitioners and corporate counsel interested in natural resources law. Established as a cooperative project of law schools, bar associations and mineral industry associations, the Foundation's aims are to foster and encourage, in industry, in law firms and in participating law schools, a scholarly and yet practical study of natural resources law including mining, oil and gas, water, public land, and related environmental law.

These aims are being accomplished through a series of annual and special institutes, publications, and other services relating to natural resources law designed for attorneys and other persons active in oil and gas, mining, mineral leasing, water and public land matters.

PUBLICATIONS: The looseleaf *Gower Federal Services* published by the Foundation include the *Oil and Gas Service*, the *Mining Service* (includes both mining under the 1872 Mining Law and mineral leasing), the *Outer Continental Shelf Service*, and the *Miscellaneous Land Decisions Service*.

With the exception of the *Miscellaneous Land Decisions Service*, which is limited to indices and other I.B.L.A. decisions relating to public lands, these Services essentially contain the following materials: Applicable federal laws, regulations and proposed regulations; operating orders and proposed orders; and all of the related annotated decisions of the Interior Board of Land Appeals and certain Solicitor's Memorandum Opinions relative to the acquisition and maintenance of mining claims and federal oil and gas and mineral leases. The *Mining Service* also contains state mining laws governing federal lands for most of the western states. All of the services contain extensive indices and cross-references.

Two treatises, the *American Law of Mining* and the *Law of Federal Oil and Gas Leases*, have been compiled and are supplemented annually by the Foundation; they are published by Matthew Bender & Company. The *American Law of Mining* is a five-volume treatise covering nearly all areas of mining and mineral leasing law. The two-volume *Law of Federal Oil and Gas Leases* analyzes the laws, regulations and decisions concerning oil and gas leasing on federal and Indian lands.

Other publications of the Foundation include: *Landman's Legal Handbook* (3rd Ed.); *Natural Resources Law on American Indian Lands*; *Digest of Mining Claim Laws*; *Environmental Analysis—A Guide to Federal Environmental Concerns*, registrants' manuals from special institutes on Federal Land Status Determination, Federal Mineral Leasing (non-oil and gas), Natural Resources Environmental Law, Western Coal Development, International Minerals Acquisition and Operations, Western Patenting Procedures, Offshore Exploration, Drilling and Development, Indian Land Development, Uranium Exploration and Development, Geothermal Resources Development, Mineral Taxation, Mineral Title Examination, Water Acquisition for Mineral Development, Alaska Mineral Development, Natural Resources for Legal Assistants and Land Support Personnel, Basic Oil and Gas Technology, Mining Agreements, Western Land Use Regulation and Mined Land Reclamation, Pooling and Unitization of Oil and Gas Interests, and Mining Exploration Technology. A variety of oil and gas and mining operating agreement forms are also available.

INSTITUTES: Since 1955, the annual institutes have brought together outstanding experts in the legal profession, government agencies, and other professions interested in subjects involving the public domain, oil and gas, mining and water law. The papers presented at these institutes are expanded into authoritative articles published in the *Annual Proceedings*. A cumulative Index covering the First through the Tenth Institutes is available as well as a second Index covering the Eleventh through the Twenty-second Institutes.

THE PUBLIC LAND AND RESOURCES LAW DIGEST, V.17, #1, 1980, P. 5-6

TABLE OF DIGESTS OF DECISIONS OF THE DEPARTMENT OF INTERIOR

| SPINE TITLE (Title page titles vary with spine titles) | VOLUMES | YEARS | INDEX- DIGEST TABLES | DATE OF PUBLICATIONS |
|---|-----------------------------------|---------------------|---------------------------|-------------------------|
| Digest of Decisions of the Department of the Interior Relating to Public Lands | Volumes 1 to 40 Inclusive Part 1 | 1881-April 1912 | X | 1913 |
| Digest Of Public Land Decisions | Volumes 41 to 51 Inclusive Part 1 | May 1912-Dec. 1926 | X | 1928 |
| Digest of Decisions of the Department of the Interior Relating to Public Lands | Volumes 1 to 50 Inclusive Part 2 | 1881-August 1923 | | X 1927 |
| Digest of Decisions of the United States Department of the Interior Related to Public Lands | Volumes 52 to 61 Inclusive Part 1 | Jan. 1927-Dec. 1954 | X | 1962 |
| Index Digest of Decisions of the United States Department of the Interior | Volumes 51 to 61 Inclusive Part 2 | Jan. 1925-Dec. 1954 | | X 1963 |
| Decennial Index-Digest of the Department of the Interior | Volumes 62 to 71 Inclusive Part 1 | Jan. 1955-Dec. 1964 | X | 1969 |
| Decennial Index-Digest of the Department of the Interior | Volumes 62 to 71 Inclusive Part 2 | Jan. 1955-Dec. 1964 | | X [1975] |
| Decennial Index-Digest of the Department of the Interior | Volumes 72 to 81 Inclusive | Jan. 1965-Dec. 1974 | X | X [1980] |
| Quinquennial Index-Digest of the Department of the Interior | Volumes 82 to 86 Inclusive | Jan. 1975-Dec. 1979 | X | X [1981] |
| Decisions of the United States Department of the Interior | 87 | 1980 | X | X [1981] |
| Decisions of the United States Department of the Interior | 88 | 1981 | Jan.-June 1981 Supplement | [1981] |

Note: The publication "Cumulative Index-Digest of Unpublished Decisions for the Period 1943-1954 Inclusive" is unique in that it covers only *unpublished* decisions. Other Index-Digests include published and unpublished decisions.

2) Public Land and Resources Law Digest

Illustration [57] gives the information printed in current issues of the *Public Land and Resources Law Digest* describing this publication.

3) Directives Digest Bulletin

Bulletins are issued by the department and other offices that write directives to insure that only current and valid instructions, manuals, forms, etc., are being followed.

Semi-annual and annual editions contain lists of all *Instruction* and *Information Memoranda* and all Organic Act Directives currently in force. Between semi-annual and annual publications, the *Bulletin* is issued with lists of all new *Instruction* and *Information Memoranda*, *Manual* releases, messages, regulations (circulars), forms, etc.

The *Directives Digest Bulletin* is also used to determine whether a memorandum has been extended.

4) ***Digest of Public Land Laws***

Prepared for the Public Land Law Review Commission by Shepard's Citations, Inc., June 1968, Washington, D.C.

The digest was designed to assemble in one work a brief summary of each of the statutes currently in effect relating to the administration, management, or disposition of public lands.

Arrangement is by *Statutes at Large* citations. Each summary is chronologically numbered. Number 1 refers to the first summary from 1 STAT. 257 (April 21, 1792) published through 2669 (from 80 STAT. 1309, November 5, 1966).

(See Illustration [58].)

5) **U.S. Government Superintendent of Documents Classification System**

All U.S. Government Publications sent to U.S. Government Depository Libraries and to government offices are clas-

sified by letter abbreviation identifying the Department followed by a numerical designation, e.g., *I53.7/2*; *I* means Interior; 53 means BLM; 7/2 represents handbooks, manuals and guides.

Access to U.S. Government Documents is through the *Monthly Catalog of United States Government Publications* or through Publications Reference File (PRF) (in microfiche). (For more detailed information about the *Monthly Catalog*, see **SECTION IV, A. 12**).

6) ***Shepard's Citations***

The various *Shepard's Citations* are unique tools to help locate and evaluate cases and statutes. These publications are covered in **SECTION II, E.1.c.** and **SECTION IV, A.9.**

(2)
PARALLEL CITATIONS

U.S. SUPREME COURT REPORTS

59 L Ed 2d

[440 US 173]
ILLINOIS STATE BOARD OF ELECTIONS, Appellant,

v

SOCIALIST WORKERS PARTY et al.

440 US 173, 59 L Ed 2d 230, 99 S Ct 983

[No. 77-1248]

Argued November 6, 1978. Decided February 22, 1979.

Decision: Signature requirement of Illinois Elections Code for new political party and independent candidate gaining access to ballot, held violative of equal protection as applied to Chicago mayoral election.

SUMMARY

Because of the distinction drawn by the Illinois Election Code as to the requirement for a new political party or independent candidate appearing on the ballot in statewide elections and the requirement for a new political party or independent candidate appearing on the ballot in elections for offices of political subdivisions of the state—the Code requiring, as to a statewide election, that the signatures of 25,000 qualified voters be obtained, and, as to an election for a local office, that the signatures of five percent of the number of persons who voted at the previous election for the local office be obtained—an independent candidate or new political party seeking access to the ballot for a special mayoral election in Chicago had to obtain more than 25,000 signatures to appear on the ballot. An independent candidate and certain new political parties who desired to appear on the ballot for the Chicago mayoral election challenged, in the United States District Court for the Northern District of Illinois, the constitutionality of the discrepancy between the requirement for state and city elections, asserting, among other things, that the discrepancy violated the equal protection clause of the Fourteenth Amendment. Finding as to the equal protection challenge that there was no rational reason why a petition with identical signatures could satisfy legitimate state interests for restricting ballot access in state elections and yet fail to do the same in an election in a lesser political unit, the District Court permanently enjoined enforcement of the five percent requirement insofar as it mandated more than the 25,000 signatures for the

(3)
THIS CASE WAS SELECTED FOR ANNOTATION. THE ANNOTATION BEGINS AT PAGE 852 IN THE BACK OF VOLUME 59 LEd 2d.

SUBJECT OF ANNOTATION

Beginning on page 852, infra

Fourteenth Amendment equal protection clause as affecting nomination or election to state office

(4)
SHOWS PAGE WHERE EXCERPTS OF LAWYERS' BRIEFS ARE INCLUDED

Briefs of Counsel, p 849, infra.

(2)
PARALLEL CITATION

LEO SHEEP CO. v UNITED STATES
440 US 668, 59 L Ed 2d 677, 99 S Ct 1403

35-day voyage via the Isthmus of Panama, and a better than 4-month voyage around Cape Horn. They obviously yearned for another alternative, and interest focused on the transcontinental railroad.

War. That the venture was much too risky and much too expensive for private capital alone was evident in the years of fruitless exhortation; private investors would not move without tangible governmental inducement.³

(2)
CROSS REFERENCES TO VOLUME AND PAGE OF UNITED STATES REPORTS

The idea of a transcontinental railroad predated the California gold rush. From the time that Asa Whitney had proposed a relatively practical plan for its construction in 1844 it had, in the words of one of this century's leading historians of the era, "engaged the eager attention of promoters and politicians [440 US 671]

In the mid-19th century there was serious disagreement as [440 US 672]

FIRST WORD ON PAGE
671 OF 440 U.S.

until dozens of schemes were in the air."² The building of the railroad was not to be the unalloyed product of the free-enterprise system. There was indeed the inspiration of men like Thomas Durant and Leland Stanford and the perspiration of a generation of immigrants, but animating it all was the desire of the Federal Government that the West be settled. This desire was intensified by the need to provide a logistical link with California in the heat of the Civil

to the forms that inducement could take. Mr. Justice Story, in his Commentaries on the Constitution, described one extant school of thought which argued that "internal improvements," such as railroads, were not within the enumerated constitutional powers of Congress.⁴ Under such a theory, the direct subsidy of a transcontinental railroad was constitutionally suspect—an uneasiness aggravated by President Andrew Jackson's 1830 veto of a bill appropriating funds to construct a road from Maysville to Lexington within the State of Kentucky.⁵

LAST WORD ON PAGE
671 OF 440 U.S.

The response to this constitutional "gray" area, and source of political

2. 2 Nevins, *supra* n 1, at 82.

3. That exhortation came from some of the great visionaries of the 19th century. On the floor of the House, Thomas Hart Benton compared eastern Kansas to Egypt and extolled the wealth that would be shared by a private railroad to California. Athearn, *supra* n 1, at 22-23. Senator William H. Seward of New York, a man not known for his timidity, proclaimed "that a railroad is necessary, and ought to be built; and I think it has been scientifically demonstrated . . . that not only one such road is feasible, but that at least three, four, or five routes offer the necessary facilities for the security of this great object." Cong Globe, 35th Cong, 1st Sess, 1584 (1858). In his book *An Overland Journey*, Horace Greeley was equally enthusiastic. He went so far as to calculate the economic feasibility of the proposed railroad line by estimating potential revenue, based on the value of current shipments of gold from California, passenger fares that could be obtained, and the cost to

the Government of transporting and maintaining an army in the West and providing mail services. H. Greeley, *An Overland Journey* 310-316 (C. Duncan ed 1964).

But despite his enthusiasm Greeley appreciated that the effort was beyond private capital alone. "The amount is too vast; the enterprise too formidable; the returns too remote and uncertain." "[W]hat assurance could an association of private citizens have that, having devoted their means and energies to the construction of such a road, it would not be rivaled and destroyed by a similar work on some other route?" *Id.*, at 324.

4. 2 J. Story, *Commentaries on the Constitution* 166-172 (5th ed 1891). See Cong Globe, 35th Cong, 2d Sess, 579-585 (1859) (Sen. Andrew Johnson).

5. 2 J. Richardson, *A Compilation of the Messages and Papers of the Presidents 1789-1897*, pp 483-493 (1896).

Pacific Act, the United States had no implied right of way—under (1) the Union Pacific Act, (2) the doctrine of easement by necessity whereby a private landowner who conveys a portion of his land while retaining the rest is presumed to have reserved an easement to pass over the granted property when such passage is necessary to reach the retained property, or (3) the Unlawful Inclosures of Public Lands Act (43 USCS §§ 1061 et seq.) making it unlawful to enclose any public lands—to construct a road across even-numbered lots owned by the Union Pacific Railroad's successors in fee in order for the United States to provide public access to odd-numbered lots reserved for the federal government under the Union Pacific Act.

WHITE, J., did not participate.

HEADNOTES

Classified to U. S. Supreme Court Digest, Lawyers' Edition

Highways and Streets § 1 — access to government land — Union Pacific Act — doctrine of easement by necessity — Unlawful Inclosures of Public Lands Act

1a, 1b. As to lots granted to the Union Pacific Railroad and retained by the United States pursuant to the Union Pacific Act of 1862 (12 Stat 489), which established a system whereby land surrounding the right of way for a transcontinental railroad was divided into "checkerboard" blocks, with odd-numbered lots being granted to the Union Pacific Railroad and even-numbered lots being reserved for the United States, the United States has no implied right of way—under (1) the Union Pacific Act of 1862, (2) the doctrine of easement by necessity whereby a private landowner who conveys a portion of his lands while retaining the rest is presumed to have reserved an easement to pass over the granted property if such passage is necessary to reach the retained property, or (3) the Unlawful Inclosures of Public Lands Act (43 USCS §§ 1061 et seq.), which makes unlawful the enclosure of public lands—which would allow the United States to construct a road across odd-numbered lots owned by the Union Pacific Railroad's successors in fee in order for the federal government to provide public access to even-numbered lots

(5)
REFERENCES TO OTHER
L.C.P. PUBLICATIONS

TOTAL CLIENT-SERVICE LIBRARY® REFERENCES

- 39 Am Jur 2d, Highways, Streets, and Bridges §§ 22 et seq.;
- 63 Am Jur 2d, Public Lands §§ 78 et seq.
- US L Ed Digest, Highways and Streets § 1
- L Ed Index to Annos, Highways; Public Lands
- ALR Quick Index, Public Lands; Right of Way
- Federal Quick Index, Public Lands; Right of Way

ANNOTATION REFERENCE

Supreme Court's views on weight to be accorded to pronouncements of legislature, or members of legislature, respecting meaning or intent of previously enacted statute. 56 L Ed 2d 895.

440 U.S. 668

LEO SHEEP CO. v. UNITED STATES

1403

Cite as 99 S.Ct. 1403 (1979)

(2)
PARALLEL CITATIONS

(2)
CROSS REFERENCE
TO PAGE 667 IN
VOLUME 440 U.S.

such evidence, the State's determination that random stops would serve a deterrence function should stand.

On the other side of the balance, the Court advances only the most diaphanous of citizen interests. Indeed, the Court does not say that these interests can never be infringed by the State, just that the State must infringe them en masse rather than citizen by citizen. To comply with the Fourth Amendment, the State need only subject all citizens to the same "anxiety" and "inconvenien[ce]" to which it now subjects only a few.

¹⁶⁶⁷ For constitutional purposes, the action of an individual law enforcement officer is the action of the State itself, e. g., *Ex parte Virginia*, 100 U.S. 339, 346-347, 25 L.Ed. 676 (1880), and state acts are accompanied by a presumption of validity until shown otherwise. See, e. g., *McDonald v. Board of Election*, 394 U.S. 802, 89 S.Ct. 1404, 22 L.Ed.2d 739 (1969). Although a system of discretionary stops could conceivably be abused, the record before us contains no showing that such abuse is probable or even likely. Nor is there evidence in the record that a system of random license checks would fail adequately to further the State's interest in deterring and apprehending violators. Nevertheless, the Court concludes "[o]n the record before us" that the random spot check is not "a sufficiently productive mechanism to justify the intrusion upon Fourth Amendment interests which such stops entail." *Ante*, at 1399. I think that the Court's approach reverses the presumption of constitutionality accorded acts of the States. The burden is not upon the State to demonstrate that its procedures are consistent with the Fourth Amendment, but upon respondent to demonstrate that they are not. "On this record" respondent has failed to make such a demonstration.

Neither the Court's opinion, nor the opinion of the Supreme Court of Delaware, suggests that the random stop made in this case was carried out in a manner inconsistent with the Equal Protection Clause of the Fourteenth Amendment. Absent an equal

protection violation, the fact that random stops may entail "a possibly unsettling show of authority," *ante*, at 1398, and "may create substantial anxiety," *ibid.*, seems an insufficient basis to distinguish for Fourth Amendment purposes between a roadblock stopping all cars and the random stop at issue here. Accordingly, I would reverse the judgment of the Supreme Court of Delaware.

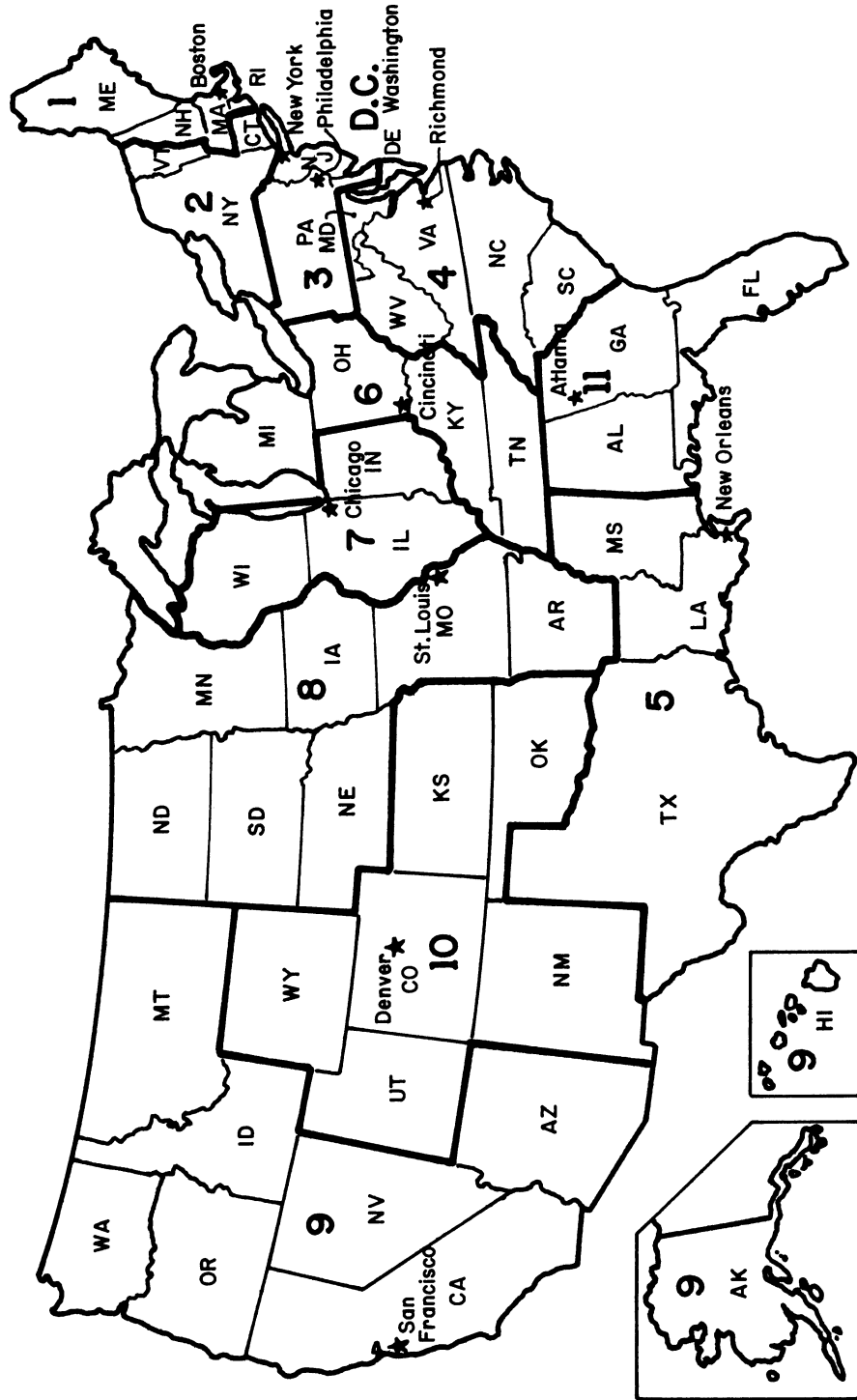


440 U.S. 668, 59 L.Ed.2d 677
LEO SHEEP COMPANY et al., Petitioners,
v.
UNITED STATES et al.
77-1686.
Argued Jan. 15, 16, 1979.
Decided March 27, 1979.

Corporate owners of land which had been granted by Congress to a railroad in 1862 brought suit against the United States for declaratory and injunctive relief under the Quiet Title Act. The landowners claimed that the United States had unlawfully entered their property. The United States District Court for the District of Wyoming, Ewing T. Kerr, J., ruled in favor of the landowners. The United States appealed, and the Court of Appeals for the Tenth Circuit, 570 F.2d 881, reversed. On certiorari, the Supreme Court, Mr. Justice Rehnquist, held that the Government has no implied easement to build a road across land that was originally granted to the Union Pacific Railroad under the Union Pacific Act of 1862, a grant that was part of governmental scheme to subsidize construction of transcontinental railroad.

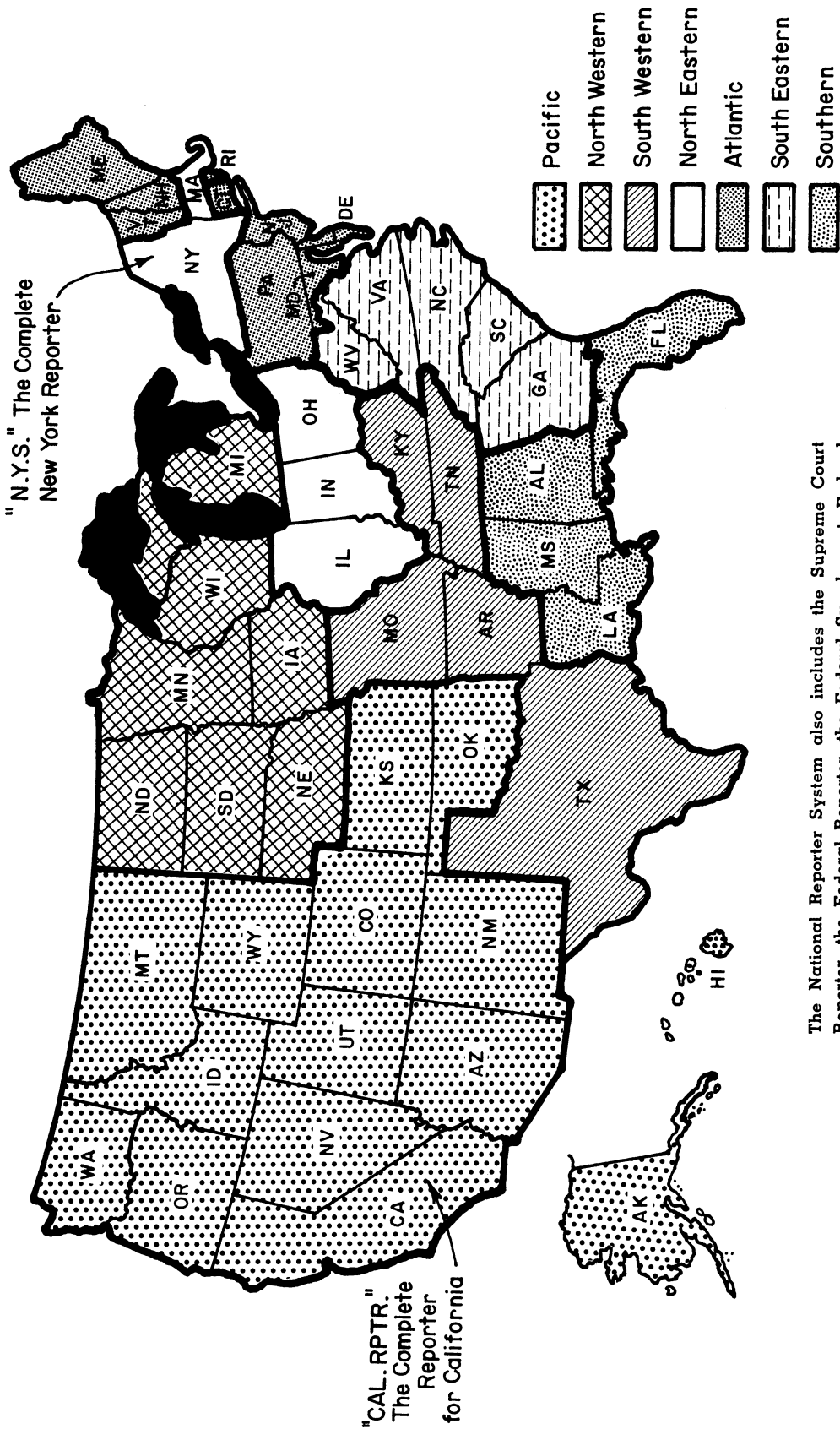
Reversed.

The Twelve Federal Judicial Circuits



* There are twelve Federal Judicial Circuits, eleven plus D.C.

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| 49 | 532 | 962 | 127 | 533 | 32 | 207 | 533 | 1116 | 297 | 534 | 791 | 385 | 534 | 1193 | 437 | 535 | 1117 |
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Mines and Minerals

ALR3d

MINES AND MINERALS

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- § 2. What are minerals
- § 3. Rights and duties
- § 4. Liability for loss, damage or injury
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ALR FED

UNION OIL COMPANY OF CALIFORNIA et al.,
Plaintiffs-Appellants,

v

The Honorable Rogers C. B. MORTON, Secretary of
the Interior of the United States of America, et al.,
Defendants-Appellees

United States Court of Appeals, Ninth Circuit
February 24, 1975

512 F2d 743, 31 ALR Fed 601

As amended on denial of rehearing April 29, 1975

A REPRESENTATIVE CASE

SUMMARY OF DECISION

A BRIEF SYNOPSIS OF
THE CASE IS PROVIDED

The United States District Court for the Central District of California, Ray C. McNichols, District Judge, dismissed the complaint of four major oil companies to set aside an order of the Secretary of the Interior denying them permission to construct a drilling platform in the Santa Barbara Channel, which they alleged was necessary for full exercise of their rights under a federal oil and gas lease. The court held that the Secretary's order was within his statutory authority.

The United States Court of Appeals, Ninth Circuit, Choy, Circuit Judge, vacated the decision of the district court and remanded for further proceedings, holding that the Secretary, once an oil and gas lease was entered pursuant to provisions of the Outer Continental Shelf Lands Act, could not suspend operations of the lessee in such manner that it would amount to cancellation of the lease and the taking of property without due process. Consequently, the court directed the lower court to allow the Secretary to prepare and present an amended

SUBJECT OF ANNOTATION

DESCRIBES SUBJECT
OF ANNOTATION

Beginning on page 615

PAGE ON WHICH
ANNOTATION BEGINS

GRANT, ADMINISTRATION, AND CONSTRUCTION, UNDER
OUTER CONTINENTAL SHELF LANDS ACT OF 1953 (43
USCS §§ 1331 et seq.), OF LEASES TO EXPLORE FOR OIL
AND GAS DEPOSITS UNDER CONTINENTAL SHELF

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HEADNOTES SUMMARIZE THE HOLDINGS OF THE COURT

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statement of the grounds on which he based suspension, at its discretion receiving additional evidence and testimony in support of and in opposition to the Secretary's amended justification, and then to determine whether each justification advanced by the Secretary was appropriate.

HEADNOTES

Classified to ALR Digests

Mines and Minerals § 22.5 — leases under Outer Continental Shelf Lands Act

1. An oil and gas lease issued under the Outer Continental Shelf Lands Act does not convey title in the land and does not convey an unencumbered estate in the oil and gas. The property interest of the lessee is subject to safeguards provided by the Act to insure that the exploitation of resources would inure to the benefit of the entire nation.

[Annotated]

tion of an oil and gas lease under the Outer Continental Shelf Lands Act denying the lessee the right to erect an additional drilling platform is not inconsistent with an express provision of the lease granting the lessee "the right to construct or erect . . . all artificial islands, platforms, fixed or floating structures . . . necessary or convenient to the full enjoyment of the rights granted by this lease" Terms of a government lease are to be construed to conform to the

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ARGUMENTS OF COUNSEL ARE EPITOMIZED

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 (CA9) 512 F2d 743, 31 ALR Fed 601

BRIEF OF COUNSEL

Samuel O. Pruitt, Jr. (argued), Los Angeles, Cal., for plaintiffs-appellees:

Where the language in a government outer continental shelf oil and gas lease is ambiguous, it is to be construed strictly against the government. *Standard Oil Co. v Morton*, 450 F2d 493, 495.

After the former Secretary of Interior had fully exhausted his discretion by approving lessees' application for platform "C" the present Secretary cannot wholly prohibit the platform, but may only reasonably regulate its appearance, its paint, its safety in an operating condition, or respond to true emergency situations. *United States v Kopf*, 379 F2d 8; *Chapman v El Paso Natural Gas Co.* 204 F2d 46.

The Outer Continental Shelf Lands Act § 5(b)(2), 43 USCS § 1334(b)(2), and the law specifically provide that the Secretary shall call only for such regulations as are necessary to carry out the provisions of this statute relating to leasing. OCS Act § 5(a)(1), 43 USCS § 1334(a)(1).

All the provisions of the OCS Act must be interpreted in a way harmonious with the only purpose of the statute and the leases. They cannot be read to authorize regulations which completely frustrate or defeat the only purpose of the statute and the leases. They authorize reasonable regulation of operations pursuant to the leases; they do not authorize regulations having the effect of prohibiting all or any part of the operations pursuant to the lease unless such prohibition is itself necessary to enhance the ultimate benefits to the parties in the performance of the lease.

The Secretary's order violated procedural due process because it compelled the lessees to install the platform of

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COURT'S OPINION IS REPORTED IN FULL AS REPORTED IN THE REPORTS AND REPORTERS

OPINION OF THE COURT

CHOY, Circuit Judge:

Four major oil companies brought this action to set aside an order of the Secretary of the Interior denying them permission to construct a drilling platform in the Santa Barbara Channel which they allege is necessary for full exercise of their rights under a federal oil and gas lease. The companies also seek to enjoin the Secretary from further interference with enjoyment of their lease rights. The district court held that the Secretary's order was within his statutory authority and was not arbitrary, capricious, or an abuse of discretion, and dismissed the complaint. We vacate the decision of the district court and remand for further proceedings.

Factual Background

In February 1968, the four companies (hereinafter "Union") paid over \$61 million for oil and gas rights on tract OSC.P.0241. The leased tract lies on the coast of the Santa Barbara Channel, beyond the Santa Barbara Channel.

SIGNED ANNOTATION FOLLOWS THE REPORTED CASE

ANNOTATION

GRANT, ADMINISTRATION, AND CONSTRUCTION, UNDER OUTER CONTINENTAL SHELF LANDS ACT OF 1953 (43 USCS §§ 1331 et seq.), OF LEASES TO EXPLORE FOR OIL AND GAS DEPOSITS UNDER CONTINENTAL SHELF

by

Robert A. Brazener, J.D., LL.M.

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 - [a] Scope
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 - [c] Relevant statutory and regulatory provisions
- § 2. Summary and comment

II. GRANT OR TERMINATION OF LEASES

- § 3. Exclusive nature of federal regulation over leasing of submerged lands on Outer Continental Shelf
- § 4. Particular interpretations of leasing power of Secretary of Interior:

REFERENCES TO OTHER T.C.S.L. UNITS

TOTAL CLIENT SERVICE LIBRARY® REFERENCES

38 Am Jur 2d, Gas and Oil
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| Santa Barbara channel, blowout of well in, § 7[b] | Tort liability of lessee, § 10 |
| Scope of annotation, § 1[a] | Tracts for leasing, selection of, § 8 |
| Scope and purpose of lease, § 11[a] | Transfer of leasehold interests to third parties, § 11[a] |
| Secretary of Interior. Interior, Secretary of, supra | Validation of leases existing prior to enactment of OCSLA, § 4[b] |
| Security of nation considered by Corps of Engineers, § 8 | Vested rights under lease, § 7[b] |
| | Waiver of deficiency in bid, § 4[c] |

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Consult POCKET PART in this volume for later cases and statutory changes

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TABLE OF JURISDICTIONS REPRESENTED TO HELP LOCATE OTHER CASES

I. Introduction

§ 1. Prefatory matters

[a] Scope

This annotation collects and analyzes federal cases which discuss the Outer Continental Shelf Lands Act (43 USCS §§ 1331 et seq.), hereinafter referred to as OCSLA, insofar as that legislation affects (1) the granting

of leases by the Federal Government for the exploration and development of oil and gas deposits¹ under the Outer Continental Shelf,² (2) the administration of these leases by the Federal Government, and (3) the construction of particular provisions contained in these leases.

[b] Related matters

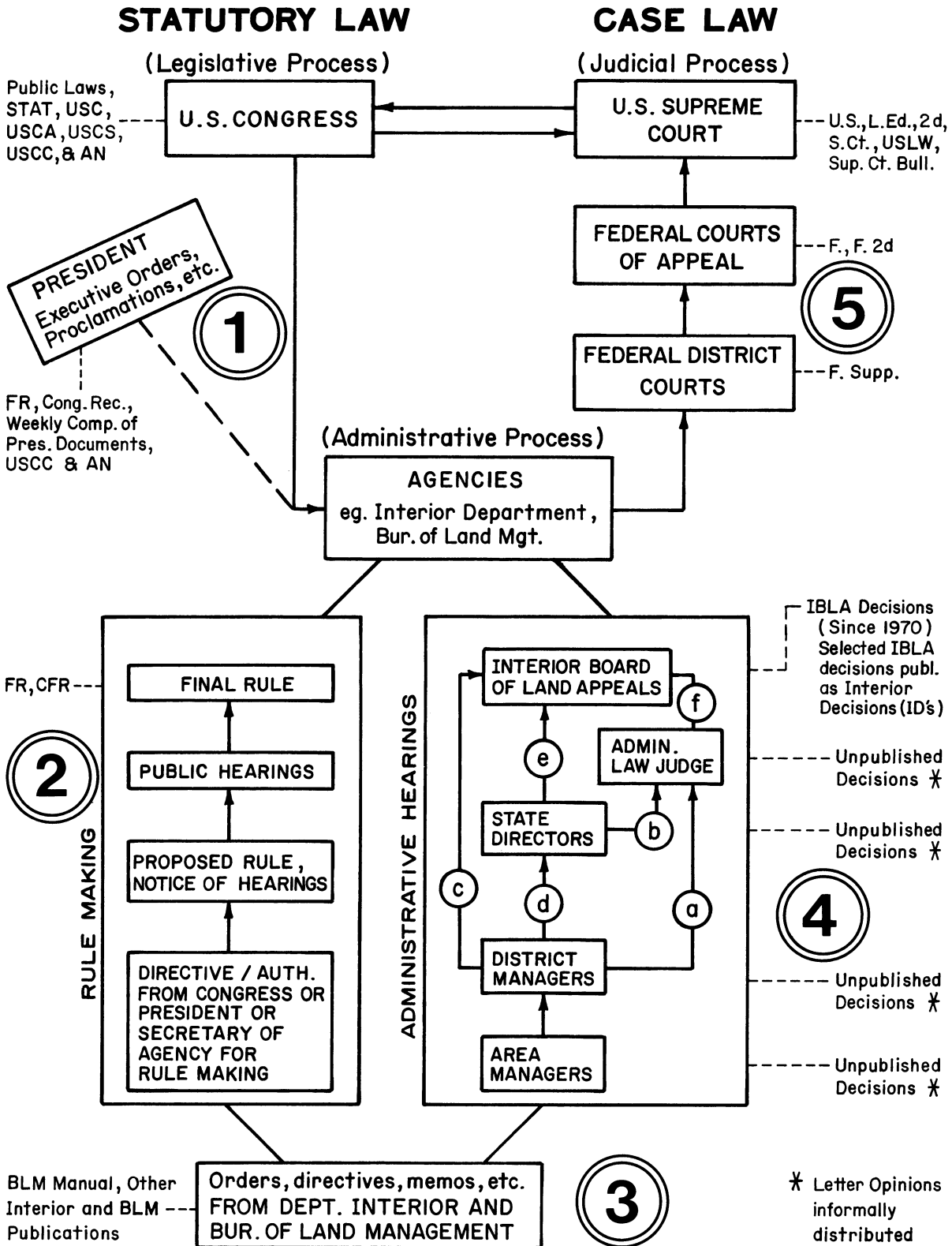
Construction and application of § 4

1. Leases involving the development of other minerals and resources on or under the Outer Continental Shelf are not discussed herein.

2. The term "Outer Continental Shelf"

refers to all submerged lands which lie seaward of state boundaries, and which are subject to the jurisdiction and control of the United States. See 43 USCS § 1331(a).

ANNOTATION (ANALYSIS) OF OPINION



agement decision appealed from is left unaffected by this decision.

This represents a unanimous decision of the Board.

JUDITH M. BRADY,
Administrative Judge.

ABIGAIL F. DUNNING,
Administrative Judge.

LAWRENCE MATSON,
Administrative Judge.

EARL W. PLATT

43 IBLA 41

Decided *September 18, 1979*

Appeal from decision of the Phoenix District Office, Bureau of Land Management and recommended decision of Administrative Law Judge Michael L. Morehouse partially rejecting an application for a grazing lease and awarding a lease to a conflicting applicant. Ariz. 020-2758.

Reversed.

1. Federal Land Policy and Management Act of 1976: Grazing Leases and Permits—Grazing Leases: Preference Right Applicants—Grazing Leases: Renewal

Where two preference right applicants file conflicting applications for a grazing lease, sec. 402(c) of FLPMA, 43 U.S.C. § 1752(c) (1976), mandates issuance of the new lease to the holder of the expiring lease provided that the holder of the expiring lease maintains his or her preference right qualifications and is otherwise in conformance with the applicable rules and regulations.

APPEARANCES: Mitchel D. Platt, Esq., Platt & Platt, St. Johns, Arizona, for appellant; Lawrence A. Ruzow, Esq., and Belinda Barrington, Esq., Vlassis, Ruzow & Crowder, Phoenix, Arizona, for Barbara Garcia, appellee; Fritz L. Goreham, Esq., Office of the Solicitor, U.S. Department of the Interior, for the Bureau of Land Management.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

INTERIOR BOARD OF LAND APPEALS

This case involves a controversy between two applicants for grazing leases on the same public land. It arises from a decision dated May 13, 1977, by the District Manager of the Bureau of Land Management (BLM), Phoenix District Office, which rejected in part Earl Platt's application to the extent of one-third of the allowable use and awarded him a lease for two-thirds of the allowable use. It awarded the other one-third use to Barbara Garcia. Following Platt's appeal to this Board, the Area Manager of the Phoenix Resource Area of the Phoenix District Office returned Garcia's check for the grazing fees dated May 31, 1977, in effect ruling that Platt could continue with all of the privileges granted under his former lease until resolution of the appeal. *See* 43 CFR 4.21.

In his appeal, Platt alleged, *inter alia*, that Garcia was not qualified to hold a grazing lease because she was not in the livestock business, did not

EXAMPLE OF IBLA
OPINION PUBLISHED
IN I.D. VOLUME

IBLA NUMBER



UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

SAMPLE
UNPUBLISHED
"A" DECISION

March 25, 1970

A-31105

: I - 2459

T. L. and George F. Bruckner

: Lode mining claim held
: void ab initio in part

: Affirmed

APPEAL FROM THE BUREAU OF LAND MANAGEMENT

T. L. and George F. Bruckner have appealed to the Secretary of the Interior from a decision dated December 9, 1968, by the Office of Appeals and Hearings, Bureau of Land Management, which affirmed a decision of the Idaho land office, dated September 19, 1968, holding the Elizabeth lode mining claim to be void ab initio in part. 1/

The claim was held to be void as to those portions of it which were situated within lots 5 and 6, sec. 30, T. 11 N., R. 14 E., B. M., because those lots were included in Powersite Reserve No. 587 withdrawn by Executive Order of March 21, 1917. Appellants' claim was located on July 2, 1935.

The decision appealed from fully discussed the issues of fact and law involved and cited applicable Departmental precedents. The appellants do not address themselves to this discussion but merely repeat the summary allegations that were made by their predecessor on his appeal from the land office decision.

If further discussion were necessary, we need only refer to the Department's decision in the case of Leslie G. and Rita M. Folwell, A-31104 (August 18, 1969), which held void ab initio a placer claim located on May 19, 1952, on the same lots 5 and 6 (and 8) in sec. 30, T. 11 N., R. 14 E., B. M. The Folwell decision fully discusses the pertinent law applicable here.

1/ The notice of appeal was filed by Royal C. Johnson, who at the time was the owner of the claim. However, before the statement of reasons in support of the appeal was filed, Johnson quitclaimed the claim to the Bruckners, who then filed the statement of reasons.



IN REPLY REFER TO:

United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF LAND APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VIRGINIA 22203



1981
IBLA 81-282
282 nd CASE

PAUL N. SCHERBEL
NAME OF PARTY

Decided September 21, 1981. DATE

Appeal from a decision of the Division of Cadastral Survey, Bureau of Land Management, dismissing a protest against the position of a quarter section corner reestablished during a dependent resurvey. Group No. 346, Wyoming.

Affirmed. DECISION

- 1. Surveys of Public Lands: Dependent Resurveys

Restoration of a lost corner by means of proportionate measurement in accordance with the record of the original survey is the proper procedure in a dependent resurvey where there is a lack of conclusive evidence as to the location of the original survey corner.

- 2. Surveys of Public Lands: Dependent Resurveys

Surveys of the United States, after acceptance, are presumed to be correct and will not be disturbed except upon clear proof that they are fraudulent or grossly erroneous. An appellant challenging a Government resurvey has the burden of establishing by clear and convincing evidence that the resurvey is not an accurate retracement and reestablishment of the lines of the original survey.

APPEARANCES: James R. Learned, Esq., Cheyenne, Wyoming, for appellant.

UNPUBLISHED IBLA DECISIONS
ARE FILED BY VOLUME AND
PAGE NUMBERS.

58 IBLA 52

27] THE EXTENT TO WHICH THE NATIONAL HISTORIC PRESERVATION ACT REQUIRES CULTURAL RESOURCES TO BE IDENTIFIED AND CONSIDERED IN THE GRANT OF A FEDERAL RIGHT-OF-WAY

27

December 6, 1979

THE EXTENT TO WHICH THE NATIONAL HISTORIC PRESERVATION ACT REQUIRES CULTURAL RESOURCES TO BE IDENTIFIED AND CONSIDERED IN THE GRANT OF A FEDERAL RIGHT-OF-WAY*

ing a right-of-way over Federal lands for a pipeline or other linear project to identify and consider cultural resources on non-Federal lands affected by construction activities on Federal lands. 36 CFR 800.4 (a).

"M" NUMBER

M-36917

December 6, 1979

1. National Historic Preservation Act: Generally—Rights-of-Way: Conditions and Limitations.

Sec. 106 of the National Historic Preservation Act requires an agency granting a right-of-way over Federal lands for a pipeline or other linear project to (1) identify potentially affected cultural resources; (2) consult regarding such effect with the Advisory Council on Historic Preservation; and (3) to consider these cultural resources in making or denying the grant. A rule of reason applies as to the scope of the lands to be inventoried, and the degree of effort required.

2. National Historic Preservation Act: Applicability—Rights-of-Way: Generally—Rights-of-Way: Conditions and Limitations.

The grant of a right-of-way over Federal land for a pipeline or other linear project is a Federal undertaking which requires the authorizing agency to comply with sec. 106 of the National Historic Preservation Act, as implemented by 36 CFR Part 800.

3. National Historic Preservation Act: Applicability—Rights-of-Way: Conditions and Limitations.

Sec. 106 of the National Historic Preservation Act requires an agency grant-

4. National Historic Preservation Act: Applicability—Rights-of-Way: Conditions and Limitations.

Sec. 106 of the National Historic Preservation Act requires an agency granting a right-of-way over Federal lands for a pipeline or other linear project to identify and consider cultural resources on non-Federal lands which may foreseeably be affected by the grant of the right-of-way. A rule of reason applies in determining the extent of non-Federal lands on which cultural resources are to be identified, and the degree of effort required. 36 CFR 800.4 (a)

5. National Historic Preservation Act: Applicability—Rights-of-Way: Conditions and Limitations.

In the grant of a right-of-way over Federal lands for a pipeline or other linear project, the scope of lands to which the requirements of sec. 106 of the National Historic Preservation Act apply may be analogous to the scope of lands to be considered pursuant to sec. 102 of the National Environmental Policy Act.

Western Slope Gas Co., 40 IBLA 280, reconsideration denied, 43 IBLA 259 (1979), overruled in pertinent part.

TO: SECRETARY
FROM: DEPUTY SOLICITOR
SUBJECT: THE EXTENT TO WHICH THE NATIONAL HISTORIC PRESERVATION ACT REQUIRES CULTURAL RESOURCES TO BE IDENTIFIED AND

I.D. VOLUME AND ADVANCE SHEET NUMBER

*Not in chronological order.

87 I.D. No. 2

THE PUBLIC LAND AND RESOURCES LAW DIGEST



Published Semi-annually by
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University of Colorado
Boulder, Colorado 80309

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The PUBLIC LAND AND RESOURCES LAW DIGEST, formerly the ROCKY MOUNTAIN MINERAL LAW REVIEW (prior to Volume 8, No. 1), was initiated in 1962 in order to provide an essential service to persons wishing to be kept informed of all legal periodical literature relating to natural resources law, including but not limited to public lands, mining, oil and gas, water, environmental matters, timber and grazing. The references and materials cited or contained herein are not readily available to most attorneys, since they are spread widely through various indices and other source materials. This digest-type publication provides attorneys with nearly all of the references to natural resources and public land law occurring in legal periodical literature.

Purposes of the PUBLIC LAND AND RESOURCES LAW DIGEST

The PUBLIC LAND AND RESOURCES LAW DIGEST is published to inform lawyers and other interested persons of all legal periodical literature relating to oil and gas and mining law, to western water, timber and grazing law, and to environmental law insofar as it has direct application to the exploration for and development of these natural resources. In all cases emphasis is placed on such literature as it relates to the public lands. These articles are reviewed semi-annually by the Editorial Board in determining the articles to be reprinted or abstracted. The natural resource-related articles are indexed by subject matter, title, and author.

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ALBATES FLINT QUARRY

Established by Act of June 18, 1954, ch. 310, 68 Stat. 255.

ABSTRACT
OF ACT

2198

Small Tract Act -- Act of June 8, 1954, ch. 270, 68 Stat. 239, 43 USC §§682b-682e (1964).

No tract of land may be sold for less than the cost of making the survey; patents to all tracts purchased under the Small Tract Act are to contain a mineral reservation in favor of the United States (Sec. 2). Leases or sales may be made to specified parties (Sec. 3), and employees of the Department of Interior, stationed in Alaska, may purchase a lease under this Act, subject to a special reversion clause (Sec. 4). Subject to exceptions, the reverted lands of the Oregon and California Railroads and Coos Bay Wagon Road grant lands located in Oregon may be leased under this Act (Sec. 5).

2199

Acquisition of Lands in Aid of Transmission and Disposition of Power at Falcon Dam, Texas -- Act of June 18, 1954, ch. 310, 68 Stat. 255.

In aid of the transmission of power at the Falcon Dam, Texas, the

SECTION III — CASE LAW

Review Exercise III

There are 14 questions, worth a total of 105 points. Point values are noted in parentheses. If your score is less than 75% you should review this section again. Answers follow this exercise.

1. Match statements with answers:
 - a) detailed analysis of case written by law editors
 - b) temporary, pamphlet-like publications used to update reporters
 - c) Name, volume and page where a case can be found
 - d) Cross reference to same case in another set

_____ Advance Sheets
_____ Citation
_____ Reporters
_____ Parallel Citations
_____ Annotation
(20)
2. Match statements with answers.
 - a) official U.S. Supreme Court cases
 - b) network of reporters by West
 - c) reports federal appellate cases
 - d) annotated U.S. Supreme Court cases
 - e) *Pacific* 1st and 2d

_____ *United States Reports, Lawyers' Edition*, 1st and 2d.
_____ *Federal Reporter*, 1st and 2d.
_____ Regional Reporter
_____ *United States Reports*
_____ *Federal Supplement*
_____ National Reporter System
(25)
3. The ALR system has annotations for about 10% of the state appellate cases reported.
True _____ False _____ (5)
4. To find cases in ALR volumes use the _____ Index. (5)
5. The "Total Client Service Library" cross references to West publications.
True _____ False _____ (5)
6. The same cases reported in the ALR system are also reported in other reports or reporters.
True _____ False _____ (5)
7. L.D.'s and I.D.'s report important opinions of the Department of Interior.
True _____ False _____ (5)
8. IBLA is an abbreviation for _____
_____. (5)
9. All IBLA decisions are published in the *Interior Decisions*.
True _____ False _____ (5)
10. *IBLA's* replaced "*A*" *Decisions*.
True _____ False _____ (5)
11. The *BLM Manual* is arranged by the subject-function classification.
True _____ False _____ (5)
12. State Director decisions are binding as legal precedents.
True _____ False _____ (5)
13. BLM offices issue and receive two types of Memoranda (a) _____ and (b) _____. (5)
14. The primary finding tool to locate L.D.'s and I.D.'s is *The Digests of Decisions of the Department of Interior*.
True _____ False _____ (5)

SECTION III — CASE LAW

Review Exercise III

Answers. (Page references are to source of questions and answers in workbook.)

1. (a) annotation p. 77
(b) advance sheet p. 77
(c) citation p. 77
(d) parallel citations p. 77
2. (a) *United States Reports* p. 79-80
(b) National Reporter System p. 85
(c) *Federal Reporter* 1st and 2d p. 83
(d) *United States Reports*, L.Ed.
1st & 2d p. 80-81
(e) Regional reporter p. 85
3. True p. 87
4. Quick p. 87
5. False p. 87
6. True p. 87
7. True p. 89-90
8. Interior Board of Land Appeals p. 91
9. False p. 91
10. True p. 91
11. True p. 94
12. False p. 93
13. (a) *Instruction* and p. 95
(b) *Information* p. 95
14. True p. 95, 98

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SECTION IV - FINDING TOOLS

As stated previously a researcher would be greatly handicapped in doing legal research without the finding tools listed in the outline. For example, without the finding tools to access the reports(ers) for case law, one would be hampered in finding cases on a particular point of law.

Some finding tools give explanations about a subject as well as facilitating access to the law, e.g., legal encyclopedias.

A. Finding Tools For Cases

1. Digests

The primary finding tools for cases are digests. A digest is an index to American case law. Most digests are published by West Publishing Company. West has a master digest, the *American Digest System*, and a digest for the Supreme Court, a digest system for the Federal courts and state digests as well as regional digests.

The following are the digests published by West:

American Digest System - Master index covers all appellate courts in the United States.

Regional Digests - cover the same states as regional reporters:

Atlantic Digest

North Western Digest

Pacific Digest

South Eastern Digest

Southern Digest

Special Digests (Jurisdictional)

U.S. Supreme Court:

U.S. Supreme Court Digest

Federal Courts:

Federal Digest (1754-1939)

Modern Federal Practice Digest (1929-1961)

Federal Practice Digest 2d (1961-date)

State Courts:

There are individual digests for 45 states.

There is no digest for Delaware, Nevada and Utah. Virginia and West Virginia are combined in one digest as are the Dakotas. **(See illustration [76].)**

A. 1. a. West Topic and Key Number

The makeup of a digest consists primarily of case summaries or headnotes. Case summaries for each case (like the summaries or headnotes explained in the *Hudspeth* case) are collected for each jurisdiction. These summaries are then arranged under appropriate topics or subjects of law. West then assigns Key numbers to each sub-topic. (Key Numbers are like section numbers.) To better understand the

The following outline shows how the term "Property" is subdivided into more specific terms.

LAW

| | | |
|------------|--|---|
| | Illustration [59](a) | <i>Property</i> (one of seven Divisions of Law) |
| Topic | Illustrations [60] [61](b) Illustration [61](c) | <i>Public Lands</i> (one of 400 topics from the seven Divisions of Law) II. <i>Survey and Disposal of Lands of United States</i> (one of six subdivisions of Public Lands) |
| | Illustrations [61](d) [62](d) | (A) <i>Surveys</i> (One of seven Subdivisions of Sub-Topic Surveys) |
| Key Number | Illustration [62](e) | 28. <i>Resurveys</i> (Key number 28 assigned to sub-topic Resurveys) |

West topic and key number system, look at the way West divided the seven major divisions of law (**Illustration [59]**). West then subdivided the seven divisions of law into over 400 major topics (**See illustration [60]**). Each major topic is again subdivided as necessary. (Refer back to outline, previous page 127.)

The West Topic and Key Number system is simply a detailed outline of each of the topics; to each sub-part of the individual topics, West assigns numbers which are like section numbers. Each Key number represents a legal concept or point of law. Example, Number 28 represents the subject “resurveys” of the main topic Public Lands. So, all case summaries in the *National Reporter System* which discuss a point of law or concept dealing with resurveys of Public Lands will be assigned the topic “Public Lands, Key number 28”. (The Key Symbol in the topic-key number system is a West Publishing Company trademark.) The classification of all case summaries into topic-key number arrangement comprises the digest sets published by West.

Comparison of how the key number system works. Suppose that all grocery stores classified their products and assigned numbers to each product.* (See chart, bottom of page.)

Suppose, further, that you wanted Dairy Products no. 28 — Half and Half. At any super-

market, one could go the section labeled “Dairy Products” and look for number 28 (remember no. 28 represents cream — half and half). If the store you were shopping at happened to be sold out of half and half or didn’t have the brand of half and half you wanted, you would try another store and would repeat the procedure.*

Any case from any jurisdiction, therefore, which has a headnote with points of law relating to Resurveys of Public Lands will *always* be found under “Public Lands, key number 28” in the West digest system.*

Refer again to the *Hudspeth* case p. 11-16, specifically to Headnote 6, Public Lands, key number 28. Note that the point of law dealt with resurvey of public lands. Points from cases such as the *Hudspeth* case with this same general point of law will always be collected together in each of the West digests. A researcher with a topic and key number to research can go to the *American Digest System*, to any Regional Digest, to any State Digest, to the *Supreme Court Digest* or to the *Federal Digest System* and look for cases with that particular topic and key number.

[Note: When using the topic and key number in a digest, it is necessary to have both the topic and key number, e.g., Public Lands #28, because *all topics* will have a key number 28. It is like looking for a street address in a city.

| | | |
|--------------------------|---|--|
| *Dairy Products | = | Public Lands |
| Milk & Cream 22-28 | = | Survey and disposal of Lands of the United States 22-141 |
| (A) Milk | = | (A) Surveys |
| 22. 4% milk | = | 22. Surveyors general and deputy surveyors |
| 23. Low fat milk | = | 23. Necessity of survey |
| 23(1). 2% milk | = | |
| 23(2). 1% milk | = | |
| 24. Skim milk | = | 24. Method and Sufficiency |
| 25. Chocolate milk | = | 25. Operation and effect in general |
| 26. Regular cream | = | 26. Errors and Omissions |
| 27. Light cream | = | 27. Conflicting Surveys |
| 28. Half milk-Half cream | = | 28. Resurveys |

All streets will have a house number 1800. One, therefore, needs a street name (topic) *and* the number to locate a particular address. The number 1800 alone is useless.]

A. 1. b. *Features of Digests and Methods of Research*

There are four methods of research to find cases in digests:

- (1) the Fact Word or Descriptive Word Method,
- (2) the Topic Method,
- (3) the Table of Cases Method, and
- (4) the Definition Method.

[Note: The methods are best explained by a discussion of where each method fits into the features of digests, which follows.]

All West Digests have the following three features which comprise a digest set:

- 1) Descriptive Word Index volume(s).
- 2) Alphabetical arrangement of thousands of case summaries for 400+ topics of law. (This is the major part of each digest.)
- 3) Table of Cases volume.

Special (Jurisdictional) Digests have these three features *plus*:

- 4) Defendant-Plaintiff Table volume
- 5) Words and Phrases volume.

Descriptive Word Index (DWI) and Fact Word Method of Research

Every case arises out of a fact situation and, when brought to court for determination, the court decides which rule, or rules of law, should be applied. Therefore, most often a researcher's task is to find decided cases involving similar fact situations and the applicable law.

The Descriptive Word Index is an index volume(s) with fact words alphabetically arranged. Fact words are non-legal terms commonly used by all of us as opposed to legal terms which

have special meanings to lawyers. Note that some words can be both fact words and legal terms like "insurance". These words are descriptive of the important facts in the case. In addition to containing fact words from the cases, the Descriptive Word Indexes contain thousands of other words descriptive of the points of law assigned to them in the Key Number classification. The Descriptive Word Index refers the researcher to the Topic and Key Number under which cases involving similar facts and similar legal issues have been classified.

In selecting descriptive words for research using the DWI, the researcher should ask the following question, "Which words best describe the pertinent facts or legal questions of my situation?"

Skill in the analysis of problems and in the choice of descriptive words develops with practice. However, it should be kept in mind that most descriptive words naturally group themselves around the five elements common to every case, namely, Parties; Places and Things; Basis of Action or Issues; Defense and Relief Sought.

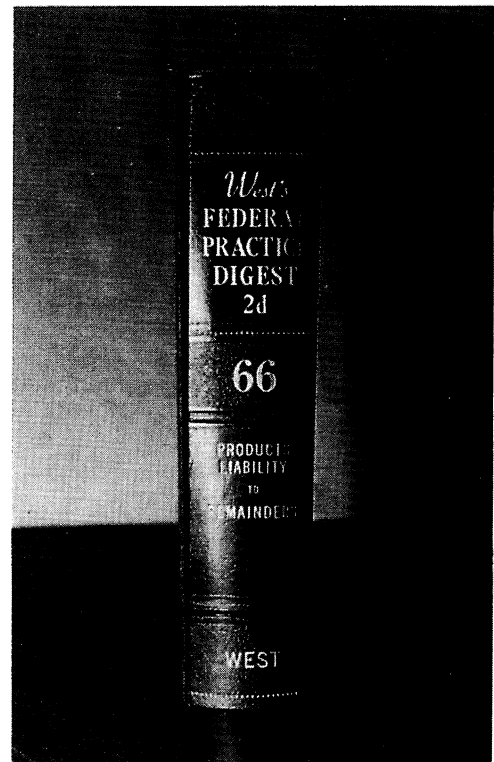
1. PARTIES
Ex., Loan Shark, Clergyman, Pauper, Bellboy, Drunkard, Insane Person, Sheriff, *Trespasser*, *Licensee*
2. PLACES AND THINGS
Ex., Playground, Theater, Office Building, Roller Coaster, Puck, Automobile, Engagement Ring, *Timber*
3. BASIS OF ACTION OR ISSUE
Ex., Negligence, Breach of Contract, Slander, *Title to Property*
4. DEFENSE
Ex., Act of God, Assumption of Risk, Contributory Negligence, *Mistake*
5. RELIEF SOUGHT
Ex., Injunction, Eviction, Rescission, Divorce, *Damages*

Again using the *Hudspeth* case as an example, the facts were: in 1958 and 1962 persons cut and removed timber from lands which were allegedly federally owned. The wood cutters believed the land to be privately owned. In that case, a researcher might list the PARTIES involved as: trespassers (wood cutters without permission) or licensees (wood cutters with permission); the PLACES AND THINGS as Timber, Boundaries, Forest, Public Lands, Survey-Resurvey; the ACTION was based on Trespassing, Title to Property; the RELIEF SOUGHT as Damages (monetary compensation). These words listed under Parties, Places and Things are all “fact words”. A researcher can search any of these fact words, their synonyms or any combination of these fact words using the Fact Word Method of research. The search would be conducted in a Descriptive Word Index looking for topics and key numbers relating to these fact words.

Since the facts pertain to federal lands, a researcher would probably begin in the Federal Digest System looking for federal court cases similar to the *Hudspeth* case, beginning with the Descriptive Word Index (DWI) volumes in the *Federal Practice Digest 2d* (the current set).

If Public Lands were selected as fact words to search, a researcher would go to the DWI volume in the *Federal Practice Digest 2d* and find “Public Lands”, then scan the sub-topics listed under “Public Lands” looking for more specific entries such as “surveys” or “resurveys” (See illustration [63]).

Note in the illustration that even though a general term, i.e., Public Lands, was selected, the DWI sends the user to a more specific term, i.e., Surveys. Another researcher might have selected the fact word “surveys” or “timber”, etc.



Now look at illustration [64]. After finding the term “surveys” in the DWI, scan the entries under “surveys” looking for those fact words selected from the *Hudspeth* facts. In scanning entries under “Surveys” there will be found a heading “Public Lands” and thereunder “Resurveys” (See illustration [65]). Here, the reference under Resurveys is to the topic and key number, Public Lands 28.

With this as a possible lead, the next step is to go to the *Federal Practice Digest 2d* volume which has case summaries under the topic “Public Lands”. There, look for key number 28 (See illustrations [66] and [67]). [Note: In illustration [67], there are several case summaries dealing with Resurveys. The *Hudspeth* case is among these.]

To search for more recent cases dealing with “resurveys”, consult the pocket part of volume 66 of the *Federal Practice Digest, 2d* (See illustration [68]) under Public Lands, key number 28.

This illustration of the Fact Method of Research considered only a limited number of fact words — Public Lands, Surveys, Resurveys. Other fact words such as timber, boundaries, trespassers, etc., could have been searched in the DWI.

Topic Method of Research

The main part of a digest set contains case summaries alphabetically arranged by topic, then within each topic, by key number.

To use the Topic Method of research for cases like the *Hudspeth* case, a researcher would list topics instead of fact words. Note, however, that many fact words may also be topics, e.g., Public Lands.

Again, referring to topical words such as Public Lands, Trespasser, Surveys-Resurveys, the researcher would select the one considered to be the most promising. (In a way digest research is similar to using the phone book yellow pages. There are times when the terms selected are wrong; times when a cross reference is given; and times when the terms are “right on”.)

Assume that Public Lands was selected. Using the topic method the researcher looks for the topic “Public Lands” in the *Federal Practice Digest 2d*. This topic is found in volume 66 of the *Federal Practice Digest 2d* (**See illustrations [69, 70]**).

The researcher then scans the analysis for this topic to search for sub-topics which most closely fit the research problem.

Scanning the general analysis in **illustration [69]**, the researcher finds that Part II covering *Survey and Disposal of Lands of the United States*, Key numbers 22-141, is the part which most clearly fits the search terms.

Next, from looking at the expanded analysis

of Part II, *Survey and Disposal of Lands of the United States* (**See illustration [70]**) the researcher finds a more specific term which fills his/her research needs. The term is “Resurveys” with reference to Key number 28.

The researcher then turns to Key #28 under the topic Public Lands and searches for case summaries dealing with Resurveys (see illustrations [66][67]). The pocket part of the main digest volume (see illustration [68]) should be consulted for more recent cases.

Table of Cases and Method of Research

Each West Digest set has a Table of Cases volume which lists those cases contained in that set. The cases are listed alphabetically by name of plaintiffs. The Table of Cases Method of research requires researching the Table of Cases volume(s) of the digest sets.

Example: Assume the name of a case (*United States v. Hudspeth*) is known and it is also known that this is a federal case. However, the citation where this case is reported is not known. Look in the *Federal Practice Digest 2d*, Table of Cases volume, under the plaintiff’s name, U.S., then locate the entry *U.S. v. Hudspeth*. This entry gives the citation to the case and the key numbers from the headnotes of that case (**See illustration [71]**). Depending on why this information was needed, this entry allows a researcher to go to the reporter to read the case or, by using the topic and key numbers provided, to go to a digest to look for similar cases in the case summaries for each topic and key number listed. [Note: If the case being researched in the Table of Cases is not listed, consult the pocket part to the Table of Cases volume.]

Defendant-Plaintiff Table and Table of Cases Method

Special or Jurisdictional digests have an additional Table of Cases volume called the Defendant-Plaintiff Table. This table reverses the names of the parties. Thus, if all that is known is the Defendant's name, that is Hudspeth, look in the Defendant-Plaintiff Table volume in the *Federal Practice Digest 2d* to find the citation to the case (**See illustration [72]**).

In summary, one employs the Table of Cases Method of research when one knows the name of the case and needs the citation and/or topic-key number for the case. The following chart shows how the Table of Cases Method works.

| Information Available | Digest Volume | |
|---|----------------|---------------------------|
| | Table of Cases | Defendant-Plaintiff Table |
| | <u>P v. D</u> | <u>D, P v.</u> |
| Plaintiff v. Defendant e.g., <i>U.S. v. Hudspeth</i> | X | |
| Plaintiff and Jurisdiction e.g., <i>U.S. v. ?</i> | | |
| Court Appeals-Oregon Plaintiff and subject of case, e.g., <i>U.S. v. ?</i> | X | |
| case involved resurvey of Public Lands | X | |
| Defendant and Jurisdiction, e.g., <i>? v. Hudspeth</i> | | X |
| Court Appeals-Oregon Reversed Style* (name of parties) e.g., <i>Hudspeth v. U.S.</i> | X | or X |

*Frequently names of parties are reversed from trial court. If not sure who is the Plaintiff or Defendant, consult both tables.

[Note: A citation is given in *both* the Table of Cases (P. v. D.) and in the Defendant-Plaintiff Table (D. v. P.); but the topic and key num-

bers are given *only* in the Table of Cases (P. v. D.)]

Words and Phrases volume and Definition Method of Research

Special or Jurisdictional digest have a Words and Phrases volume. This volume gives citations to cases which have judicially defined words, phrases and maxims. Example: if one wanted to find a legal definition for the term "trespasser" in the *Federal Practice Digest 2d*, one would look up that word in the Words and Phrases volume. (A Words and Phrases volume is used much like a standard dictionary.) Citations are given to cases in that digest which have judicially defined the term "trespasser" (**See illustration [73]**).

Reminder: Check the pocket part to the Words and Phrases volumes for later cases which may have defined the search term.

The Definition Method may also be used with legal dictionaries and with the *Words and Phrases* set. (These will be discussed in **SECTION IV, 5., Dictionaries, Words and Phrases.**)

In review, the special features found in digests are as follows:

1. Descriptive Word Index — *all* digests have a descriptive word index volume or volumes.
2. Topic and Key number arrangement — *all* digests have case summaries arranged by topic and key number.
3. Table of Cases — *all* digests have a Plaintiff-Defendant Table of Cases.
4. Defendant-Plaintiff Table — *only special digests* have defendant-plaintiff tables.
5. Words and Phrases — *only special digests* have words and phrases volumes.

[Note: In the explanation and illustrations

of the features of digests and the four methods of research, the *Federal Practice Digest 2d* was used. Also, only the term "Public Lands", which led us to surveys and resurveys, was used. Other fact words could have been researched in other digests. The same research procedure followed in the *Federal Practice Digest 2d* research is applicable in other West digests.]

A. 1. c. **The American Digest System**

The *American Digest System* is "the" master index giving access to all cases published in the *National Reporter System*. The *American Digest System* has the following units:

| | |
|-------------------------------------|-----------|
| <i>Century Digest</i> | 1658-1896 |
| <i>Decennial</i> | 1897-1906 |
| <i>Second Decennial</i> | 1907-1916 |
| <i>Third Decennial</i> | 1916-1926 |
| <i>Fourth Decennial</i> | 1926-1936 |
| <i>Fifth Decennial</i> | 1936-1946 |
| <i>Sixth Decennial</i> | 1946-1956 |
| <i>Seventh Decennial</i> | 1956-1966 |
| <i>Eighth Decennial</i> | 1966-1976 |
| <i>General Digest, Fifth Series</i> | 1976-1981 |
| <i>General Digest, Sixth Series</i> | 1981-date |

This master digest is put together in the following manner:

GENERAL DIGEST:

Step 1. All appellate courts in the United States send copies of their opinions to the West Publishing Company. After a case is received by West it is checked carefully by the editors. Then it is analyzed and assigned headnotes with topics and key numbers.

These cases, with headnotes, are then published in the advance sheets for the *National Reporter System* and sent to the subscribers of the various NRS sets on a weekly basis. It takes a minimum of six to eight weeks for all aspects of this process to be completed, that is, from the time West receives a case from a

court to the time a subscriber receives his advance sheet. [Note: There is a digest section in *front* of each advance sheet.]

Step 2. These headnotes are cumulated into a bound *General Digest* volume. Each volume is a full digest which includes the case summaries and key numbers from all jurisdictions for the period covered, approximately six weeks. During a ten year period, there are two *General Digest Series* published, each covering a five year period.

Descriptive Word Indexes, Table of Cases and cumulative list of key numbers are published separately, first in cumulative pamphlets, then in bound form after cumulating ten volumes of a *General Digest* (see illustration [74]). The cumulative list of key numbers is a time saver for the researcher. Instead of looking in each of the bound volumes of the *General Digest* for a particular key number, the researcher can consult the cumulative list of key numbers to find in which of the *General Digest* volumes there are cases for the key numbers being researched. Example: If one is searching in the *General Digest* for later cases dealing with Public Lands, key number 28, note in **illustration [74]**, there is only one listing, that is, to volume 5 of the *General Digest*.

Step 3. Decennial Digests. At the end of the tenth year, West publishes the next decennial digest. This decennial digest consolidates into one set the sixty or more volumes of the two *General Digest Series*. Since the *General Digest* volumes are no longer useful, they are disposed of upon receipt of the new decennial digest. Then the cycle is repeated for the next ten years. Presently, the *General Digest* is "building" the *Ninth Decennial Digest* which will be published in 1986.

The advantage of the Decennials is that researchers can research cases from *all* appel-

late courts for a ten-year period using either the topic, fact or table of cases methods.

To update research in the *American Digest System*, look in the front of the most recent *General Digest* volume for the coverage of the *National Reporter System* volumes included in this volume (see illustration [75]).

Go to the next cited bound volume and/or advance sheets for the jurisdiction being researched for later cases.

Example: **(See illustration [75])**. To update Public Lands, key number 28 for cases in the *Federal Reporter 2d*, note that the last volume covered in the *General Digest* is 653 F.2d advance sheet number 1. Go to 653 F.2d, advance sheet number 2 and look in the digest section found in the front for cases under Public Lands, key number 28. Then following the same procedure, go to advance sheet nos. 3, 4, 5, etc., until the last advance sheet for 653 F.2d has been reached. Finally, go to advance sheets for 654 F.2d and continue the search through the last advance sheet published for the *Federal 2d*.

This will update the research to within the last 8 weeks for federal cases from F.2d for cases dealing with Public Lands, key number 28.

If a researcher wanted to do *retrospective* research in the *American Digest*, the procedure would be reversed. Example: Researching Public Lands, key number 28, in the *General Digest* for earlier resurveying cases, go to the *Eighth Decennial Digest* and search for Public Lands #28; then, following the same procedure, search the *Seventh*, *Sixth*, *Fifth*, *Fourth*, *Third*, *Second* and *First Decennials* and, lastly, the *Century Digest*. This will provide the researcher with cases decided as far back as 1658.

[Note: The West Company began its digest system in the 1880's, prior to some of the cases

covered in the *Century Digest*. The key number system began with the *First Decennial*. So, there are no key numbers in the *Century Digest*. Back then, key numbers were section numbers. For researching in the *Century Digest*, there are transfer tables published in volume 21 of the *First Decennial Digest* to cross reference from a topic and key number back to the appropriate "section number" in the *Century Digest*.]

A. 1. d. **Other Digests**

The other Digests, i.e., Regional and Special Digests, published by West, are simply extractions of digested cases from the master index, i.e., the *American Digest System*, collected together for a particular jurisdiction. Example: All Colorado case summaries (digested cases) are extracted from the *American Digest* and published as the *Colorado Digest*.

Special digests or Jurisdictional Digests, such as the *Colorado Digest*, contain the features of the *American Digest System* as well as two additional features: a Words and Phrases volume and a Defendant-Plaintiff Table volume.

Special Digests or Jurisdictional Digests are kept up to date with cumulative pocket parts which are issued once a year to the subscriber instead of the building up process described for the *American Digest System*. Note that while this can sometimes be more convenient to use because cases from all time periods are in a single file, a researcher can be as much as a year out of date. To update special jurisdictional digests he/she must resort to the current volume of the *General Digest* for updating from the date of the pocket parts to the present. Often cumulative pamphlets are published in addition to the pocket parts to supplement the pocket parts. (For complete updating of all West Digests, **(See illustration [76])**. The + symbols refer to the method of updating the various digests.)

A. 2. Encyclopedias

Legal encyclopedias are like any other academic encyclopedia in that they cover subjects, topic by topic, with narrative, textual treatment for each topic. Legal encyclopedias provide researchers explanations of the subjects of law and definitions of words, with historical and current coverage. Ample footnotes support the text. For these reasons, a legal encyclopedia is a good place for a novice researcher to begin research because of the general textual treatment given to each topic.

Legal encyclopedias are secondary sources of law and should be cited *only* when primary sources are unavailable.

There are two types of legal encyclopedias, the encyclopedias which are national in scope, such as *American Jurisprudence 2d* and *Corpus Juris Secundum*, and local (state) encyclopedias such as *Texas Jurisprudence 3d* and *California Jurisprudence 3d*.

A. 2. a. *American Jurisprudence 2d* (AmJur2d)

(For more detailed information, see **APPENDIX**, p. 183.)

This encyclopedia is published by Lawyers Cooperative Publishing Company. The textual treatment of each topic covers some 400 topics of law. Footnote references are “selected” as L.C.P. is a selective publisher. There are also many references to LCP’s Total Client Service Library.

There is a very detailed multi-volume index with fact and law words. References in the index provide access to the various topics included in the multi-volume set. (**Illustrations [77, 78]** show partial coverage in *American Jurisprudence 2d* of the topic “Boundaries”, subtopic, section 111, Surveys, Field Notes, and Maps.)

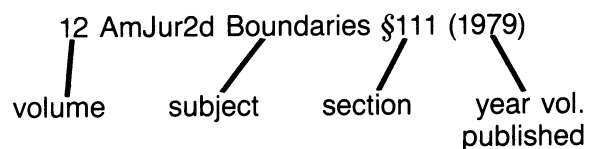
The *American Jurisprudence 2d* set is kept up to date by annual cumulative pocket parts.

A. 2. b. *Corpus Juris Secundum* (C.J.S.)

(For more detailed information, see **APPENDIX**, p. 190.)

This multi-volume set, published by West, provides textual treatment for the 400+ West topics, giving the researcher library references to the key number system and to other topics of law. (**Illustrations [79, 80]**, shows partial coverage in C.J.S. of the topic “Boundaries”, subtopic 24, Maps, Surveys and Field Notes.) Topical coverage is supported by numerous footnotes to cases. [Note: Compared to L.C.P., West cites more footnotes. There are advantages and disadvantages to both systems. In West footnotes, the researcher is often overwhelmed with too many cases. In L.C.P. footnotes, the editor may have selected out the very case needed.]

Citation to an encyclopedia:



A.3. Legal Periodical Indexes

Legal periodicals (also called law reviews) are classed in three categories: those published by law schools, those published by legal associations, and those of private publishers. Legal periodicals contain scholarly articles written by law professors, judges, practitioners and law students.

Legal periodicals are secondary sources of law, unlike encyclopedias, are frequently cited because of the scholarly content and known authorship of the articles. Virtually every topic of law is written about, at some time or another,

in periodical literature. Often new cases and statutes are criticized and analyzed in the law reviews.

Like any periodical publication, such as daily newspapers, *Newsweek*, etc., legal periodicals are published in a series or in several issues (monthly, quarterly). When all issues for a volume are published, the subscriber has the issues bound into a volume. The last issue usually contains the index for that volume.

There are various indexes which can be used to access legal periodicals:

(a) **Current Law Index (CLI) and Legal Resources Index (LRI)** began indexing in 1980. CLI and LRI index almost 700 legal periodicals. The two publications index articles by author, title, and subject, and include a Table of Cases and a Table of Statutes cited in periodicals.

CLI is a printed index which is published monthly with quarterly and annual cumulations (See illustration [81]).

LRI is a microfilm publication of CLI. An updated reel of microfilm is sent to the subscriber on a monthly basis.

(b) **Index to Legal Periodicals (ILP)** is an index published since 1908. ILP is published first in monthly pamphlets which are cumulated into quarterly, annual and triannual volumes. ILP indexes by subject, author and title. The subject index is very broad and harder to use than CLI or LRI (see ILP illustration [82]).

(c) **Other indexes to legal periodicals include:** *Index to Periodical Articles Related to Law*, *Index to Canadian Legal Periodical Literature* and *Index to Foreign Legal Periodicals*.

In addition, a researcher should not overlook using general periodical indexes found in public libraries, such as *Public Affairs Information Service Bulletin* (P.A.I.S.), *Reader's*

Guide to Periodical Literature, *Social Science Index*, *Humanities Index* and *Environment Abstracts Annual*.

Citation to legal periodicals:

78 Harv. L. Rev. 144 (1973)
volume *Harvard Law Review* page year

A. 4. **Abbreviations**

Legal authors use many abbreviations. Several publications include their abbreviations in the front of the set or volumes. To find the meaning of an abbreviation look in the following Legal Bibliography textbooks, old or new:

Fundamentals of Legal Research, 2d ed., Mersky & Jacobstein, Foundation Press, 1981.

How to Find the Law, 7th ed., Cohen, West Publishing Co., 1976.

Effective Legal Research, 4th ed., Price, Bitner & Bysiewicz, Little, Brown & Company, 1979.

A Uniform System of Citation, 12th ed., Columbia Law Review.

Black's Law Dictionary, 5th ed., West Publishing Company.

The Dictionary of Legal Abbreviations Used in American Law Books, Doris Bieber, William S. Hein & Co., 1979.

A. 5. **Dictionaries, Words and Phrases**

When the Definition Method of Research was discussed in **SECTION IV, DIGESTS**, it was stated that frequently a researcher has to find definitions to words legally defined by courts. The most common sources of definitions are law dictionaries, the *Words and Phrases* master set and *Words and Phrases* volumes in the Digest sets.

A. 5. a. **Legal Dictionaries**

There are two legal dictionaries, *Ballentine's* by L.C.P. and *Black's Law Dictionary* by West,

which are usually available in law libraries. In either of these single volume publications can be found the definitions of most words and phrases used in law. The definitions often include the citations to selected cases which judicially defined the word or term.

A. 5. b. **Words & Phrases**

As words and phrases are judicially defined by the courts, West publishes references to these definitions in the *National Reporter System*, first in advance sheets and later in the bound volumes. Also, as discussed in **SECTION IV, 1. Digests**, West cumulates the words and phrases for each jurisdiction which has a special digest.

West also cumulates all words and phrases from all jurisdictions from the earliest times to date in a multi-volume master set known as *Words and Phrases*. There are over 350,000 terms defined in this 46 volume set. Each term or word gives a summary of a case or cases and citations which defined the word (**See illustration [83]**).

Words and Phrases volumes are updated by annual pocket part supplements.

Also, there are lists of words and phrases in the encyclopedia C.J.S.

A. 6. **Directories**

As with other organizations, there are many legal directories published which list names, addresses and other information about lawyers. There are national legal directories, regional legal directories and local legal directories. There are also legal directories by types of practice.

The most common national directory found in law libraries and law offices is the *Martindale-Hubbell Law Directory*. This is a 7 volume set published annually. One section of the set

lists all lawyers licensed to practice before any bar. This section is divided by states, then by cities. For each city, lawyers are listed alphabetically, giving lawyers' names, date of birth, colleges attended, and addresses. The second section is a biographical section of the lawyers listed by state, city and law firm. Other sections list foreign lawyers, government lawyers, etc. Too, there is a digest section giving a short summary of state statutes for each state.

Other national directories include the *Lawyers Directory* and the *American Bar Directory*.

There are many state directories published which list information about courts, clerks, law enforcement authorities, government agencies, etc., as well as lawyers practicing in that state.

Also, most local bar associations publish a directory of their members.

A. 7. **Form and Practice Books**

Form books are guides or patterns to pleadings and legal instruments. Details on how to fill in the forms are often included. There are forms for wills, contracts, oil and gas leases, etc.

Example: *American Jurisprudence Legal Forms*, 2d, a 20 volume set with pocket parts published by L.C.P. contains legal forms of every kind as does *Modern Legal Forms*, a 17 volume set with pocket parts published by West.

Many forms are also included in statutes and in textbooks.

Practice Books are "how to do it books" usually published by local practitioners or bar associations. These practice books are general guides for handling certain legal matters and also include many forms. Example: *Colorado Practice Series*.

A. 8. Treatises

Treatises are textbooks written by specialists on certain subjects, many of which are published in multi-volume sets. Treatises are usually scholarly and well written. There are treatises for all topics of law. A treatise is an excellent place to become familiar with a legal subject.

Examples:

Friedman, Milton, *Friedman on Leases*, (NY: Practising Law Institute), 1974.

Hemingway, Richard, *The Law of Oil and Gas*, (St. Paul: West Publishing Company), 1971.

Powell, Richard, *Powell on Real Property*, 8 vols., (NY: Mathew Bender), 1968.

The Restatements of the Law (a set covering agency, conflict of laws, contracts, judgments, property, restitution, security, torts, trusts, foreign relations law, and landlord and tenant.)

Trelease, Frank, *Water Law*, 2d ed., (St. Paul: West Publishing Company), 1974.

A. 9. Citators

Citation books are very important tools for the researcher. Citators help researchers to *evaluate* cases and statutes — giving their latest status — and help *locate* authorities.

The largest publisher of citation books is Shepard's/McGraw Hill. [Note: a pamphlet "How to Use Shepard's Citations" is available from Shepard's/McGraw Hill, P.O. Box 1235, Colorado Springs, Colorado 80901, (303) 475-7230.]

A. 9. a. *Shepard's Citations*

Shepard's publishes the following citators:

Shepard's United States Citations covers:
United States Statutes (STAT and USC)
Court rules
Treaties
United States Supreme Court Cases from

U.S., L.Ed.2d and S.Ct.

Shepard's Federal Citations covers:

F., F.2d

F.Supp.

F.R.D.

Shepard's Code of Federal Regulations Citations lists cases which have interpreted federal regulations.

Shepard's United States Administrative Decisions covers materials pertaining to federal administrative agency decisions.

Shepard's State Citators (there is a citator for each state). State Citators cover cases *and* statutes for each state.

Shepard's Regional Citators (there is a citator for each regional reporter) cover NRS regional reporters, *cases only*.

Other Citators include:

Shepard's Federal Labor Law Citations

Shepard's United States Patents and Trademark Citations

Shepard's Law Review Citations

Shepard's Federal Law Citations in Selected Law Reviews.

A. 9. b. 1) **Shepardizing Cases**

Shepardizing means using a Shepard's citation set to evaluate or locate cases. Shepardizing a case like *United States v. Hudspeth*, 384 F.2d 683, involves the following:

Step 1. Go to the appropriate Shepard's set; in this case, to the *Shepard's Federal Citations*. [Note: most Shepard's sets will have several bound volumes and pamphlet supplements. To determine what a library should have for the set, look at the latest pamphlet supplement. Each such supplement has a box on the front of the supplement indicating what the library should contain (**See illustration [84]**).]

Example: For the *Federal Reporter*, the *Shepard's Federal Citations*, should have: 3 (1969) bound supplements, 1 (1969-77) bound supplement, 1 (1977) bound supplement, 1 (1977-1981) bound supplement, a quarterly (yellow) pamphlet and, between quarterly pamphlets, a red pamphlet.

Step 2. For this case, *United States v. Hudspeth*, 384 F.2d 683, begin with the volume of the *Shepard's Federal Citations* which covers F.2d 201-390, i.e., the 1969 volume which contains 384 F.2d.

Step 3. Open this 1969 volume (**See illustration [85]**). On top of each page is the heading **FEDERAL REPORTER, 2d SERIES**. Volume numbers are indicated on tops of pages and in columns.

Step 4. Under vol. 384 there are page numbers in heavy black print. Look for page 683, the page of the *Hudspeth* citation. [Note: There are no Shepard's citations listed for this case, 384 F.2d 683. (**See illustration [85]**.) Pages skip from 672 to 689.]

Step 5. Now go to the next volume, that is, the 1969-77 bound volume covering 384 F.2d. Again, find 384 F.2d in this volume, then find the page 683. Here seven cases are listed (**See illustration [86]**).

Step 6. Check the next bound supplement, the 1977-81 supplement. Repeat the Shepardizing procedure. Find volume 384, page 683. [Note: there are no cases listed for 683 (**See illustration [87]**.)]

Step 7. Next check the pamphlet supplements (yellow and red, if a red pamphlet has been published).

Shepardize 384 F.2d 683. Check the latest paper supplements (yellow) and (red). The latest supplement used for this Step is the January

1982 yellow supplement. (**See illustration [88]**.) Note that two cases are listed.

This completes Shepardizing 384 F.2d 683.

The citation one wishes to Shepardize, e.g., 384 F.2d 683, is called the *cited* case. Citations to cases found *in* Shepard's are listed under page 683. These are referred to as *citing* cases.

The *citing* cases will give one the following:

1. parallel citation

In parentheses, Shepard's will list any parallel citation to the cited case, including citations from the ALR system.

2. history of the case

Letter abbreviations indicate what happened to the case on appeal. E.g., "a" means the case was *affirmed* on appeal; "D" means the case was *dismissed* on appeal; "r" means the case was *reversed* on appeal. [See the front pages of any Shepard's volume for a list of abbreviations and an illustration of how to use a Shepard's unit.]

3. treatment of a case

Letter abbreviations indicate what *other* cases have done with or written about the *cited* case. E.g., "c" means a case *criticized* the cited case; "f" means a case *followed* the cited case; "o" means a case *overruled* the cited case; "q" means a case *questioned* the cited case. (**See illustration [89]**, Shepard's Abbreviations. In **illustration [89]**, note cited case 508 F.2d 687.)

[1] history

This tells a researcher that the U.S. Supreme Court denied certiorari (a review of the case) in 425 U.S. 998.

[5] f412FS²⁹627 - means citing case 412 FS 627 *followed* the cited case. The elevated ²⁹

means that the later case specifically relates to the subject covered in headnote 29 from the cited case.

[6] a Pennsylvania case mentioned the cited case in 365 A2d 659

[7] 26ALRF125n indicates an annotation in ALR Fed which mentioned the cited case.

[Note: If 384 F.2d 683, the cited case being Shepardized, had been annotated, the annotation citation would have appeared in parentheses as a parallel citation under page 683.

E.g., --683--
(20 ALRF 112)]

Back to the *Hudspeth* case.

Reviewing this seven step Shepardizing procedure, look at Step 5, **illustration [86]**, where seven cases are listed. Since there are no letter abbreviations, a researcher can assume these citing cases, for example the first one, 400 F.2d 381, simply made reference to information relating to the *Hudspeth* case. In order to ascertain what 400 F.2d 38 said about the *Hudspeth* case, a researcher would have to read 400 F.2d 381.

In conclusion, no court *reversed* or *overruled* the *Hudspeth* case. (These are the two most serious things that can happen to a case in terms of changing its usefulness as authority.)

Follow the same procedure used above to Shepardize a state citation, a regional reporter citation, a U.S. Supreme Court citation, etc. Go to the appropriate set, look in the Shepard's volumes and supplements which contain the *cited* case. Note the letter abbreviations to determine what courts did or said with the cited case.

A. 9. b. 2) **Shepardizing Statutes**

(Shepardizing Statutes is discussed here

to give the reader continuity in the use of *Shepard's Citations*.)

To Shepardize the statute cited in the *Hudspeth* case, i.e., 43 U.S.C. §772, found on page 685 of the *Hudspeth* case:

Step 1. Go to the *Shepard's United States Citations Statute Edition*. (Note: *Shepard's Citations* for jurisdictions have a case section and a statute section within the set.) The U.S. Constitution and the *United States Statutes at Large* can also be Shepardized in this set.

Check the latest *Shepard's Federal Citations* pamphlet supplement to determine what the library should have. (**See illustration [90]**.)

Step 2. Check the 1968 bound volume of the *United States Citations Statute Edition*.

Look at the tops of the pages in this volume. There is printed T. _____ § _____, *United States Code*. Find T. 43 (for title 43) of *United States Code*, then find § (section) 772 (**See illustration [91]**).

There will be found one F.Supp. case (256 FS 397) which mentioned section 772.

Step 3. Check the 1968-1974 bound volume and Shepardize 43 U.S.C. §772. Here three additional cases which have discussed section 772 (**See illustration [92]**) are listed.

Step 4. Then check the 1974-79 bound supplement. Shepardize 43 U.S.C. §772. The notation found here, A 90 St 2792, means 43 U.S.C. §772 was *amended* at volume 90 of the *Statutes at Large*, p. 2792 [to read the amending language, check 90 St 2792] (**See illustration [93]**).

Step 5. Shepardize the statute in the current supplementary pamphlets, i.e., yellow and red, whichever pamphlets are available (**See illustration [94]**).

In Shepardizing a statute, a researcher is looking for two things: 1) what Congress (or a state legislature) has done with the statute, e.g., amended or repealed it, and 2) what courts have done with the statute, e.g., held it constitutional, unconstitutional, etc. Again, letter abbreviations indicate what happened to the statute. Examples:

Legislative: A means the statute was *amended*; R means the statute was *repealed*; Rp means the statute was *repealed in part*.

Judicial: C means a court has held the statute *constitutional*; U means a court has held the statute *unconstitutional*; Va means a court has held the statute *valid*.

(See illustration [95] for the U.S.C. example from Shepard's pamphlet.)

To Shepardize a state statute, follow the same procedure in the respective state Shepard's unit, statutes section. [Note: In the state Shepard's statutes edition, published city ordinances can also be Shepardized.]

A. 9. b. 3) **Shepardizing Decisions of the Department of the Interior**

Consult the *Shepard's United States Administrative Citations*, part I. Find decisions of the Department of the Interior section.

Follow the same procedures as when Shepardizing the *Hudspeth* case of the statute in the *Hudspeth* case. Example:

To Shepardize 60 I.D. 341, find vol. 60, Decisions of the Department of the Interior, page 341, in the *Shepard's United States Administrative Citations* (See illustration [96]). There one will find four cases *citing* the 60 I.D. 341 case. (Note: The *Administrative Citations* is in two bound volumes, supplemented by *red* supplements only.)

A 9. b. 4) **Shepardizing Code of Federal Regulations** (This was discussed earlier in Section II - STATUTORY LAW, Administrative Regulations)

Go to the *Shepard's Code of Federal Regulations Citations* set and follow the same procedure as Shepardizing a statute.

Example: to Shepardize 43 CFR §1842, which was cited in the *Hudspeth* case at page 687, look for Title 43, in CFR Citations then find Section 1842. [Note: The *Hudspeth* case is cited 384 F.2d 683 (See illustration [97]).]

Finally, check the supplementary pamphlets for later changes.

Shepard's also publishes a *Shepard's Acts and Cases by Popular Names, Federal and State*. This Shepard's provides citations to cases and statutes from their popular name.

A. 10. **Tables** - A Review

Many tables have been covered in this workbook:

Plaintiff v. Defendant Tables — in all digests
Defendant-Plaintiff Tables — in special digests

Statutes — U.S.C., U.S.C.A., U.S.C.S.,
Tables volume

—*Revised Statutes 1875*

—*Statutes at Large* to U.S.C.

—USC to *Statutes at Large*

—Popular Names Table of Statutes

Cases

—Reports(ers) Table of Cases

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—U.S. Code Cong. & Ad. News Legislative

History Table

Popular Names

—*Shepard's Acts and Cases by Popular*

*Names, Federal and State
Abbreviations Tables
—Legal Dictionaries
—Legal Bibliography books*

A. 11. **Looseleaf Services**

Looseleaf services, which are privately published, cover many subject areas of law — usually those areas of life that are frequently and heavily governed by statutes and regulations, such as tax, labor, environmental law, etc. These services provide subscribers loose pages which include the most current changes; many of the services are sent on a weekly basis. The loose pages are filed in ring binders provided by the publisher.

Advantages:

Categories of material, i.e., statutes, cases, regulations — collected in one place.

Speed — changes provided, in some cases, within hours.

Indexing — very detailed.

Many finding aids — tables.

Disadvantages:

Cost — looseleafs are expensive.

Filing time — personnel have to file the loose pages immediately upon arrival.

Sheets are flimsy, small print; can easily tear out of binder.

Examples of Looseleaf Services:

Gower Federal Service, Oil & Gas (by the Rocky Mountain Mineral Law Foundation). This service contains IBLA decisions; oil and gas information; forest service information; oil and gas opinions from the Office of the Solicitor, Department of the Interior and other internal documents which are made available from the Department of Interior.

Environment Reporter (Bureau of National Affairs).

Environmental Law Reporter (Environmental Law Institute).

United States Law Week (Bureau of National Affairs).

Energy Controls (Prentice-Hall).

Energy Management (Commerce Clearing House).

A. 12. **U.S. Government Documents—*Monthly Catalog of United States Government Publications***

The *Monthly Catalog* is a government publication which lists all publications issued by the Government Printing Office by various agencies and other parts of the U.S. Government on a monthly basis.

Entries in the *Monthly Catalog* are indexed for access by author, title, subject and series/report. The *Monthly Catalog* is cumulated annually. This publication is usually available at most public and government libraries. It is a depository item, therefore, U.S. Government Depository Libraries receive this publication free.

The *Monthly Catalog* is an invaluable tool for persons working with various agencies (such as the Department of the Interior) and it should be checked frequently to keep abreast of that agency's publications.

Review the sample entry which is included (**See illustration [98]**). This will give an idea of the wealth of information available for each item in the *Monthly Catalog*.

In the front of each *Monthly Catalog* there is a list of government authors with the class number where a library would generally classify this information. Next, there is a listing of publications by department, for example, Interior Department and then a breakdown of each part of the department, for example, Bureau

of Land Management (**See illustration [99]**). In the back of each *Monthly Catalog* is a title index of all publications included followed by a series/report index, followed by a stock number index, a Key word-title index.

Various bookstores where U.S. Government Publications are available are listed on the back cover of each *Monthly Catalog*.

B. Finding Tools — For Statutes and Regulations

1. **Indexes.** The primary finding tool for statutes is the index to the statute sets. (Indexes for the U.S.C., U.S.C.A. and CFR were discussed in **SECTION II, STATUTES.**)

2. **Tables.** The various tables published with statute sets are great research aids. This is especially so when a statute or regulation has been codified, renumbered, or redesignated. Also, Popular Names Tables of Statutes are helpful when a statute's popular name is known. (These various tables were discussed in **SECTION II, STATUTES.**)

3. **Shepard's Citations.** *Shepard's Citations* is an excellent tool to determine the present status of a U.S. or state statute and federal regulations. (Shepard's is discussed in **SECTION IV, FINDING TOOLS, 9. CITATORS.**)

4. **Statutory Interpretations.** Researchers in statutory law are seldom solely interested in the language of the statute alone. In addition, they want to know what certain sections of a statute mean, that is, how have they been interpreted. For these interpretations they turn to (1) Legislative histories of statutes (discussed in **SECTION II, STATUTES, LEGISLATIVE HISTORIES**) and (2) Case interpretations of statutes.

Case interpretations of statutes are easily found in the Shepard's Citations sets. For example, if a researcher wanted to know how a court construed or interpreted U.S.C. § the statute referred to in the *Hudspeth* case, the researcher would simply "Shepardize" that statute. (This was discussed in **SECTION IV, 9.(2) Citators.**)

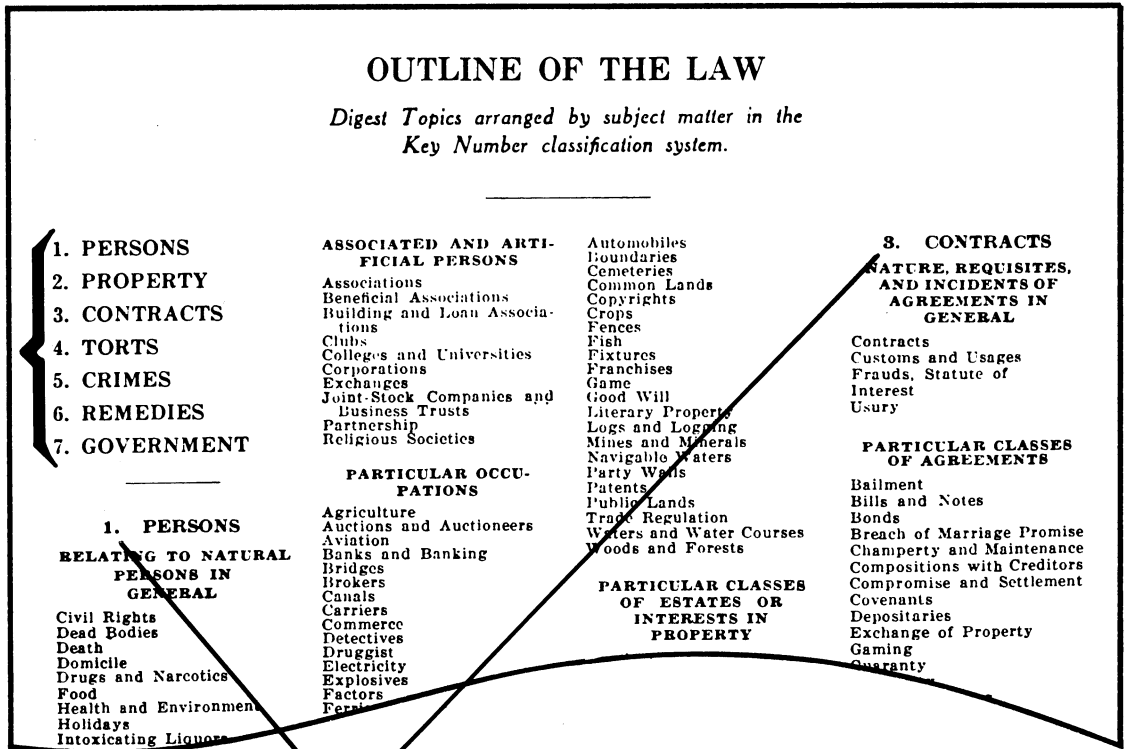
Also, West publishes a "table of Statutes Construed" in each advance sheet and bound volumes of the National Reporter System.

Other places to check on statutory interpretations are legal periodicals, textbooks, and looseleaf services. Frequently, these publications will give information on the construction or interpretation of individual statutes.

OUTLINE OF THE LAW

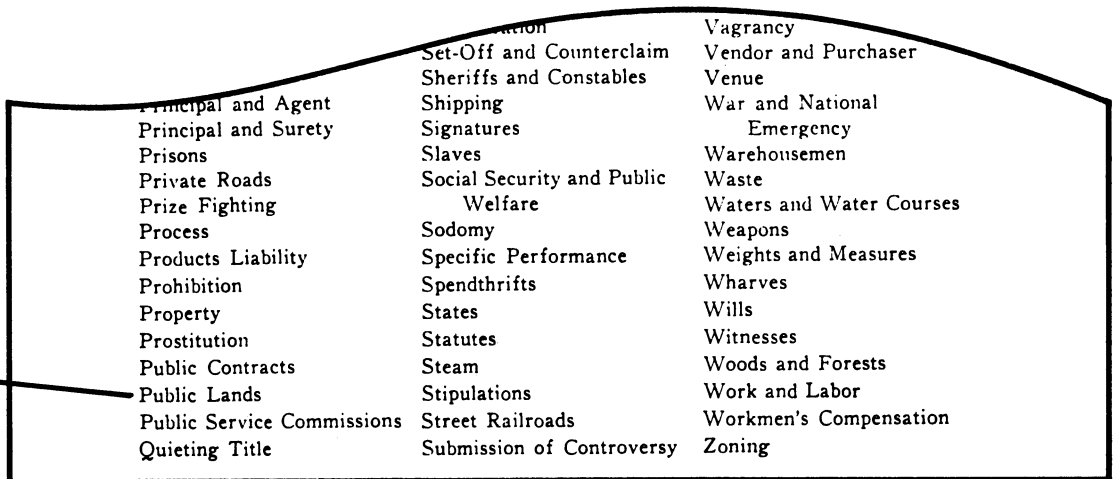
*Digest Topics arranged by subject matter in the
Key Number classification system.*

(a)
**SEVEN
DIVISIONS OF
LAW**



**EACH OF THE SEVEN DIVISIONS
ARE SUBDIVIDED INTO 400+ TOPICS**

(b)
**ONE OF 400+
TOPICS**



(b)

PUBLIC LANDS

SUBJECTS INCLUDED

- Lands forming part of the public domain
- Regulations relating thereto
- Grants thereof
- Acquisition by private owners of title thereto or rights therein, under grants or statutory provisions

SUBJECTS EXCLUDED AND COVERED BY OTHER TOPICS

- Commons, see COMMON LANDS
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II. SURVEY AND DISPOSAL OF LANDS OF UNITED STATES, ¶22-141.

(c)

- (A) SURVEYS, ¶22-28.
- (B) ENTRIES, SALES, AND POSSESSORY RIGHTS.
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(d)

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II. SURVEY AND DISPOSAL OF LANDS OF UNITED STATES.

(d)

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(e)

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HERE "PUBLIC LANDS" IS A SUBTOPIC OF SURVEYS

REFERENCE TO ANOTHER SUBTOPIC, "RESURVEYS," WHICH REFERS RESEARCHER TO TOPIC AND KEY NUMBER "PUB LANDS 28"

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PUBLIC LANDS ⇐28

For references to other topics, see Descriptive-Word Index

land arises when quantity of land found to have existed at time of survey between bank of river and meander line as established is of sufficient proportion to support finding of gross and palpable error amounting to fraud on the government. 28 U.S.C.A. § 2409a. *Wackerli v. Morton*, 390 F.Supp. 962.

D.C.Wis. 1972. General rule that when United States patents land according to official plat of survey, showing meander lines along or near the margin of body of water, the plat is to be treated as part of the conveyance and the water itself constitutes the boundary is not applicable in cases of such gross and palpable error or as to constitute, in effect, fraud upon the Government. 43 U.S.C.A. § 981 et seq.

U. S. v. Zager, 338 F.Supp. 984.

In determining whether 19th century survey involves such gross and palpable error as to constitute in effect fraud upon the Government and invoke exception to rule that water itself as opposed to meander line in the survey constitutes the boundary of patented land along or near the margin of body of water, attention must be paid to amount and proportion of acreage between the meander line and the shore and must be balanced with circumstances surrounding the original survey and the type and comparative value of land at the time. 43 U.S.C.A. § 981 et seq.

U. S. v. Zager, 338 F.Supp. 984.

Where land which lay between meander line of Lake Julia, Wisconsin, as shown on 1859 plat and meander line of 1938 resurvey amounted to only 112.11 acres, involved understatement of only 35.13%, approximate ratio of surveyed land to omitted land was only 2:1 and the particular township was practically worthless in 1859, the error in the 1859 survey did not constitute "gross error" so as to bring into play exception to rule that water itself as opposed to meander line in the survey constitutes the boundary of patented land along or near the margin of a body of water and United States was not the owner of 74.56 acres of the omitted land. 43 U.S.C.A. § 981 et seq.

U. S. v. Zager, 338 F.Supp. 984.

D.C.Wyo. 1967. Where United States patented only certain enumerated lots and amount of purchase price was fixed by number of acres conveyed, successors in interest to the patentees who bought and paid for 111.55 acres would not be permitted to rely on United States surveyors' errors to claim title to 323.59 additional unsurveyed acres for which they did not pay.

U. S. v. Walton, 266 F.Supp. 257, affirmed 415 F.2d 121.

Error on part of surveyors will not increase number of acres offered for sale and see *United States Code Annotated*

sold by the United States, and will not divest the United States of its title thereto.

U. S. v. Walton, 266 F.Supp. 257, affirmed 415 F.2d 121.

Unsurveyed 323.59 acres lying between meander line and thread of main channel of Snake River which were erroneously omitted from surveys of 1893 and 1918, were unsurveyed public lands which the United States was entitled to survey and dispose of.

U. S. v. Walton, 266 F.Supp. 257, affirmed 415 F.2d 121.

Where gross error was made in surveys and meander line was approximately 2500 feet from river bank and patents given according to surveys did not convey title to water's edge but only to meander line laid out on plat, title to unsurveyed 323.59 acres between thread of main channel of Snake River and meander line as shown on plats would be quieted in the United States.

U. S. v. Walton, 266 F.Supp. 257, affirmed 415 F.2d 121.

⇐27. **Conflicting surveys.**

Library references

C.J.S. Public Lands § 35.

C.A.Or. 1967. Where surveyor employed by government in 1896 to survey township lying north of a parallel was unable to locate monuments for the parallel placed by another government surveyor in 1855 and as result placed monuments north of those placed in earlier survey, the area lying between the two surveys did not belong to grantee of persons to whom land north of parallel was later conveyed by government patent and government was not liable to grantee for conversion because it cut and removed logs from that area.

U. S. v. Weyerhaeuser Co., 392 F.2d 448, certiorari denied 89 S.Ct. 112, 393 U.S. 836, 21 L.Ed.2d 107.

D.C.Nev. 1971. When two officially accepted surveys conflict and result in an overlap, the survey which is senior in time controls.

U. S. v. Macmillan, 331 F.Supp. 435.

Although overlaps created by incorrect survey are controlled by the survey which is senior in time, hiatus lands remain in the public domain.

U. S. v. Macmillan, 331 F.Supp. 435.

⇐28. **Resurveys.**

Library references

C.J.S. Public Lands § 33.

C.A.Colo. 1972. Proper procedures for restoration of lost or obliterated corners are stated in supplemental manual on Restoration

PUBLIC LANDS KEY NUMBER 28 WHICH DEALS WITH RESURVEYS

LIBRARY REFERENCE

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For later cases see same Topic and Key Number in Pocket Part

of Lost or Obliterated Corners and Subdivisions of Sections of the Bureau of Land Management. 43 U.S.C.A. § 772.
U. S. v. Doyle, 468 F.2d 633.

(B) ENTRIES, SALES, AND POSSESSORY RIGHTS.

⇐29. Lands subject to entry.

Library references

C.J.S. Public Lands §§ 38, 39.

C.A.Or. 1967. Generally, a resurvey of public lands is evidence, though not conclusive, of location of the original line.

U. S. v. Hudspeth, 384 F.2d 683.

C.A.D.C. 1968. If plausible grounds exist for Secretary of Interior's interpretation of order withdrawing land from appropriation, such interpretation must prevail even though there are plausible grounds to sustain homestead claimant's position.

Udall v. Oelschlaeger, 389 F.2d 974, 129 U.S.App.D.C. 18, certiorari denied 88 S.Ct. 2056, 392 U.S. 909, 20 L.Ed.2d 1367.

C.A.Utah 1974. Prior to passing title from United States, Government has power to survey and resurvey, establish and reestablish boundaries on its own lands, but once patent has issued, rights of patentees are fixed and government has no power to interfere with such rights, as by a corrective resurvey. 43 U.S.C.A. § 772.

U. S. v. Reimann, 504 F.2d 135.

Where survey of area immediately north of the Land Order withdrawn was referred to

Government has no power to resurvey lands previously discovered.

HEADNOTE 6 FROM THE HUDSPETH CASE

PUBLIC LANDS ⇐28

II. SURVEY AND DISPOSAL OF LANDS OF UNITED STATES.

(A) SURVEYS.

Library references

C.J.S. Public Lands § 24 et seq.

⇐28. Resurveys.

C.A.Idaho 1978. Where Government had announced, in 1922 when it declined to make a resurvey of certain lands, that the original survey which had been made in 1876 was not beyond question and that the decision not to resurvey would be reexamined when future circumstances so dictated, the fact that the Government waited some 35 years before making a new survey and asserting its title to certain omitted lands did not bar it, under the doctrine of laches, from claiming those lands.—U. S. v. Ruby Co., 586 F.2d 697, certiorari denied 99 S.Ct. 2836, 442 U.S. 917, 61 L.Ed.2d 284.

Statute providing that the Secretary of Interior may require surveys or retracements of the surveys of public lands to be made to properly mark the boundaries of public lands and that no resurvey or retracement should be executed so as to impair the bona fide rights or claims of any claimant or entryman was not applicable to case in which the lands had originally been surveyed in 1876 but where a 1957 survey discovered lands which had been "omitted" by the fraudulent or grossly inaccurate 1876 survey; by definition, the omitted lands were surveyed for the first time in 1957. 43 U.S.C.A. § 772.—Id.

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| HUFFMAN—U S, CAKy, 467 F2d 189. | | HUGHES—U S, DCNY, 223 FSupp 477. |
| HUFFMAN—U S, CAKy, 455 F2d 982. | | HUGHES—U S, DCNY, 36 FRD 25. |
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| HUFFORD—U S, CAOR, 539 F2d 32. | | HUGHES—U S ex rel and for Use of Tennessee Val Authority, CATenn, 408 F2d 619. |

87 F P D 2d—709

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TREATY.

Leech Lake Citizens Committee v. Leech Lake Band of Chippewa Indians, D.C.Minn., 355 F.Supp. 697, 699.

TREATY OF UNITED STATES.

Valanga v. Metropolitan Life Ins. Co., D.C.Pa., 259 F.Supp. 324, 329.

TRESPASS.

Laird v. Nelms, N.C., 92 S.Ct. 1899, 1901, 406 U.S. 797, 32 L.Ed.2d 499.

U. S. v. Knight, C.A.Tex., 451 F.2d 275, 278.

Reynolds Metals Co. v. Martin, C.A.Or., 337 F.2d 780, 784.

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Clemones v. Alabama Power Co., D.C.Ga., 250 F.Supp. 433, 438.

Arcement v. Southern Pac. Transp. Co., C.A.La., 517 F.2d 729, 732.

Lovell v. Chesapeake & O. R. Co., C.A.Mich., 457 F.2d 1009, 1011.

Chandler v. Massa, C.A.Tenn., 415 F.2d 560, 564.

Schindelar v. Michaud, C.A.Colo., 411 F.2d 80, 82.

Firemen's Fund Ins. Co. v. Standard Oil Co. of Cal., C.A.Cal., 339 F.2d 148, 153.

Wilson v. Ward Baking Co., C.A. Ohio, 318 F.2d 674, 675.

Hall v. Atchison, T. & S. F. Ry. Co., D.C.Kan., 349 F.Supp. 326, 329.

Lucy Webb Hayes Nat. Training School for Deaconesses and Missionaries v. Geoghegan, D.C.D.C., 281 F.Supp. 116, 117.

Silas v. Bowen, D.C.S.C., 277 F.Supp. 314, 317.

Way v. Seaboard Air Line R. Co., D.C.S.C., 270 F.Supp. 440, 443.

TREY.

U. S. v. Ragland, C.A.Conn., 375 F.2d 471, 473.

TRIAL.

Alred v. Henderson, C.A.Tenn., 406 F.2d 743, 744.

Sun Sales Corp. v. Block Land, Inc., D.C.Pa., 316 F.Supp. 379, 384.

U. S. ex rel. Bradshaw v. Parker, D.C.Pa., 307 F.Supp. 451, 452.

Smallwood v. Clifford, D.C.D.C., 286 F.Supp. 97, 101.

Warn v. Brooks-Seanlon, Inc., D.C.Or., 256 F.Supp. 690, 693.

Johnson v. Tinsley, D.C.Colo., 234 F.Supp. 866, 868.

Wampler v. Warden of Md. Penitentiary, D.C.Md., 218 F.Supp. 876, 879.

Shapiro v. Freeman, D.C.N.Y., 38 F.R.D. 8, 309.

U. S. v. Smith, CMA, 3 M.J. 490, 491.

TRIAL BY JURY WHERE SUCH RIGHT EXISTS.

In re Copeland, D.C.Del., 412 F.Supp. 949, 954.

TRIAL FOR CRIME.

Dupoint v. U. S., C.A.Ga., 388 F.2d 39, 43.

TRIAL WORK PERIOD.

McMillen v. Califano, D.C.N.Y., 443 F.Supp. 1362, 1367.

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Joint Tribal Council of Passamaquoddy Tribe v. Morton, C.A.Me., 528 F.2d 370, 377.

Narragansett Tribe of Indians v. Southern Rhode Island Land Development Corp., D.C.R.I., 418 F.Supp. 798, 808.

TRIBUNAL.

In re Letters Rogatory Issued by Director of Inspection of Government of India, D.C. N.Y., 272 F.Supp. 758, 761.

In re Letters of Request to Examine Witnesses from Court of Queen's Bench for Manitoba, Canada, D.C.Cal., 59 F.R.D. 625, 628.

TRIBUTARY.

Chicago & E. I. R. Co. v. Illinois Cent. R. Co., D.C.Ill., 261 F.Supp. 289, 300.

FEDERAL CASES WHICH
HAVE DEFINED "TRESPASSER"

AMERICAN DIGEST, GENERAL DIGEST, VOLUMES 1 - 10, CUMULATIVE LIST OF KEY NUMBERS

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12 Am Jur 2d

BOUNDARIES

§ 1

- § 107. Declarations of persons since deceased
- § 108. — As part of res gestae
- § 109. Knowledge of declarant
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4. SURVEYS, FIELD NOTES, AND MAPS

- § 111. Surveys and field notes, generally
- § 112. Government surveys
- § 113. Ancient surveys
- § 114. Maps
- § 115. — Ancient maps

D. TRIAL AND JUDGMENT

- § 116. Trial; questions of law and fact
- § 117. Judgment
- § 118. — As res judicata

I. IN GENERAL**§ 1. Generally; definitions.**

A "boundary" is the marking or dividing line between two parcels of land, and a boundary point is the extremity of such a line.¹ The lines or points are indicated by various descriptive elements, such as monuments, courses and distances, area or quantity, plats or maps, or adjoining lands,² or by a combination of such elements, in which case questions may arise as to the relative importance of various inconsistent or conflicting elements.³ The term "monument," when used with regard to boundaries, means a natural or artificial object on the ground which helps to establish the location of the boundary line called for,⁴ and a "course" is the direction of a line run with a compass or transit and with reference to a meridian.⁵ The term "field notes" refers to notes made by the surveyor in the field while making a survey, describing by course and distance, and by natural or artificial marks found or made by him, the running of the lines, and the making of the corners.⁶

A "lost corner" is a point of a survey whose position cannot be determined beyond reasonable doubt, either from traces of the original marks or from acceptable evidence or testimony that bears on the original position, and whose location can be restored only by reference to one or more interdependent corners.⁷ An "obliterated corner" is one of which no visible evidence of the work of the original surveyor remains but the location of which may be shown by competent evidence.⁸

1. *Tiffany v Oyster Bay*, 141 App Div 720, 126 NYS 910, revd on other grounds 209 NY 1, 102 NE 585.

Ballentine's Law Dict.

2. §§ 3 et seq., *infra*.

3. §§ 64 et seq., *infra*.

4. § 4, *infra*.

5. § 10, *infra*.

6. *State v Palacios* (Tex Civ App) 150 SW 229, error ref.

7. *Reid v Dunn*, 201 Cal App 2d 612, 20 Cal Rptr 273.

A "lost corner" is one that cannot be replaced by reference to any existing data or sources of information, although it is not necessary that evidence of its physical location may be seen or that one who has seen the marker be produced. *Chandler v Hibberd*, 165 Cal App 2d 39, 332 P2d 133.

8. *Chandler v Hibberd*, *supra*.

§ 111

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that whenever a party claims under or in the interest of another the declarations of such other person pertaining to the subject of the claim are admissible against him;⁵ declarations of a former owner are admitted against his successor in interest in respect of any issue of title or ownership that may be proved by parol evidence,⁶ such as the identity or location of boundaries and monuments described in a deed.⁷

4. SURVEYS, FIELD NOTES, AND MAPS

§ 111. Surveys and field notes, generally.⁸

It is a well-settled principle that whatever is included within the bounds of a lot as it was actually located upon the face of the earth is to be considered as a part of such lot.⁹ Accordingly, where a survey has been made and the lines actually run on the ground, these facts and the location of the lines may be shown by any proper legal evidence,¹⁰ but the deed must have been made with reference to the survey, and therefore a survey made after the loss of the deed, solely on the information contained in the deed, is not admissible.¹¹ Surveys are admissible in evidence on a question of boundaries, however, even though not located for the purposes of the case, if they refer to natural boundaries involved in the case;¹² and calls and descriptions mentioned in a survey of an adjoining tract, under certain circumstances, are admissible in evidence, where material, in a controversy concerning the boundary of another tract, when the surveys of both tracts have been made by the same surveyor at about the same time.¹³

If private surveys conflict with those made by the government when the patents and grants were originally issued, preference must in all cases be accorded to those made by the government.¹⁴ The field notes and plats of the original surveyor are primary evidence as to the true location of boundaries,¹⁵ and certified copies thereof are admissible either as public archives or upon

interest are admissible against him. *Chapman v Twitchell*, 37 Me 59.

5. See EVIDENCE (1st ed § 604).

6. See EVIDENCE (1st ed § 607).

7. *Deming v Carrington*, 12 Conn 1; *Simpson v Blaisdell*, 85 Me 199, 27 A 101; *Pike v Hayes*, 14 NH 19; *Beaufort Land & Invest. Co. v New River Lumber Co.* 86 SC 358, 68 SE 637; *Taylor v Glenn*, 29 SC 292, 7 SE 483.

In an action for damages for trespass upon real estate, declarations of the defendant's predecessor in title as to the boundary lines made while he was owner of the property are admissible in evidence against the defendant. *Beaufort Land & Invest. Co. v New River Lumber Co.* 86 SC 358, 68 SE 637.

8. As to testimony of or concerning surveyor, see § 102, supra.

9. *Ripley v Berry*, 5 Me 24.

10. *Johnson v Archibald*, 78 Tex 96, 14 SW 266.

11. *Cartwright v Cartwright*, 70 W Va 507, 74 SE 655.

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12. *Bloodsworth v Murray*, 138 Md 631, 114 A 575, 22 ALR 1450.

The general statement is made that lines, monuments, and boundaries which are established and undisputed, although not immediately connected with the land in controversy, are competent evidence to be considered by the jury when they tend to elucidate the subject in dispute. *Gibson v Poor*, 21 NH 440.

13. *Gibson v Poor*, supra; *Overton v Davison*, 1 Gratt (Va) 211.

In Pennsylvania, surveys constituting a block are not to be treated as separate and individual surveys, nor can each tract be located independently of the rest by its own individual lines and calls or courses and distances; all the lines and corners marked upon any part of the block belong to each tract of which it is composed. *Clement v Packer*, 125 US 309, 31 L ed 721, 8 S Ct 907.

14. *Billingsley v Bates*, 30 Ala 376.

15. *Taylor v Fomby*, 116 Ala 621, 22 So 910; *Alexander v Lively*, 5 TB Mon (Ky) 159.

§ 1

BOUNDARIES

11 C.J.S.

III. ESTABLISHMENT—Continued

C. DETERMINATION BY JUDICIAL PROCEEDINGS—Continued

- § 121. Judgment and enforcement thereof—p 734
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IV. APPORTIONMENT OF EXCESS OR DEFICIENCY—p 737

- § 124. In general—p 737
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- § 126. Civil liability—p 740
- 127. Criminal responsibility—p 740

I. DEFINITION AND CLASSES

§ 1. Definition

A boundary is a line or object indicating the limit or furthest extent of a tract of land or territory.

A boundary is a line or object indicating the limit or furthest extent of a tract of land or territory.

A boundary is a line or object indicating the limit or furthest extent of a tract of land or territory; a separating or dividing line between countries, states, districts of territory, or tracts of

land.¹ The term is used to denote the physical object which divides, as well as the line of division itself.²

§ 2. Natural and Artificial Boundaries

A natural boundary is a natural object remaining where it was placed by nature.

A natural boundary has been said to be a natural object remaining where it was placed by nature.³ Artificial monuments as boundaries are considered in § 7 infra.

II. DESCRIPTION, ELEMENTS, AND CONSTRUCTION

§ 3. General Rules of Construction

The object of rules as to location of boundaries is to ascertain their actual location as made, or to retrace the surveyor's footsteps. The parties' intention is the controlling consideration. That which is certain and definite will prevail, and ambiguous or erroneous de-

scriptions may be rejected; but as few calls should be disregarded as possible.

The general rules of construction applied to deeds and grants are applicable in the case of boundaries.⁴ The object of all rules for the establishment

- 1. Burrill L.D. 9 C.J. p 152 note 1.
- Boundaries of:
 - Counties see Counties §§ 14-22. 15 C.J. p 396 note 88-p 399 note 78.
 - Municipal corporations see Municipal Corporations §§ 38-84. 43 C.J. p 106 note 23-p 154 note 31.
 - School districts see Schools and School Districts §§ 28-32, 56 C.J. p 205 note 88-p 210 note 1.
 - States see States §§ 14-20, 59 C.J. p 47 note 71-p 67 note 70.
 - Towns see Towns §§ 12-16, 63 C.J. p 103 note 76-p 106 note 53.

Other definitions
 (1) "That which indicates or fixes a limit or extent or marks a bound, as of a territory."

- Ohio.—In re Jones Petition, 11 Ohio N.P.N.S., 241, 247.
- Wyo.—Board of Com'rs of Crook County v. Board of Com'rs of Sheridan County, 100 P. 659, 673, 17 Wyo. 424, dissenting opinion.
- (2) "A boundary . . . marks off a given thing from other things like in kind, as one field or country from another."—In re Jones Petition, 11 Ohio N.P.N.S., 241, 247.
- 2. Ohio.—In re Jones Petition, supra.
- Wyo.—Board of Com'rs of Crook County v. Board of Com'rs of Sheridan County, 100 P. 659, 17 Wyo. 424, dissenting opinion.
- 3. Bouvier L.D. Natural monuments see infra § 6.
- Particular objects held natural boundaries**
 (1) Bluffs of rocks and summits

- of mountains.—Eureka Min., etc. Co. v. Way, 11 Nev. 171.
- (2) Savanna or natural open meadow.—Stapleton v. Brinson, 24 N.C. 311—9 C.J. p 152 note 3 [b].
- (3) Tract of land.—Wilson Lumber, etc., Co. v. Hutton, 68 S.E. 2, 152 N.C. 537. 9 C.J. p 152 note 3 [a].
- 4. Ohio.—Cardosi v. Wise, 184 N.E. 863, 44 Ohio App. 205. 9 C.J. p 152 note 5.
- Construction of:
 - Deeds see Deeds § 82 et seq. 18 C.J. p 252 et seq.
 - Mortgages see Mortgages § 152 et seq. 41 C.J. p 449 et seq.
- Construction against claimant under uncertain survey**
 In a doubtful case, that construction which is most against a party claiming under an uncertain survey

courses and distances in the return.³⁸ When the location of the block is established, the interior tracts must then be located relatively wholly from the return of the block.³⁹ However, where a survey has actually been made of an independent separate member of an established block of surveys, it is to be located by the work of the surveyor found on the ground, if it can be traced, that is, by its own marks and monuments,⁴⁰ aided, if need be, by the legal presumptions.⁴¹ It is only in the absence of natural marks on the ground to show a survey, and the total failure of evidence to supply such marks, that recourse can be had to the lines and calls of the block, or of any junior member of that block or any other.⁴²

24. Maps, Plats, and Field Notes
A map or plat is the usual and proper method of

recording a survey. Maps, plats, or field notes referred to in a grant are regarded as incorporated into the instrument and as furnishing the true description of the boundaries.

In ascertaining boundaries, attention should be given to the figure of the survey, in the absence of any other controlling influence,⁴³ and a map or plat is the usual and proper method of making a record of a survey,⁴⁴ although not the only method by which lots may be located.⁴⁵

As a general rule, when maps, plats, or field notes are referred to in a grant or conveyance they are to be regarded as incorporated into the instrument and are usually held to furnish the true description of the boundaries of the land;⁴⁶ and this is so whether or not there has been an actual survey.⁴⁷ A reasonable construction of field notes which harmonizes all the terms of a patent will be adopted.⁴⁸

- 38. Pa.—Knupp v. Barnard, 55 A. 981, 206 Pa. 280.
- 39. Pa.—Knupp v. Barnard, supra. 9 C.J. p 174 note 97.
- 40. Pa.—Collins v. Clough, 71 A. 1077, 222 Pa. 472, 15 Ann.Cas. 871. 9 C.J. p 174 note 1.
- 41. Pa.—Miles Land Co. v. Hudson Coal Co., 91 A. 1061, 246 Pa. 11.
- 42. Pa.—Miles Land Co. v. Hudson Coal Co., supra.
- 43. Ky.—Fordson Coal Co. v. Napier, 88 S.W.2d 955, 261 Ky. 776—Combs v. Jones, 51 S.W.2d 672, 244 Ky. 512.
- 44. Ala.—Karter v. East, 125 So. 655, 220 Ala. 511.

Accuracy of survey on which map based

(1) A map to be of value in locating particular lines or objects need not be based on survey accurately made or absolutely accurate, but need only have a degree of certainty that is reasonable and practical, having regard to the circumstances.—State of Arkansas v. State of Tennessee, 46 S.Ct. 31, 32, 269 U.S. 152, 70 L.Ed. 206.

(2) "Absolute accuracy is not attainable."—State of Arkansas v. State of Tennessee, supra.

Texas statute recognizing use of maps

In Texas, a statute enacted to validate surveys and to provide for the ascertainment, distribution, and sale of excesses in surveys, recognizes the use of maps, and authorizes a reference to maps for the purpose of ascertaining the boundaries of surveys subject to the general principles of boundary law.—Brooks v. Slaughter, Civ.App., 218 S.W. 632.

- 45. Ala.—Karter v. East, 125 So. 655, 220 Ala. 511.
- 46. Ill.—Brothers v. Johnstone, 172 N.E. 805, 349 Ill. 477.

- La.—Acadia-Vermilion Rice Irrigating Co. v. Miller, 152 So. 576, 178 La. 954—Mahaffey v. Miller, 105 So. 731, 159 La. 610—Administrators of Tulane Educational Fund v. Stair, 86 So. 595, 148 La. 11—Police Jury of Vermilion Parish v. Marceaux, 126 So. 529, 13 La.App. 332, certiorari denied Marceaux v. Police Jury of Vermilion Parish, 51 S.Ct. 37, 282 U.S. 837, 75 L.Ed. 744.
- Okl.—Roetzel v. Rusch, 45 P.2d 518, 172 Okl. 465—Anderson-Prichard Oil Corporation v. Key Okla Oil Co., 299 P. 850, 149 Okl. 262.
- Pa.—Harper v. Coleman, 94 Pa.Super. Ct. 62.
- 9 C.J. p 180 note 45—18 C.J. p 282 notes 50, 51.

"Field notes" defined

The term "field notes" in its ordinary sense means "notes made by the surveyor in the field while making the survey, describing by course and distance, and by natural or artificial marks found or made by him, where he ran the lines and made the corners."—State v. Palacios, Tex.Civ. App., 150 S.W. 229, 236.

Surveyor's affidavit and certificate attached and made part of a recorded plat should be regarded as incorporated in the description thus set forth.—Oregon Home Builders v. Eisman, 172 P. 114, 88 Or. 611.

Reference to government survey

Express reference to the United States government survey makes the plat as recorded in pursuance to the field notes, if not a substantial part of the deed, at least an appropriate source of reference in ascertaining the real intention of the parties as to location of boundary.—Wisconsin Realty Co. v. Lull, 187 N.W. 978, 177 Wis. 53.

Particular plats construed

(1) "A plat duly certified, acknowledged, and recorded, showing dimen-

sions of lots, and also width of adjoining streets, with no indicia that the lot overlaps into the street, imports that the dimensions given extend only to the street boundary shown on the plat."—Edmundson v. Mullen, 110 So. 391, 393, 215 Ala. 297.

(2) In ejectment, a grantee was held not to have title to a marsh in the rear of his lot where his chain of title described his lot as one hundred and fifty feet deep, that being the depth indicated on a plat, to which the description referred, by a line appearing to divide the lot from the marsh.—Robbins v. Walker, 89 S.E. 128, 119 Va. 222.

(3) Where the issue was whether the land in controversy was included in a particular government lot, and the official government plat showed that the lot contained a certain acreage, and it appeared from the plat and field notes that the surveyor stopped at what he called a "lagoon" and did not intend to make the banks of the lagoon the boundary of the lot, the lot did not include land which lay beyond the point at which the survey stopped.—Lord v. Curry, 71 So. 21, 71 Fla. 68.

In Maryland, under a statutory provision that plats shall not be considered as pleadings or evidence per se, the location of property on a plat may be controverted without a counter location.—Marvil Package Co. v. Ginther, 140 A. 95, 154 Md. 213.

- 47. La.—Acadia-Vermilion Rice Irrigating Co. v. Miller, 152 So. 576, 178 La. 954.
- 48. Tex.—Wilson v. Giraud, 231 S.W. 1074, 111 Tex. 253, answers to certified questions conformed to 234 S.W. 110.

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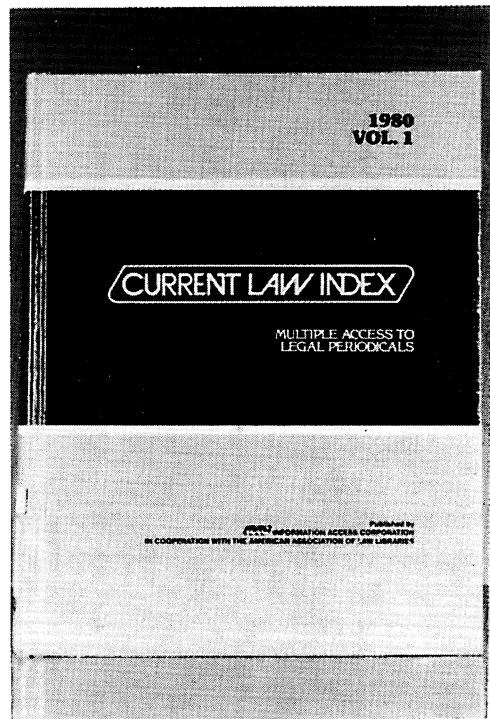
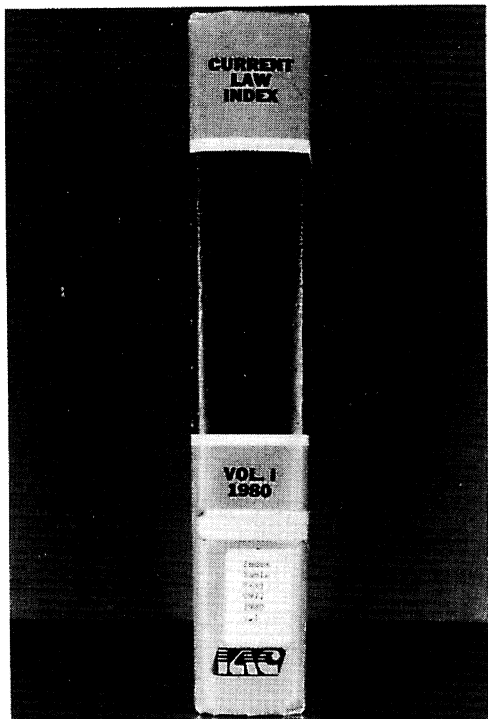
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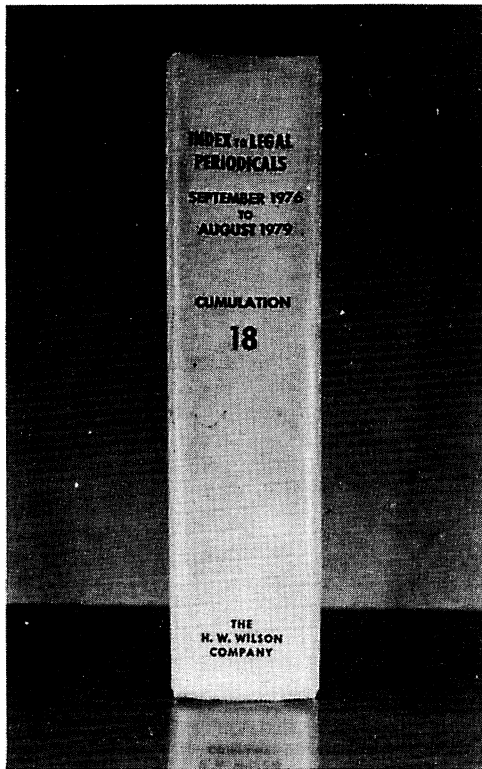
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WORDS AND PHRASES

BOUNDARIES OF

if he enters on and occupies a part of the land, providing it be with the intention of possessing all that is included within the boundaries, means the limits stated in the title deed, if the possession is under title, or the limits or marks of enclosure, if the possession is without title. *Missouri Pac. R. Co. v. Littleton*, La.App., 125 So.2d 37, 40.

BOUNDARIES OF A RAILROAD

A conveyance of that part of a certain lot west of the "boundaries of a railroad" is properly construed to mean that part outside and west of the railroad's right of way. *Illinois Cent. R. Co. v. Hasenwinkle*, 83 N.E. 815, 818, 232 Ill. 224, 15 L.R.A.,N.S., 129.

BOUNDARY

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- Surveyed Boundary
- Title or Boundaries of Land
- True Boundary
- Until Boundary Shall Have Been Defined by Law
- Well-Defined Boundary

In general

"Boundary" may be a colloquial expression synonymous with "tract". *Mahaffey v. Wilson*, Ky., 317 S.W.2d 888, 890.

A "boundary" is a line or object indicating the limit or furthest extent of a tract of land or territory. *Eggers v. Mitchem*, 34 N.W.2d 603, 606, 239 Iowa 1211.

Expression "at the entrance" in Vehicle Code relating to entrance to a residential dis-

In general—Cont'd

trict is synonymous with expression "at the boundary" of the district used in older section of code. *McGough v. Hendrickson*, 136 P.2d 110, 114, 58 Cal.App.2d 60.

The "boundary" simply designates area comprised in unit, whether it be district, city, county, or state. *Jackson County Public Water Supply Dist. No. 1 v. Ong Aircraft Corp.*, Mo.App., 409 S.W.2d 226, 231.

The word "boundaries" means that the land actually, physically and corporeally possessed by one as owner must be established with certainty by natural or artificial marks sufficient to give definite notice to the public of the character and extent of the possession, to identify fully the property possessed and fix with certainty the boundaries or limits thereof. *Hill v. Richey*, 59 So.2d 434, 440, 221 La. 402.

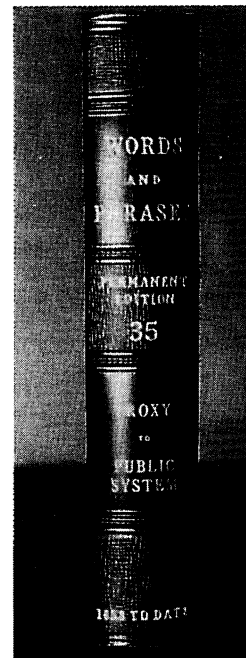
As used in Civil Code article making entry upon and occupancy of a part of land with intention to possess all that is included within "boundaries" possession of the whole, quoted word means the limits or marks of enclosure, if possession is without title, or boundaries or limits stated in title deed, if possession is under a title. *Hill v. Richey*, 59 So.2d 434, 440, 221 La. 402; *Sattler v. Pellichino*, La.App., 71 So.2d 689, 694.

The word "boundary" has a well-defined meaning: it is "that which indicates and fixes a limit or extent or marks a bound, as of territory." *Board of Com'rs of Crook County v. Board of Com'rs of Sheridan County*, 100 P. 659, 673, 17 Wyo. 424, quoting and adopting definition in Webster's Dict.

In view of Civ.Code, arts. 3498, 3503, the word "boundaries," within article 3437, making entry upon and occupancy of a part of land with intention to possess all that is included within "boundaries" possession of the whole, means the limits or marks of inclosures if the possession be without title, or the boundaries or limits stated in the title deed if the possession be under a title. *Leader Realty Co. v. Taylor*, 84 So. 648, 650, 147 La. 256.

The statute providing that one may take possession of estate as owner by entering upon and occupying part of the land with intention of possessing all that is included within the "boundaries" uses quoted word as

JUDICIAL DEFINITIONS OF TERM "BOUNDARY"



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SEMIANNUAL CUMULATIVE SUPPLEMENT

VOL. 71

JULY, 1981

NO. 4

(IN TWO PARTS) PART 1

SHEPARD'S FEDERAL CITATIONS

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D.C. 509F2d¹333 Cir. 2 429F2d²246 448F2d¹1227 3L²1942s 13A²569s</p> <p>- 701 - s440F2d867 Cir. 9 399F2d²674 Cir. 10 484F2d¹1104 364FS²290 Wyo 522P2d1362 38A²377s</p> <p>- 703 - Cir. 1 339FS¹456 Cir. 3 437F2d³326 Cir. 5 396F2d²757 396F2d²757 446F2d²346 446F2d²346 294FS²688 294FS³688 Cir. 6 294FS²29 315FS³658</p> <p>- 705 - Cir. 2 298FS¹207 Cir. 5 332FS806 Cir. 6 395FS488 11A²780s 4ARF987n</p> <p>- 707 - Cir. 2 d312FS³361 Cir. 7 518F2d¹57 NH 110NH313 266A2d838</p> <p>- 711 - US cert den in390US986 Cir. D.C. 443F2d¹763 Cir. 3 474F2d¹219 Cir. 4 312FS¹819 Cir. 7 396FS¹383 Cir. 8 458F2d¹22 328FS¹815 17L²929s 12A²1245s</p> | <p>- 713 - Case 1 Cir. 9 425F2d¹1056</p> <p>- 713 - Case 2 22A²244s</p> <p>- 715 - 56TC1689 Cir. 3 353FS¹100 Cir. 9 423F2d¹502</p> <p>- 716 - US cert den in390US968</p> <p>- 717 - US cert den in391US924 Cir. 3 437F2d³326 US cert den in391US971 Cir. 5 421F2d¹922 306FS¹093 f306FS¹094</p> <p>- 720 - Cir. 5 415F2d¹45 425F2d¹1082 Cir. 10 449F2d¹1205</p> <p>- 721 - 175Col416 488P2d60 19L²1567n</p> <p>- 724 - Cir. 2 333FS²936 341FS393 Cir. 9 394F2d¹130</p> <p>- 727 - (32A²363) s503F2d999 Cir. 9 396F2d²714 509F2d²861 526F2d²735 Calif 265CA2d129 71CaR324 Haw 53H93 488P2d140 La 246So2d326 Mich 60McA242 230NW⁵566 3A²383s</p> <p>- 737 - Cir. 2 d315FS¹0257</p> | <p>Cir. 3 397F2d⁸137 f417F2d¹⁰284 j450F2d²244 466F2d⁸732 291FS²919 309FS⁴454 378FS¹298 Cir. 8 430F2d¹1399 e430F2d²1400 Pa 452Pa126 452Pa133 305A2d7 305A2d713 22ARF862n</p> <p>- 745 - Cir. 2 404F2d¹352 Cir. 5 401F2d¹177 419F2d¹1326 437F2d¹113 446F2d¹1398</p> <p>- 747 - Cir. 5 400F2d805 425F2d¹1085</p> <p>- 748 - US cert den in390US946 50TC488 Cir. 2 454F2d⁸1254 Cir. 4 d301FS¹1276 372FS⁵566 372FS⁵566 Cir. 5 412F2d⁴978 412F2d⁶978 534F2d⁷51 Cir. 8 487F2d³357 e487F2d³358 355FS⁸5 d355FS⁸7 d355FS⁸7 d355FS⁸8 Cir. 9 391F2d²211 Cir. 10 511F2d⁵519</p> <p>- 752 - (4ARF674) 417US¹126 40L²3712 94SC²2164 Cir. 5 e391F2d²18 392F2d²720 392F2d²720 f392F2d²721 403F2d²598 412F2d³330 294FS¹1347 294FS¹1347 f346FS¹1407 Cir. 9 473F2d⁴726</p> | <p>473F2d²727 316FS²752 316FS²752 316FS²752 316FS²753 316FS²753 Cir. 10 470F2d²245 69A²1046s</p> <p>- 758 - Cir. D.C. 427F2d¹5553 Cir. 1 396FS¹866 Cir. 2 522F2d²60 522F2d²163 392FS¹775 394FS¹816 393F2d¹125 Cir. 7 392FS¹85 Cir. 8 427F2d¹289 374FS409 d65FRD²444 Cir. 10 393F2d²592 393F2d²592 394F2d²118 407F2d¹157 409F2d²731 409F2d²798 432F2d¹1032 432F2d¹1032 437F2d²43 441F2d¹337 442F2d¹1023 460F2d²246 466F2d¹1117 474F2d¹586 534F2d¹386 398FS¹491 Colo 174Col11 481P2d717 NJ 126Su428 315A2d46 NM 83NM216 490P2d474</p> <p>- 764 - Cir. 8 406F2d¹1123</p> <p>- 767 - Cir. 3 364FS¹1091 364FS¹1092 Cir. 8 420F2d²971 Cir. 10 296FS¹187 454F2d⁸1283 513F2d¹1326 528F2d²353 528F2d⁷795</p> <p>- 772 - 44FRD384</p> | <p>Cir. 1 289FS²532 Cir. 2 414F2d⁴542 461F2d²969 503F2d¹349 522F2d¹⁰165 Cir. 4 311FS²759 Cir. 5 396F2d²765 j445F2d⁶111 Cir. 6 411F2d²912 Cir. 7 430F2d⁴398 440F2d²568 Cir. 10 427F2d²991 56A²1309s 30A²179n</p> <p>- 776 - Cir. 5 433F2d¹⁰680 Cir. 7 440F2d³29 56A²13s</p> <p>- 781 - Cir. 2 377FS²642 Cir. 3 300FS²631 302FS³593 Cir. 7 302FS²516 Cir. 8 404F2d⁶590 428F2d²468 445F2d³565 483F2d171 293FS²994 c338FS1099 Cir. 9 423F2d³831</p> <p>- 784 - US cert den in390US999 Cir. 3 413F2d⁸ 310FS¹1206 311FS²558 Cir. 4 406F2d⁸24 412F2d⁸843 412F2d⁸843 413F2d¹279 431F2d¹353 432F2d²994 443F2d¹1339 494F2d²343 284FS²532 292FS¹323 295FS²800 296FS²182 296FS¹187 296FS¹262 296FS²262 297FS²608 311FS²788 311FS²904 315FS²1095</p> | <p>315FS¹1097 320FS¹425 320FS662 320FS²833 320FS²871 327FS²413 327FS¹414 f329FS²1239 329FS²1306 Cir. 5 369FS¹36 Cir. 8 f302FS436 1ARF646n 14ARF779n</p> <p>- 786 - Cir. 5 513F2d³13 Cir. 6 492F2d¹1376 Cir. 10 376FS²6 4A²671s</p> <p>- 789 - Cir. 7 397F2d²458</p> <p>- 794 - Cir. 5 403F2d²835 Cir. 10 409F2d²2</p> <p>- 797 - s413F2d206 Cir. 3 526F2d⁴736 d368FS¹296 f384FS¹1083 Cir. 5 399FS²853 Cir. 6 401F2d³377 405F2d⁴701 Cir. 7 d401F2d³323 403F2d⁴484 f411F2d⁷766 437F2d¹1176 461F2d²906 j461F2d903 j461F2d904 495F2d³129 495F2d⁴130 509F2d¹1142 f509F2d¹1144 365FS²850 370FS¹813 374FS51 379FS¹1026 394FS¹1334 403FS¹302 58FRD²591 63FRD437 63FRD²439 Cir. 8 359FS¹124 Wis 48Wis2d70 70Wis2d584 179NW⁸81 235NW⁴458 20A²1220n</p> |
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See note on first page of this division. See 1969 Bound Volume for earlier citations

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NO CASES LISTED FOR HUDSPETH CASE 384 F2d 683

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| - 479 - Cir. 1 652F2d ¹ 1074 652F2d ¹ 1102 633F2d [¹¹ 1065 HHb Ex7 | - 748 - Cir. 2 635F2d72 Cir. 5 634F2d ⁸ 24 634F2d ⁸ 25 634F2d ¹⁰ 830 Cir. 9 648F2d ⁴ 562 648F2d ¹⁰ 562 | - 752 - Cir. 2 69AB1046s | - 755 - Cir. 10 634F2d [¹³ 1269 | - 883 - Cir. 10 499FS ² 392 508FS842 508FS846 | - 998 - Case 1 Cir. 4 507FS210 | - 116 - e647F2d ⁴ 314 502FS ⁸ 51 502FS ⁸ 57 d507FS ² 258 508FS1333 d514FS ⁹ 988 86FRD ¹ 156 Cir. 6 86FRD ⁴ 386 MFP ³ 3.89 | - 161 - Cir. 10 517FS ² 1367 | - 308 - Cir. D.C. 631F2d ¹ 993 |
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| - 522 - Cir. 8 627F2d ¹ 141 Cir. 9 497FS ⁴ 91 | - 772 - NY 76Ap2d293 429S2d699 | - 789 - Ind 1731nA467 | - 915 - Cir. 10 654F2d ² 677 49ARF636n | - 1001 - Cir. 8 630F2d626 | - 111 - Cir. 5 d6BRW ⁹ 990 | - 171 - Cir. 7 626F2d ⁴ 553 489FS ⁶ 44 | - 350 - Cir. 8 629F2d ⁴ 528 | |
| - 530 - Mass 6MaA355 | - 789 - Ind 1731nA467 | - 797 - Colo 197Col187 | - 929 - 74TC1435 Cir. D.C. 635F2d ¹ 898 Cir. 7 633F2d ¹ 1189 Cir. 8 d493FS ⁷ 84 Iowa 308NW95 | - 1001 - Cir. 8 630F2d626 | - 112 - Cir. 1 d6BRW ⁹ 990 | - 180 - Cir. 1 d651F2d ² 63 | - 353 - Cir. 4 9BRW ⁸ 869 9BRW ⁸ 870 | |
| - 535 - NY 103Mse2d765 | - 802 - Mont 615P2d181 | - 802 - 96AB75n | - 943 - Cir. 9 656F2d ³ 1325 | - 1001 - Cir. 8 630F2d626 | - 122 - Cir. 1 d6BRW ⁹ 990 | - 188 - Idaho 619P2d1149 | - 366 - Cir. 3 627F2d ² 682 Cir. 5 634F2d ² 27 644F2d ² 477 644F2d ² 505 87FRD ¹ 119 e87FRD ¹ 20 | |
| - 540 - Cir. 9 492FS ⁸ 47 | - 803 - Cir. 2 d641F2d ⁷ 9 | - 813 - Cir. 7 e496FS ¹ 35 | - 951 - RI 429A2d446 | - 1001 - Cir. 8 630F2d626 | - 124 - CRB ⁷ 12 | - 200 - NM 625P2d593 | - 375 - Cir. 4 96McA630 MFP ⁷ 7.6 | |
| - 554 - Cir. 4 629F2d ¹ 929 | - 825 - Mass 107CA3d334 165CaR897 | - 825 - Mass 414NE1016 417NE466 Pa 267PaS534 | - 979 - Cir. D.C. 627F2d ¹ 217 Cir. 9 625F2d ² 256 | - 1001 - Cir. 8 630F2d626 | - 129 - Cir. 4 631F2d346 Cir. 5 637F2d ³ 302 Okla 615P2d285 | - 225 - Cir. 8 492FS ⁸ 69 NM 93NM180 | - 387 - Cir. 3 491FS ¹ 061 491FS ¹ 062 Cir. 7 631F2d ² 494 | |
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| - 586 - Tex 605SW887 615SW225 | - 842 - Cir. 4 630F2d ² 1021 NJ 86NJ250 430A2d898 | - 842 - Cir. 9 642F2d354 | - 992 - Cir. 1 512FS277 | - 1001 - Cir. 8 630F2d626 | - 135 - Cir. 3 f507FS699 | - 238 - 74TC1564 Cir. 5 d632F2d [⁴ 1176 d632F2d [⁹ 1176 f651F2d ² 1070 f651F2d ³ 1070 Calif 117CA3d261 172CaR603 EPFR ³ 13.63 | - 395 - Cir. 3 517FS ¹ 222 Cir. 4 515FS ¹ 434 | |
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| - 596 - Cir. 10 515FS ¹ 862 | - 701 - Idaho 100Ida357 100Ida667 | - 863 - Cir. 4 630F2d ² 1021 NJ 86NJ250 430A2d898 | - 992 - Cir. 1 512FS277 | - 1001 - Cir. 8 630F2d626 | - 143 - Cir. 1 10BRW ⁹ 999 Cir. 2 635F2d ³ 1026 Cir. 8 629F2d ² 553 629F2d ² 553 AA ⁶ 1.11 | - 265 - Cir. 3 498FS124 Calif 115CA3d [1015 171CaR797 | - 406 - e68LE1437 e68LE1438 e68LE1438 e101SC ¹ 1920 | |
| - 602 - Cir. 5 633F2d [¹⁹ 1188 Cir. 8 649F2d1254 | - 711 - Cir. 10 626F2d ⁸ 14 | - 863 - Cir. 5 648F2d ¹ 56 Cir. 9 651F2d ⁶ 56 | - 992 - Cir. 1 512FS277 | - 1001 - Cir. 8 630F2d626 | - 151 - Cir. 5 656F2d ¹ 017 | - 274 - Cir. 4 e629F2d ² 991 | - 406 - e68LE1437 e68LE1438 e68LE1438 e101SC ¹ 1920 | |
| - 609 - Cir. 6 632F2d ⁶ 49ARF244n 49ARF245n 49ARF290n | - 711 - Cir. 10 626F2d ⁸ 14 | - 863 - Cir. 5 648F2d ¹ 56 Cir. 9 651F2d ⁶ 56 | - 992 - Cir. 1 512FS277 | - 1001 - Cir. 8 630F2d626 | - 154 - Cir. 3 621F2d ² 593 Cir. 6 506FS ³ | - 279 - New 632P2d1155 | - 406 - e68LE1437 e68LE1438 e68LE1438 e101SC ¹ 1920 | |

HUDSPETH CASE
384 F2d 683

TWO CASES
LISTED

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LOWER FEDERAL COURT DECISIONS

Illustrative Case

CITED CASE IS
508 F2d 687

Federal Reporter, Second Series

Vol. 508

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HISTORY

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In 420 U.S. 908
v. 427 U.S. 807
7-21, 7-17
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416 F.S.438
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653 F.2d
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Citations to the case of Jersey Central Power & Light Co. v. International Brotherhood of Electrical Workers as reported in Volume 508 Federal Reporter, Second Series, at page 687 are shown in the left margin of this page.

Citations to the case of Tape Industries Association of America v. Evelle J. Younger as reported in Volume 316 Federal Supplement at page 340 are shown in the right margin of this page.

Any cross references to a cited case reported in Federal Supplement or Federal Reporter as also reported in United States Patents Quarterly, United States Court of Customs and Patent Appeals Reports (Customs or Patents), Decisions of the Commissioner of Patents or the Annotated Reports System are shown enclosed in parentheses immediately following the page number of that case and are not repeated in subsequent volumes.

Citations to each cited case are grouped as follows:

1. citations by federal and state courts analyzed as to the history of the cited case;
2. citations by the United States Supreme Court analyzed as to the treatment accorded the cited case;
3. citations in federal administrative reports;
4. citations in articles in Federal Rules Decisions and the American Bar Association Journal;
5. citations by the federal courts, other than the United States Supreme Court, analyzed as to the treatment accorded the cited case arranged under their respective circuits;
6. citations in state reports and units of the National Reporter System arranged under the appropriate state abbreviation; and
7. citations in annotations of Lawyers' Edition, United States Supreme Court Reports and the American Law Reports.

For the purpose of illustration only, this grouping has been indicated by bracketing the citations accordingly.

It will be noted that as yet there are no citations in groups two, three and four in the illustration on the left or in groups three and four in the illustration on the right.

In indicating the history and treatment of a cited case, letter abbreviations shown below are used.

The number of any paragraph of the syllabus or of any headnote of a cited lower federal court case stating a principle of law specifically dealt with in any citing federal court case is indicated by superior figure appearing immediately to the left of the page number of that citing case.

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| a (affirmed) | c (criticised) |
| cc (connected case) | d (distinguished) |
| D (dismissed) | e (explained) |
| m (modified) | f (followed) |
| r (reversed) | h (harmonized) |
| s (same case) | j (dissenting opinion) |
| S (superseded) | L (limited) |
| v (vacated) | o (overruled) |
| | p (parallel) |
| | q (questioned) |

COURTS

Cir (number)—U. S. Court of Appeals Circuit (number)
CCPA—Court of Customs and Patent Appeals
Ct Cl—Court of Claims Reports (U.S.)
Cu Ct—Customs Court Decisions
DC—District of Columbia
ECA—Temporary Emergency Court of Appeals
ML—Multidistrict Litigation
RRR—Special Court Regional Rail Reorganization Act of 1973

VOL. 71

NOVEMBER 1981

NO. 6

(IN TWO PARTS) PART I

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**NOTE TWO
CASES LISTED
UNDER
SECTION 772**

See note on first page of this division. See prior volumes, Statute Edition for earlier citations

HOW TO USE SHEPARD'S CITATIONS, 1980

UNITED STATES CODE

(Illustrative Statute)

United States Code, 1970 Edition and Supplement, 1972

TITLE 18

§ 700

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Citations to section "§" 700 of Title 18 of the United States Code, 1970 Edition and Supplement 2, 1972 are shown in the left margin of this page. In Shepard's United States Citations, Statute Edition any citation to a section of the United States Code presently in effect is shown as is illustrated here and any citation to a section of the United States Code no longer in effect is shown as referring to the section number of the United States Code of the year when that section number last appeared.

Citations to each cited statutory provision are grouped as follows:

1. amendments, repeals, etc. by acts of Congress subsequent to 1962;
2. citations by the United States Supreme Court and the lower federal courts analyzed as to constitutionality or validity;
3. other citations by the United States Supreme Court and the lower federal courts;
4. citations in articles in the American Bar Association Journal;
5. citations in annotations of the Lawyers' Edition, United States Supreme Court Reports and of the American Law Reports;
6. citations to specific subdivisions.

For the purpose of illustration only, this grouping has been indicated by bracketing the citations accordingly. It will be noted that as yet there are no citations in group four.

The citations shown here are supplemental to any for the equivalent sections of the United States Code shown in prior dated volumes of the current citator.

The first citation shown indicates that section 700 of Title 18 was added "Ad" by an act of Congress printed in 82 United States Statutes at Large "St" at page 291. The section is next shown to have been held constitutional "C" by a lower federal court in a case reported in 302 Federal Supplement "FS" 1112 and to have been cited without particular comment in several cases before the federal courts and the United States Supreme Court. The section was also cited in an annotation "n" of the American Law Reports, Third Series "ALR".

Citing references to specific subdivisions of the section are then shown. Subsection "Subsec." a was held constitutional in two lower federal court cases reported in 454 F2d 972 and 462 F2d 96.

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| Part 1840 353FS187 ^Δ 1972 | §1852.1-4(c) 292FS742 ^Δ 1968 | §2091.6-3 369FS1367 *1972 | §2234.1-3(a)(1) 418F2d414 *1969 |
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| Part 1842 384F2d687 *1967 529F2d647 ^Δ 1976 | §1852.1-6 292FS742 ^Δ 1968 | §2211.2-2(c) 269FS98 ^Δ 1967 | §2243.0-1 et seq. 305FS731 ^Δ 1969 |
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| Part 1844 384F2d687 *1967 | §1852.2-2 371F2d636 ^Δ 1967 292FS742 ^Δ 1968 | §2212.1-3(c) 489F2d453 *1964 | §§2311.0-6 to 2311.2 590F2d854 *1969 |
| §1844.1 435F2d43 ^Δ 1970 542F2d1367 *1970 | §1852.3-5 269FS99 ^Δ 1967 | §2212.2-1(a) 489F2d453 *1964 | §2311.1-2 321FS762 ^Δ 1971 |
| §1844.3 368FS695 *1969 | §1881.0-5(b) 146GaA761 ^Δ 1978 Ga 247SÆ578 ^Δ 1978 | §2212.2-2(a) 489F2d453 *1964 | §2313.1(c) 445US718 *1974 63LÆ744 *1974 100SC1453 *1974 |
| §1844.9 435F2d43 ^Δ 1970 489F2d454 *1956 | §2013.2-7 590F2d854 *1969 | §2212.3-2 489F2d454 *1967 | §2321.1-2(b) 369FS1301 ^Δ 1973 |
| Part 1852 371F2d636 ^Δ 1967 | §2013.6 513F2d1389 *1970 | Part 2214 415F2d125 ^Δ 1969 | Part 2340 465FS1070 *1977 |
| §1852.1 et seq. 305FS731 ^Δ 1969 | §2013.9-3 464FS1066 *1961 | §2221.07 473F2d794 *1967 | Part 2400 et seq. 519F2d469 ^Δ 1975 |
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| §1852.1-4(a)(9) 292FS744 ^Δ 1968 | §2091.1(e) 508F2d888 ^Δ 1975 498FS672 *1979 | §2232.1-4(b) 449F2d607 ^Δ 1971 298FS384 ^Δ 1969 | §2410.0-3 303FS829 ^Δ 1969 |
| | §2091.5 369FS1367 *1972 | §2232.2-1(e) 298FS382 ^Δ 1969 | §2410.0-3(a)(2) 449F2d606 *1964 |
| | | Part 2234 418F2d414 ^Δ 1969 | |

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76-1435 → **A 1:9:2148/6** → **Reid, William J** / [by W. J. Reid, Jr., and F. P. Cuthbert, Jr.] — [Rev. Feb. 1976] [Washington] : Dept. of Agriculture, Agricultural Research Service : for sale by the Supt. of Docs., U.S. Govt. Print. Off., [1976] 20402. [4 p.: ill.; 25 cm.—(Farmers' bulletin, no. 2148)] — "This publication is intended for the commercial grower of those vegetables whose leafy or flowering parts are marketed." ● Item 9 (microfiche) → S/N 001-000-03478-1 → pbk.: \$0.35 → 1. Plant lice — Control. 2. Insecticides. I. Cuthbert, Frank P., joint author. II. United States. Agriculture Research Service. III. Title. IV. Series : United States. Dept. of Agriculture. Farmers' bulletin ; no. 2148. → S21.A6 rev. no. 2148 1969 → 632/.7/52 → OCLC 0084699 → 72-604400

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1. Coastal ecology — Virginia — Maps. 2. Coastal ecology — North Carolina — Maps. 3. Coastal ecology — Atlantic Coast (United States) — Maps. 4. Atlantic Coast (United States) — Maps. I. United States. Fish and Wildlife Service. II. United States. Geological Survey. III. Title: Norfolk, Va.—N.C., 1:250,000-scale map of Atlantic Coast ecological inventory.

OCLC 7034511

81-640

I 49.6/2:Ec 7/2/Orlando

Atlantic Coast ecological inventory, Orlando, Florida / compiled in 1980 by Fish and Wildlife Service. [Washington, D.C.?] : U.S. Fish and Wildlife Service ; Reston, Va. : [Dept. of the] Interior, Geological Survey : For sale by the U.S. Geological Survey, 1980.

1 map : col. ; 47 x 81 cm. folded to 21 x 10 cm.

Panel title: Orlando, Florida, 1:250,000-scale map of Atlantic Coast ecological inventory.

"Base map prepared by U.S. Geological Survey 1972."

Relief shown by spot heights.

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"28080-A1-EI-250."

●Item 612-E

1. Coastal ecology — Florida — Maps. 2. Coastal ecology — Atlantic Coast (United States) — Maps. 3. Atlantic Coast (United States) — Maps. I. United States. Fish and Wildlife Service. II. United States. Geological Survey. III. Title: Orlando, Florida, 1:250,000-scale map of Atlantic Coast ecological inventory.

OCLC 7034850

81-641

I 49.6/2:Ec 7/2/Rocky

Atlantic Coast ecological inventory, Rocky Mount, North Carolina / compiled in 1980 by Fish and Wildlife Service. [Washington, D.C.?] : U.S. Fish and Wildlife Service ; Reston, Va. : [Dept. of the] Interior, Geological Survey : For sale by the U.S. Geological Survey, 1980.

1 map : col. ; 47 x 75 cm. folded to 21 x 10 cm.

Panel title: Rocky Mount, North Carolina, 1:250,000-scale map of Atlantic Coast ecological inventory.

"Base map prepared by U.S. Geological Survey in 1963."

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"10,000 metre Universal Transverse Mercator grid, zone 18."

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"35076-A1-EI-250."

●Item 612-E

1. Coastal ecology — North Carolina — Maps. 2. Coastal ecology — Atlantic Coast (United States) — Maps. 3. Atlantic Coast (United States) — Maps. I. United States. Fish and Wildlife Service. II. United States. Geological Survey. III. Title: Rocky Mount, North Carolina, 1:250,000-scale map of Atlantic Coast ecological inventory.

OCLC 7016000

Page 90

81-642

I 49.6/2:Ec 7/2/West P.

Atlantic Coast ecological inventory, West Palm Beach, Florida / compiled in 1980 by Fish and Wildlife Service. [Washington, D.C.?] : U.S. Fish and Wildlife Service ; Reston, Va. : [Dept. of the] Interior, Geological Survey : For sale by the U.S. Geological Survey, 1980.

1 map : col. ; 47 x 82 cm. folded to 21 x 10 cm.

Panel title: West Palm Beach, Florida, 1:250,000-scale map of Atlantic Coast ecological inventory.

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Includes numerically-keyed lists of terrestrial and aquatic organisms.

Includes location diagram.

"26080-A1-EI-250."

●Item 612-E

1. Coastal ecology — Florida — Maps. 2. Coastal ecology — Atlantic Coast (United States) — Maps. 3. Atlantic Coast (United States) — Maps. I. United States. Fish and Wildlife Service. II. United States. Geological Survey. III. Title: West Palm Beach, Florida, 1:250,000-scale map of Atlantic Coast ecological inventory.

OCLC 7034791

81-643

I 49.44/2:B 82

Browns Park National Wildlife Refuge. — [Washington, D.C.?] : Dept. of the Interior, U.S. Fish and Wildlife Service, 1980.

1 sheet : ill. ; 23 x 41 cm. folded to 23 x 10 cm.

●Item 612-C

1. Wildlife refuges — Colorado. 2. Brown Park National Wildlife Refuge (Colo.) I. United States. Fish and Wildlife Service.

OCLC 7030298

Washington, DC 20240

81-644

I 53.2:P 22

Summary, multiple use management decisions, Parker Mountain Planning Unit. — [Richfield, Utah] : U.S. Dept. of the Interior, Bureau of Land Management, Richfield District, 1980.

30 p. : ill., col. maps ; 22 x 28 cm.

Cover title.

"April 1980."

●Item 631

1. Land use — Planning — Utah. 2. Utah — Wayne County — Public lands. I. United States. Bureau of Land Management. Richfield District. II. Title: Multiple use management decisions, Parker Mountain Planning Unit.

OCLC 6810768

SECTION IV - FINDING TOOLS

Review Exercise IV

There are 10 questions worth a total of 105 points. Point values are noted in parentheses. If your score is less than 75% you should review this section again. Answers follow this exercise.

1. The primary finding tool for cases are _____ (7)
2. The makeup of a West digest consists primarily of case summaries arranged by subjects and classification numbers. This system is known as the West _____ system. (7)
3. All digests have descriptive word Indexes, tables of cases and volumes with case summaries arranged by topics. Special digests have two additional features:
(1) _____ and
(2) _____ (14)
4. A *Descriptive Word Index* lists the names of parties.
True _____ False _____ (7)
5. The four methods of research one can use with digests are (1) Descriptive Word Index (2) Topic (3) Table of Cases and (4) _____. (7)
6. The two national law encyclopedias are *American Jurisprudence 2d* and _____. (7)
7. Citators help researchers evaluate and find cases.
True _____ False _____ (7)
8. One can Shepardize cases and statutes.
True _____ False _____ (7)
9. There are citators for all jurisdictions.
True _____ False _____ (7)
10. Match statements with answers.
 - a) covers many subjects; privately published; very current
 - b) lists government publications on a monthly basis
 - c) master index of case summaries
 - d) used to index legal periodicals
 - e) lists names, addresses of lawyers_____ Directories
_____ CLI
_____ *American Digest System*
_____ *Corpus Juris Secundum*
_____ *U.S. Monthly Catalog*
_____ looseleaf services (30)

SECTION IV - FINDING TOOLS

Review Exercise IV

Answers. (Page references are to source of questions and answers in workbook.)

1. digests p. 127
2. Topic and Key number p. 127-128
3. (1) *Defendant-Plaintiff* tables and p. 129
(2) *Words and Phrases* volumes p. 129
4. False p. 129-131
5. definition p. 129
6. *Corpus Juris Secundum* p. 135
7. True p. 138
8. True p. 138
9. True p. 138
10. a) looseleaf services p. 142
b) *Monthly Catalog* p. 142
c) *American Digest System* p. 133
d) CLI p. 136
e) directories p. 137

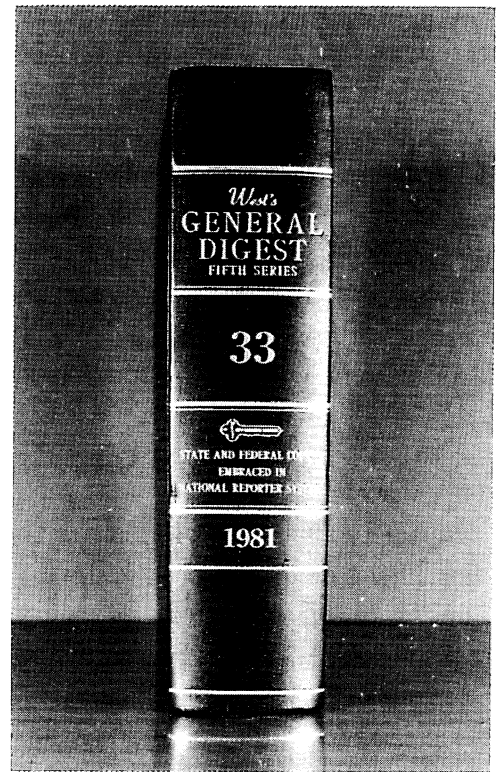
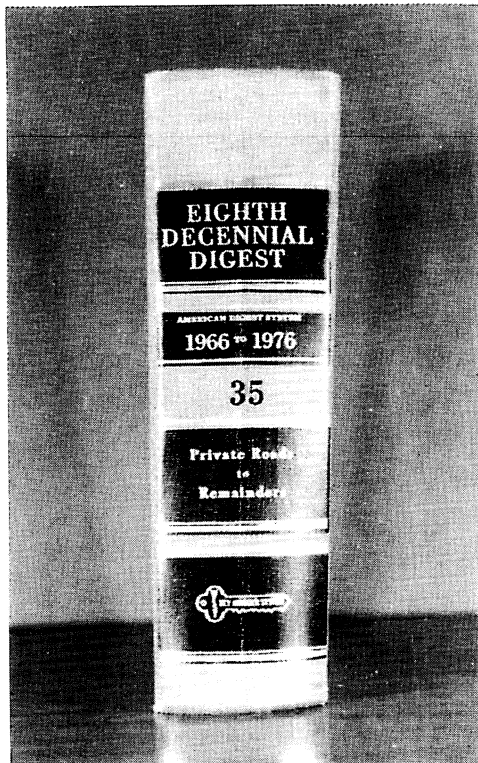
APPENDIX

The APPENDIX to *FINDING THE LAW: A WORKBOOK ON LEGAL RESEARCH FOR LAYPERSONS* is intended to give the student more in-depth, bibliographic information about the major titles covered in the workbook. Titles are arranged alphabetically.

Title: *American Digest System*

Publisher: West Publishing Company

American Digest System, U.S. Supreme Court Digest, Federal Digest System, Regional Digests and State Digests are covered extensively in **SECTION IV - FINDING TOOLS, A.1.**



Title: *American Jurisprudence 2d (Am. Jur. 2d)*

Publisher: Lawyers Co-Operative Publishing Company/Bancroft-Whitney Company

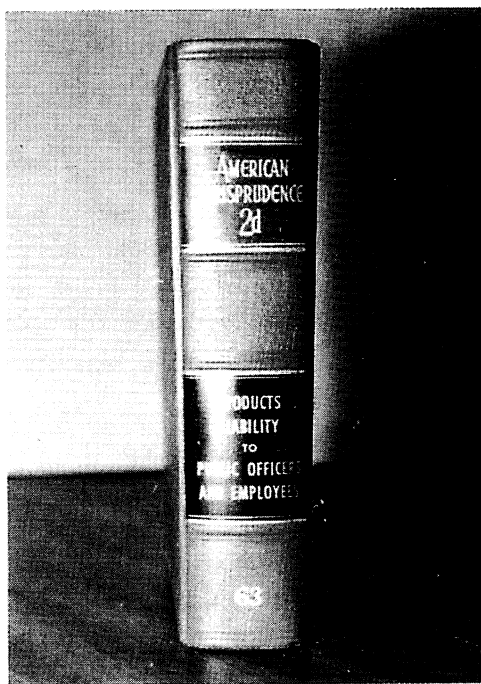
Composition of Set: This is a general legal encyclopedia for American law. The publishers attempt to provide a textual statement of both procedural and substantive law. The text is supported by selected references to cases in point. For other than purely historical reasons, there is no need to consult the set's predecessor, *American Jurisprudence*. While legal encyclopedias are useful for a variety of research purposes, they are especially valuable for the researcher relatively new to the area because they place specific legal areas in a broader context.

Arrangement of Materials: *American Jurisprudence 2d* is arranged much like any general encyclopedia. The publisher has divided all law into about four hundred (400) topics. These topics are arranged alphabetically. The

arrangement within each topic is based upon logic. This arrangement makes it possible for one to use a subject approach. Though the subject approach is available, this technique is better reserved for those areas of the law with which there is already some familiarity.

Finding Aids: The publisher provides a six-volume general index plus individual indexes for each volume covering topics included in that volume. The topic approach is also facilitated by the publisher's inclusion of detailed tables of contents for each topic.

Currency of the Set and Its Information: *American Jurisprudence 2d* is regularly up-dated. Though the bound volumes in the set have a variety of copyright dates, all volumes are brought up to date through the end of December of the preceding calendar year by the inclusion of pocket parts with each volume. If the quantity of changed or new material is too large to be handled by pocket parts, entirely new replacement volumes are issued. The publishers provide no method to achieve greater currency than January 1



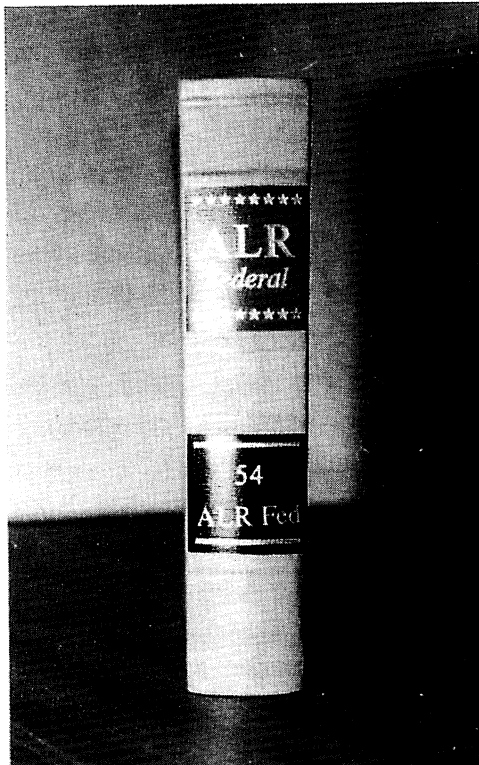
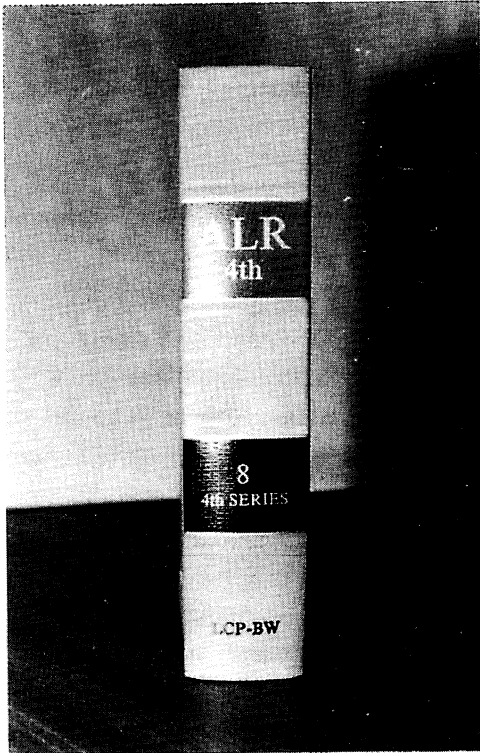
of the current year. Greater currency than this can be achieved, however. After locating

the appropriate section of text, applicable cited cases can be brought up to date by Shepardizing or by using Key Numbers in the *American Digest System*.

Special Features:

1. Definitions of legal words and terms are included where they logically belong in text. It is necessary, therefore, to use the index in order to find where they are located.
2. *American Jurisprudence 2d* includes a separate volume of *Tables of Statutes and Rules Cited*. Each volume contains a similar listing covering only the topics in that volume.
3. The *General Index* volumes of *American Jurisprudence 2d* are kept current by the use of pocket parts as are the textual volumes. The failure to remember this is the most frequent mistake made in the use of the set.
4. *American Jurisprudence 2d* includes a volume entitled a *Desk Book*. This is a legal almanac. This work contains useful dates. It is divided into seven major categories:
 - a. government documents
 - b. the courts
 - c. lawyers and the legal profession
 - d. statutes
 - e. statistical matters
 - f. tables of abbreviations
 - g. miscellany
5. *American Jurisprudence 2d* gives frequent cross-references to *American Law Reports* and *American Law Reports, Federal*.
6. **New Topic Service.** The New Topic Service extends *American Jurisprudence 2d* to give comprehensive coverage to new titles of law as they emerge, and to those existing titles that are undergoing dramatic changes. The New Topic Service is one of the many ways that *American Jurisprudence 2d* is constantly kept up-to-date. Each article in the New Topic Service is separately bound and inserted into a special binder.

Title: *American Law Reports* (ALR)
American Law Reports, Federal
Publisher: Lawyers Cooperative Publishing
Company.



The *American Law Reports System* (ALR's, ALR Fed.) are covered in **SECTION III - CASE LAW**, at B.4, pages 87, 108-113.

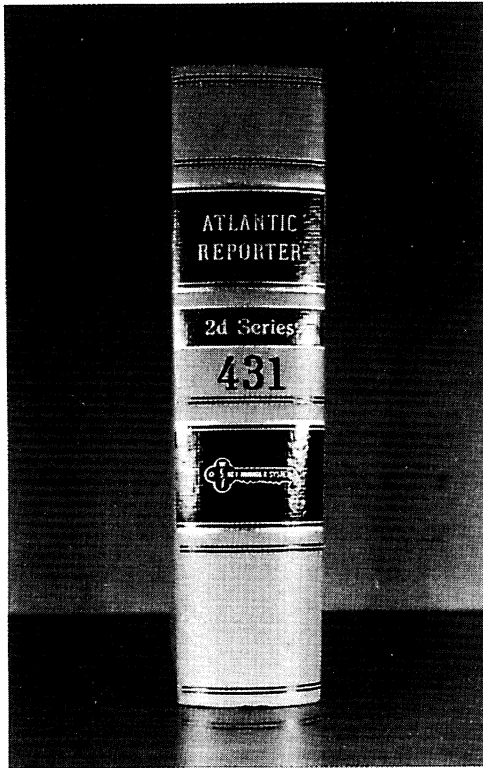
Title: *Atlantic Reporter* (A., A2d)
Publisher: West Publishing Company
Composition of Set: This set is a multi-state reporter of state appellate opinions. Publication of this unofficial reporter began in 1885. Jurisdictions covered include Connecticut, Delaware, Maine, Maryland, New Hampshire, New Jersey, Pennsylvania, Rhode Island, Vermont and the District of Columbia Court of Appeals. Though the two series of this set are unofficial, the discontinuance of some official state court reports makes this set the only source for some current court reports.

Arrangement of Materials: The text of the state appellate decisions included in the *Atlantic Reporter* are reported in chronological order. There is no division of the materials by state or subject.

Finding Aids: West Publishing Company publishes a separate digest specifically to provide subject access to this individual set of books. It is the *Atlantic Reporter Digest*. All materials in the *Atlantic Reporter Digest* are also included in the *American Digest System*, also from West Publishing Company.

Currency of the Set: The *Atlantic Reporter* is a constantly growing file. As a new decision is rendered it is incorporated into an advance sheet. Advance sheets are cumulated into permanent bound volumes as sufficient materials become available.

Currency and Validity of Information: The bound volumes of both series and the advance sheets to the second series, taken together, constitute a complete file of the available written appellate opinions from 1885 to date for the jurisdictions covered. For the text of opinions prior to 1885 official court reports and/or individual nominative reports must be



consulted. In order to ascertain how a case is being used in later cases, one should consult *Shepard's Atlantic Citations*.

Special Features:

1. Each volume of the *Atlantic Reporter* includes a list of the judges of the courts covered during the time covered by the volume.
2. Each volume of the *Atlantic Reporter* includes an alphabetical listing of the cases contained in that volume. The alphabetizing is done by the first named party to the action.
3. Each volume of the *Atlantic Reporter* includes a digest which provides subject access to the decisions contained in that volume.
4. For each case there are included the following elements beyond the text of the opinion:
 - a. Name of case.
 - b. Date of the decision.
 - c. Docket number of the case.
 - d. Summary of the case and headnotes which provide the appropriate West Key Numbers.

- e. Names of attorneys.
 - f. Name(s) of the judge(s) who wrote the individual opinion(s).
5. Each volume contains a table of statutes construed in that volume.
6. Each volume contains a "Words and Phrases" section which shows, in dictionary order, both legal and non-legal words or phrases which have been judicially defined in that volume.

Title: *California Reporter* (Cal. Rptr.)

Publisher: West Publishing Company

Composition of Set: This set is a single state reporter of state appellate opinions. Publication began in 1959. From 1883 to 1959 these materials were published in the *Pacific Reporter*. Since 1959 all state appellate decisions have been published in the *California Reporter* and the opinions of the California Supreme Court are also available in the *Pacific Reporter*.

Arrangement of Materials: The text of the California appellate decisions included in the *California Reporter* are reported in chronological order. There is no division of materials by court or subject.

Finding Aids: West Publishing Company publishes a separate digest specifically to provide subject access to this individual set of books. Access can also be gained by consulting the *American Digest System*, also from West Publishing Company.

Currency of the Set: The *California Reporter* is a constantly growing file. As a new decision is rendered it is incorporated into advance sheets. Advance sheets are cumulated into permanent bound volumes as sufficient materials become available.

Currency and Validity of Information: The bound volumes and advance sheets of the *California Reporter*, taken together, constitute a complete file of the available written appel-

late decisions from 1959 to date. For the text of opinions since 1883 but prior to 1959, one should consult the *Pacific Reporter*. For the text of opinions prior to 1883, official court reports and/or individual nominative reports must be consulted. In order to ascertain how a case is being utilized in later cases, one should consult *Shepard's California Citations*.



Special Features:

1. Each volume of the *California Reporter* includes an alphabetical listing of the cases contained in that volume. The alphabetizing is done by the first named party to the action.
2. Each volume of the *California Reporter* includes a list of the judges of the courts covered during the time covered by that volume.
3. Each volume of the *California Reporter* includes a digest which provides subject access to the decisions contained in that volume.
4. For each case there are included the following elements beyond the text of the

opinion.

- a. Name of case.
 - b. Date of the decision.
 - c. Docket number of the case.
 - d. Summary of the case and headnotes which provide the appropriate West Key Numbers.
 - e. Names of attorneys.
 - f. Name(s) of the judge(s) who wrote the individual opinion(s).
5. Each volume contains a table of statutes construed in that volume.
 6. Each volume contains a "Words and Phrases" section which shows, in dictionary order, both legal and non-legal words or phrases which have been judicially defined in that volume.

Title: *Code of Federal Regulations (CFR)*

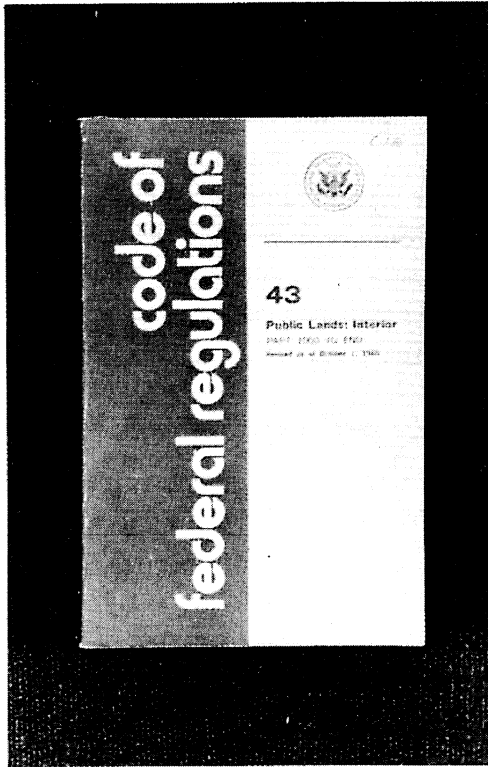
Publisher: Government Printing Office

Composition of Set: This set is analogous to the *United States Code* except that the sources are administrative agencies rather than Congress. The *Code of Federal Regulations* contains the text of current federal regulations which are in force. While there is no direct competitor, for specific subjects commercial looseleaf services often provide a useful alternative. It has been published since 1938.

Arrangement of Materials: The arrangement initially sub-divides all current federal regulations into fifty (50) broad titles. These generally correspond to the divisions used in the *United States Code*. Each of these broad titles is then further sub-divided into chapters, parts and sections. This code is unannotated and there is no alternative source which is annotated.

Finding Aids: The *Code of Federal Regulations* includes a single-volume index. Over the years there has been a significant level of dissatisfaction with the indexing made available. Recent editions have been improved

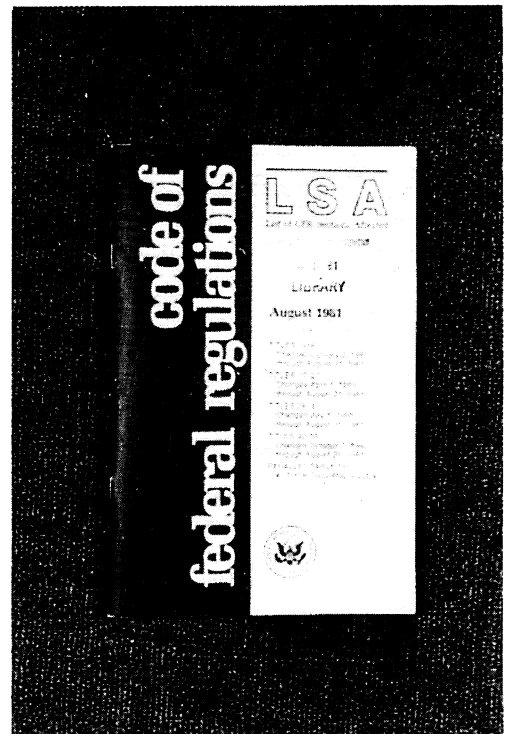
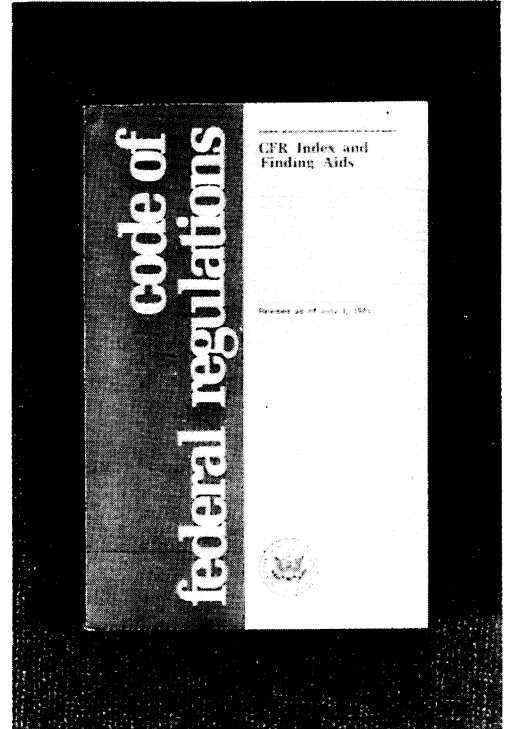
but are still not all that might be called for. A commercial publisher, Capital Services Inc., has recently produced an *Index to the Code of Federal Regulations* which provides substantially greater access than does the official.



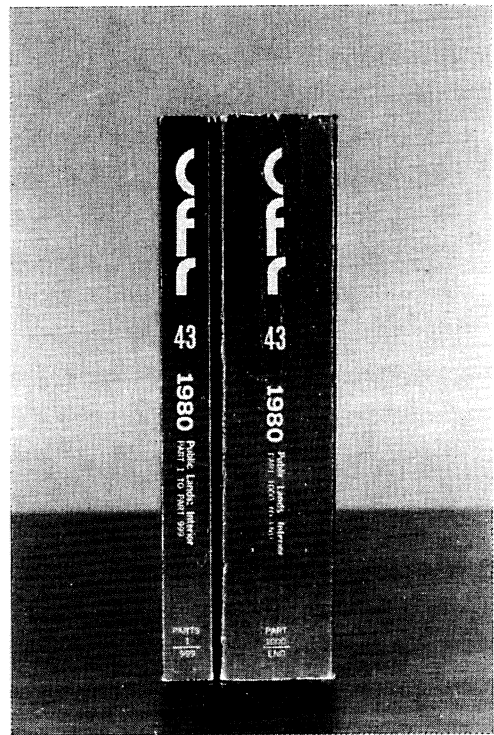
Currency of the Set: Since publication of this set began, virtually every major publication pattern found with American law books has been utilized. Currently, the set is produced in paperback form. Each title is revised annually and completely reissued but this no longer occurs simultaneously. At present the schedule calls for titles 1-16 to be revised as of January 1, titles 17-27 as of April 1, titles 28-41 as of July 1, and titles 42-50 as of October 1. Attention to the effective date of the volume being used is essential in the updating process.

Currency and Validity of the Information: A volume of the *Code of Federal Regulations* is as current as noted on the spine of that particular volume. Because volumes are only up-dated by re-publication on an annual

basis, it is quite possible to be nearly a full year out of date even when using current materials. The solution to this is to use the *Federal Register* to re-establish appropriate currency. One checks the latest Cumulative



List of Parts affected, issued monthly with the *Federal Register*, and then the latest *Federal Register* for the current month in the section also entitled Cumulative List of Parts Affected. By following these steps one can make oneself currently informed. In order to ascertain how the text of materials found in the *Code of Federal Regulations* is being utilized by the judicial system, one should consult *Shepard's Code of Federal Regulations Citations*.



Title: *Codification of Presidential Proclamations and Executive Orders, January 1961-January 1981*

Publisher: Government Printing Office

Composition of volume: (From the Foreword of the 1981 edition.)

The *Codification of Presidential Proclamations and Executive Orders* is an editorial codification prepared by the Office of the Federal Register and is not intended to be used as a definitive legal authority. It is published to provide in one convenient reference source proclamations and Executive orders with general applicability and continuing effect. This *Codification* covers the period January 20, 1961, through January 20, 1981, and replaces the previous volume, which covered the period January 20, 1961, through January 20, 1977. Proclamations and Executive orders issued before January 20, 1961, are included if they were amended or otherwise affected by documents issued during the 1961-1981 period.

Incorporated into the text of each codified proclamation and Executive order are all amendments which were in effect on January 20, 1981. The source of the basic document as well as each effective amendment is identified, including publication citations for the *Federal Register* and the *Code of Federal Regulations*. Also reflected are changes made by a document other than a proclamation or Executive order, such as a public law.

The *Codification* does not include certain documents for which complete information for the same period is available from other sources. Examples are documents affecting public lands, the selective service system, and the Tariff Schedules of the United States. For further information on the selection of documents for this publication, see the editorial note to the Disposition Tables on page 889.

The *Codification* is divided into 50 chapters, representing broad subject areas similar to the title designations of the *Code of Federal Regulations* and the *United States Code*. Each proclamation and Executive order issued during the 1961-1981 period which has general applicability and continuing effect is assigned to an appropriate subject chapter. If a document relates to more than one subject, the most appropriate chapter is selected.

A special feature of the *Codification* is the Disposition Tables at the end of this volume. Each proclamation and Executive order issued during the 1961-1981 period is listed with all amendments, an indication of its current status, and a chapter designation where applicable.

Comments and suggestions are welcomed by the Presidential Documents and Legislative Division, whose staff prepared this volume.

Title: *Congressional Index*

Publisher: Commerce Clearing House

Composition of Set: This is a commercially published looseleaf service issued for each Congress. Currently in two volumes, it is the fastest source of information about what is occurring in federal legislation. Both numerical and subject access is provided.

Arrangement of Materials: The major sections of the *Congressional Index* include:

1. Pending public measures - indexed by subject
2. Bills and resolutions - indexed by number
3. Bill status tables
4. Public laws enacted
5. Treaties pending notification
6. Members of Congress - providing directory information
7. Voting records of members of Congress.

Finding Aids: The *Congressional Index* is itself a finding aid. Like most looseleaf services, it does contain a section which is descriptive of how the materials are best located.



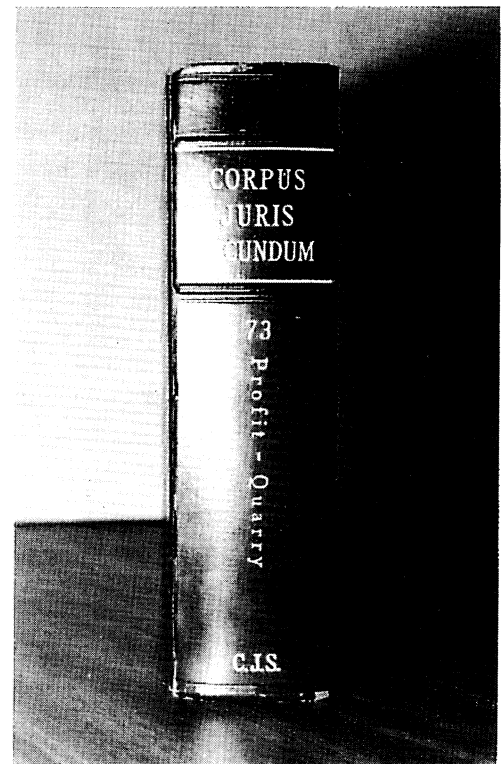
Currency of the Set: The *Congressional Index* is updated weekly and is as current as any source of federal statutory materials.

Currency and Validity of Information: The currency of this set is so great that resort to other sources yields nothing newer. In fact, this set is generally utilized to up-date other sources like statutory compilations.

Title: *Corpus Juris Secundum* (C.J.S.)

Publisher: West Publishing Company

Composition of Set: This set is a general legal encyclopedia for American law. The publishers attempt to restate all law, both procedural and substantive, as developed in cases. The text in *Corpus Juris Secundum* is supported by extensive references to appellate



decisions. *Corpus Juris Secundum*, along with its predecessor, *Corpus Juris*, attempt to provide complete access to all reported decisions. While legal encyclopedias are useful for a variety of research purposes, they are especially valuable as an initial point of

access for the researcher relatively new to the area being covered because they place specific legal areas in a broader context.

Arrangement of Materials: *Corpus Juris Secundum* is arranged much like any general encyclopedia. The publisher divides law into seven major subdivisions (persons, property, contracts, texts, crimes, remedies and government). Each subdivision is further divided into chapters. All chapters are then further broken down based upon logic. For publication chapters are arranged alphabetically. It is possible, therefore, to make use of a subject approach to begin one's research in *Corpus Juris Secundum*, though this technique is better reserved for these areas with which there is already some familiarity.

Finding Aids: West Publishing Company provides a five-volume *General Index* for use with *Corpus Juris Secundum*. The use of the topic approach is also facilitated by the publishers inclusion of detailed tables of contents for each topic as well as individual title indexes.

Currency of the Set and Its Information: *Corpus Juris Secundum* is regularly up-dated. Though the bound volumes in the set have a variety of copyright dates, all volumes are brought up to date through the end of December of the preceding calendar year by the inclusion of pocket parts with each volume. If the quantity of changed or new material is too large to be handled by the use of pocket parts, entirely new replacement volumes are issued. The publishers provide no method to achieve greater currency than January 1 of the current year. Greater currency than this can be achieved, however. After locating the appropriate section of text, applicable cited cases can be brought up to date by Shepardizing or by using Key Numbers in the *American Digest System*.

Special Features:

1. Definitions of legal words and terms are pro-

vided throughout *Corpus Juris Secundum*. Entries are in dictionary order throughout the general index and the individual title indexes.

2. Abbreviations of major sets of reports, treatises, and legal periodicals are included at the beginning of each volume of *Corpus Juris Secundum*.
3. The *General Index* volumes of *Corpus Juris Secundum* are kept current by the use of pocket parts as are textual volumes. The failure to remember this feature of the set is the most frequently made mistake in the use of the set.

Title: *Federal Cases* (F. Cas.)

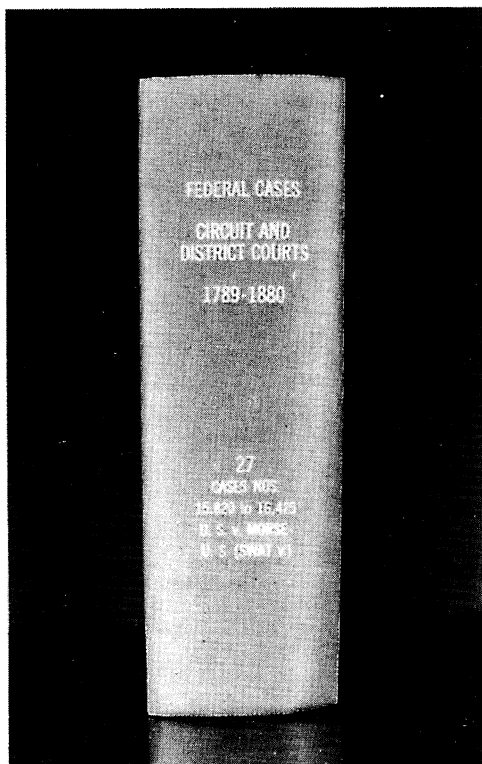
Publisher: West Publishing Company

Composition of the Set: This set is a reprint.

There have never been official reports covering federal courts below the Supreme Court level. Prior to the initial publication of the *Federal Reporter* in 1880, there were many sources which reported opinions but none that reported a large percentage of the whole. In the interests of being able to offer a complete file, the publisher gathered together all the known cases from 233 separate report series and reprinted the cases they contained. This file of over 18,000 cases eliminates the necessity to consult any of the previously published 233 sets of reports for the text of pre-*National Reporter System* federal opinions.

Arrangement of Set: The cases in this set are arranged unlike any other in American law. Instead of the typical chronological arrangement, these materials are arranged alphabetically by the name of the first named party. The only peculiarity is that there are two listings. The first 18,222 cases are alphabetical and this is followed by a second alphabetical list of 91 cases not discovered until the preceding volumes were fully prepared.

Finding Aids: If the name of the case is known



there is, of course, no need to resort to an external finding tool as the materials are alphabetical. If, however, the name is not known but the balance of the citation is, the final volume of the set has a cross-reference table which will provide the federal case number. The final volume of the set also includes a digest which provides access by subject to all cases included in the set.

Currency of the Set: *Federal Cases* is a set with no growth whatsoever.

Currency and Validity of Information: In order to find federal lower and intermediate appellate court decisions later than those included in *Federal Cases*, the researcher should consult the *Federal Reporter*, *Federal Supplement* and *Federal Rules Decisions*. In order to ascertain how a case in *Federal Cases* is being utilized in later cases, one should consult *Shepard's Federal Citations*.

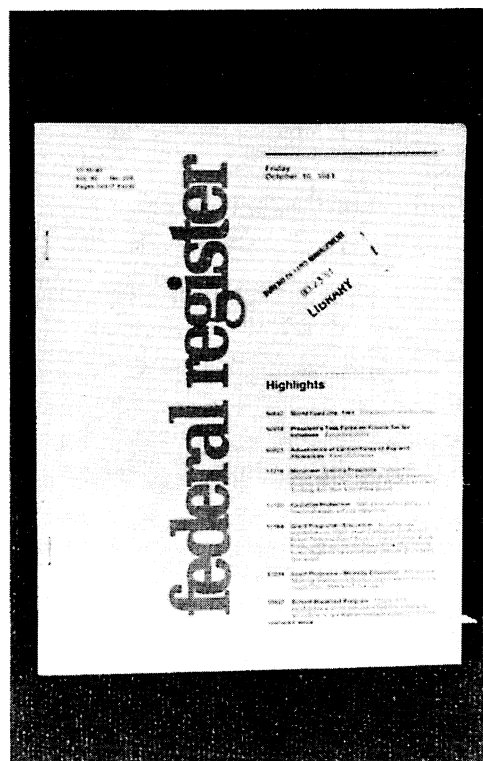
Title: *Federal Register* (F.R.)

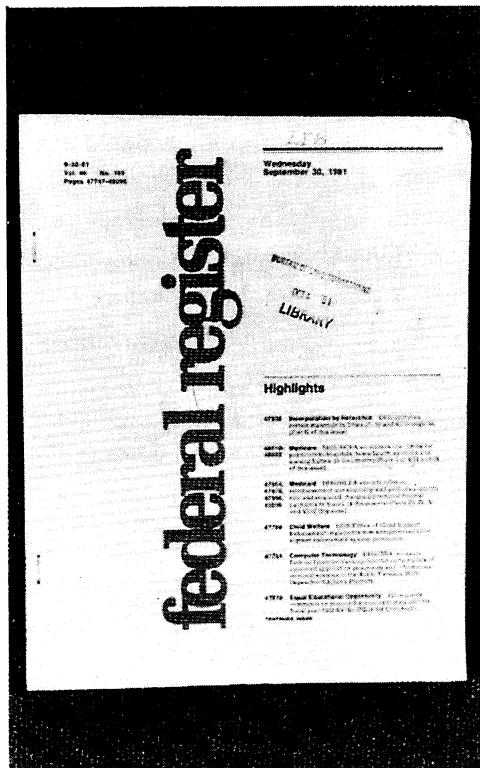
Publisher: Government Printing Office

Composition of Set: When the *Federal Register* began to be published in March of 1936, it was the first time that there was a single source where federal documents relating to the regulatory process could be published. The issues, published daily after each working day, constitute a session law for federal regulations from the *Federal Register's* inception to date.

Arrangement of Materials: While each daily issue stands alone and does not become part of a larger cumulation, each issue is arranged in a standard fashion. Currently there are eight major divisions as follows:

1. Contents table
2. List of CFR Parts Affected
3. Reminders
4. Presidential Documents
5. Rules and Regulations
6. Proposed Rules
7. Notices





However, a *Shepard's Citator* does exist which covers the *Code of Federal Regulations* and this will serve the bulk of the needs which normally arise.

Title: *Federal Reporter* (F., F.2d)

Publisher: West Publishing Company

Composition of Set: The *Federal Reporter*, First and Second Series, constitutes a complete file of the written opinions of federal intermediate appellate courts since the set's beginning in 1880. In addition, the *Federal Reporter* also included opinions of federal district courts until 1931 at which point the West Publishing Company began to offer the *Federal Supplement* specifically for that purpose. This set is a part of the *National Reporter System*. There is no official publication of such materials.

8. Cumulative List of Parts Affected (for the month).

Finding Aids: The *Federal Register* is designed to be used largely for current materials. As a result the methods of access are quite limited. The daily table of contents is supplemented by a monthly index, a quarterly index and an annual index. These indexes serve much better to give access by issuing agency than they do to give access by subject.

Currency of the Set: The daily issuance of the *Federal Register* provides obvious currency. While it is appropriate to analogize the *Federal Register* to legislative session law files like the *Statutes at Large* for most purposes, the speed of publication makes the *Federal Register* quite useful as an updating tool for use with the subject arranged *Code of Federal Regulations*.

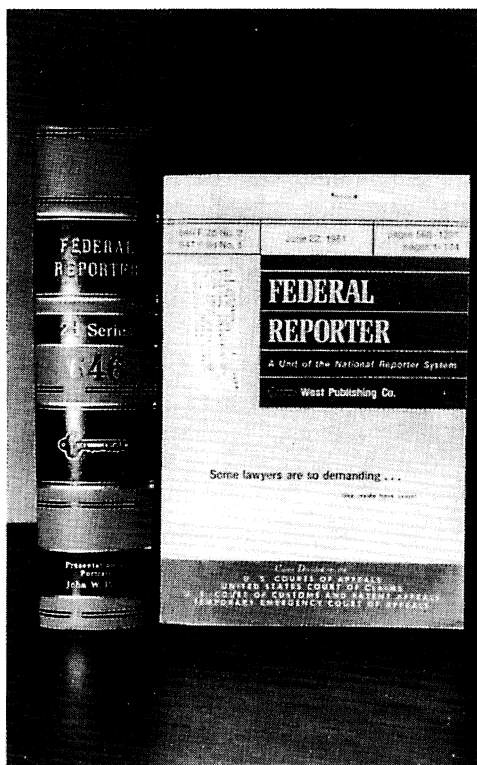
Currency and Validity of the Information: Ascertaining how *Federal Register* citations have been subsequently used in other legal documents is not possible as there is no unit of *Shepard's Citations* which covers this title.



Arrangement of Materials: The text of the appellate decisions included in the *Federal Reporter* are reported in chronological order. There is no subject arranged file.

Finding Aids: The publisher of the *Federal Reporter* does not publish a separate digest specifically to provide subject access to this individual set of books. West Publishing Company does, however, publish digests which provide coverage of all federal units of the *National Reporter System* as well as the *American Digest System*.

Currency of the Set: The *Federal Reporter* is a constantly growing file. As a new decision is rendered it is incorporated in a weekly advance sheet. Advance sheets are cumulated into permanent bound volumes as sufficient materials become available.



Currency and Validity of Information: The bound volumes and advance sheets of the *Federal Reporter*, taken together, constitute a complete file of the available written opinions of intermediate appellate federal courts since 1880. For the text of opinions prior to 1880, the researcher should consult *Federal Cases*. In order to ascertain how a case is being used in later cases, one should consult *Shepard's*

Federal Citations.

Special Features:

1. Each volume of the *Federal Reporter* includes a list of the judges of the courts covered during the time covered by the volume.
2. Each volume of the *Federal Reporter* includes an alphabetical listing of the cases contained in that volume. The alphabetizing is done by the first named party to the action.
3. Each volume of the *Federal Reporter* includes a digest which provides subject access to the decisions contained in that volume.
4. For each case there are included the following elements beyond the text of the opinion:
 - a. Name of case.
 - b. Date of the decision.
 - c. Docket number of the case.
 - d. Summary of the case and headnotes which provide the appropriate West Key Numbers.
 - e. Names of attorneys.
 - f. Name(s) of the judge(s) who wrote the individual opinion(s).
5. Each volume contains a table of statutes construed in that volume.
6. Each volume contains a "Words and Phrases" section which shows, in dictionary order, both legal and non-legal words or phrases which have been judicially defined in that volume.

Title: *Federal Rules Decisions* (F.R.D.)

Publisher: West Publishing Company

Composition of Set: This set is the first West Publishing Company case reporter to have gathered materials by subject. Publication began in 1940 with cases construing federal rules of civil procedure. Cases construing federal rules of criminal procedure were added in 1946. There is no official publica-

tion of such materials. Unlike other West Publishing Company reporters, this set also contains signed articles. To this degree *Federal Rules Decisions* is also a periodical.

Arrangement of Materials: Though the materials included in *Federal Rules Decisions* all relate to federal rules, there is no attempt to further sub-divide by subject. The bulk of the material in each volume is comprised of case reports arranged in chronological order. The much smaller set of textual materials follows the decisions.

Finding Aids: The publisher of *Federal Rules Decisions* does not publish a separate digest specifically to provide access to this individual set of books. West Publishing Company does, however, publish digests which provide coverage of all federal units of the *National Reporter System* as well as the *American Digest System*. The articles included in *Federal Rules Decisions* are not covered by digest but are accessible through periodical indexes.

Currency of the Set: *Federal Rules Decisions* is a constantly growing file. As a new decision is rendered it is incorporated in a monthly advance sheet. Advance sheets are cumulated into permanent bound volumes as sufficient materials become available.

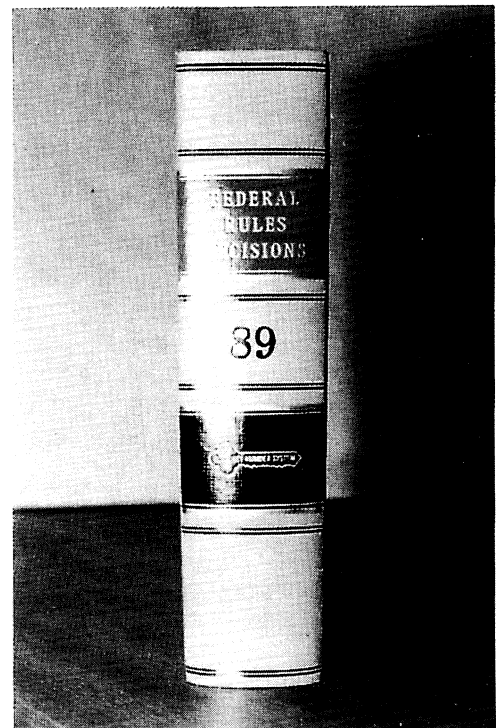
Currency and Validity of Information: The bound volumes and advance sheets of *Federal Rules Decisions* taken together constitute a full file of federal court decisions construing federal rules of procedure. For cases construing the federal rules of civil procedure, Callaghan & Company publishes an alternative unofficial source entitled *Federal Rules Service*. In order to ascertain how a case is being used in later cases, one should consult *Shepard's Federal Citations*.

Special Features:

1. Each volume of the *Federal Rules Decisions* includes an alphabetical listing of the cases

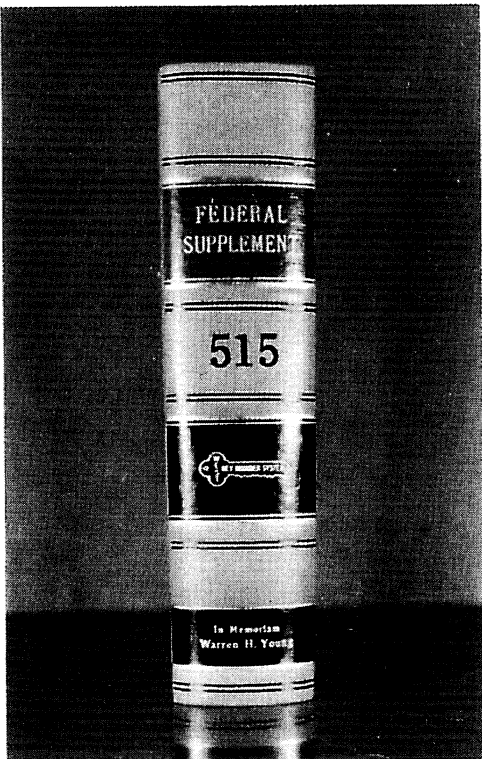
contained in that volume. The alphabetizing is done by the first named party to the action.

2. Each volume of the *Federal Reporter* includes a digest which provides subject access to the decisions and articles contained in that volume.
3. For each case there are included the following elements beyond the text of the opinion:
 - a. Name of case.
 - b. Date of the decision.
 - c. Docket number of the case.
 - d. Summary of the case and headnotes which provide the appropriate West Key Numbers.
 - e. Names of attorneys.
 - f. Name(s) of the judge(s) who wrote the individual opinion(s).
4. Each volume contains a table of statutes construed in that volume.
5. Each volume contains a "Words and Phrases" section which shows, in dictionary order, both legal and non-legal words or phrases which have been judicially defined in that volume.



Title: *Federal Supplement* (F. Supp.)
Publisher: West Publishing Company
Composition of Set: The *Federal Supplement* contains selected opinions from federal district courts since 1933. The materials had previously been published in the *Federal Reporter*. There is no official publication of such materials. While there is no official competition for the *Federal Supplement*, there are other unofficial publications. Major looseleaf services are frequently accompanied by case files which will include some cases originating in federal district courts. Thus, looseleaf services may constitute an alternative source when a case is being sought which was not selected for inclusion in the *Federal Supplement*.

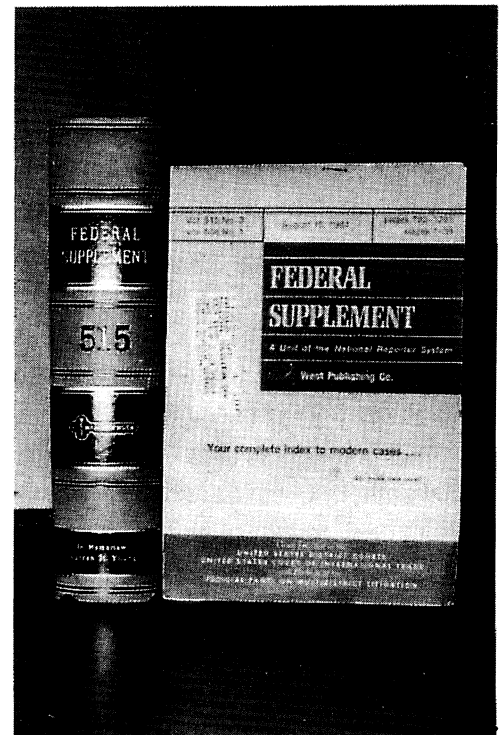
Arrangement of Materials: The text of the federal district court opinions included in the *Federal Supplement* are reported in chronological order. There is no subject arranged file.



Finding Aids: The publisher of the *Federal Supplement* does not publish a separate digest specifically to provide subject access to this individual set of books. West Publishing Company does, however, publish digests which provide coverage of all federal units of the *National Reporter System* as well as the *American Digest System*.

Currency of the Set: The *Federal Supplement* is a constantly growing file. As a new decision is rendered it is incorporated in weekly advance sheets. Advance sheets are cumulated into permanent bound volumes as sufficient materials become available.

Currency and Validity of Information: The bound volumes and advance sheets of the *Federal Supplement* taken together constitute the most extensive available file of written opinions of the federal district courts. For the text of such materials prior to 1933 one should consult the *Federal Reporter*. For materials prior to 1880, one should consult *Federal Cases*. In order to ascertain how a case is being used in later cases, one should consult *Shepard's Federal Citations*.



Special Features:

1. Each volume of the *Federal Supplement* includes a list of the judges of the courts covered during the time covered by the volume.
2. Each volume of the *Federal Supplement* includes an alphabetical listing of the cases contained in that volume. The alphabetizing is done by the first named party to the action.
3. Each volume of the *Federal Supplement* includes a digest which provides subject access to the decisions contained in that volume.
4. For each case there are included the following elements beyond the text of the opinion:
 - a. Name of case.
 - b. Date of the decision.
 - c. Docket number of the case.
 - d. Summary of the case and headnotes which provide the appropriate West Key Numbers.
 - e. Names of attorneys.
 - f. Name(s) of the judge(s) who wrote the individual opinions.
5. Each volume contains a table of statutes construed in that volume.
6. Each volume contains a "Words and Phrases" section which shows, in dictionary order, both legal and non-legal words or phrases which have been judicially defined in that volume.

Title: *Lawyers' Edition of the United States Supreme Court Reports* (L. Ed.,L.Ed.2d)

Publisher: Lawyers Co-Operative Publishing Company; Bancroft-Whitney Company

Composition of Set: *Lawyers' Edition* First and Second Series constitute a complete file of all United States Supreme Court written opinions. It is an unofficial publication. Not all per curiam opinions are published but this set contains a greater percentage than does the

official United States Reports.

Arrangement of Materials: The text of the appellate decisions included in *Lawyers' Edition* are reported in chronological order. There is no subject arranged file.

Finding Aids: The publishers of *Lawyers' Edition* also publish a separate set of books entitled *U.S. Supreme Court Reports Digest* which provides subject access to the entire *Lawyers' Edition*. Access can also be gained by using one of the various digests published by West Publishing Company which includes United States Supreme Court coverage.



Currency of the Set: *Lawyers' Edition* is a constantly growing file. As a new decision is rendered it is incorporated in a bi-weekly advance sheet. At the end of the term of court, these decisions and their accompanying annotations, are issued in permanent bound volumes which are added to the set.

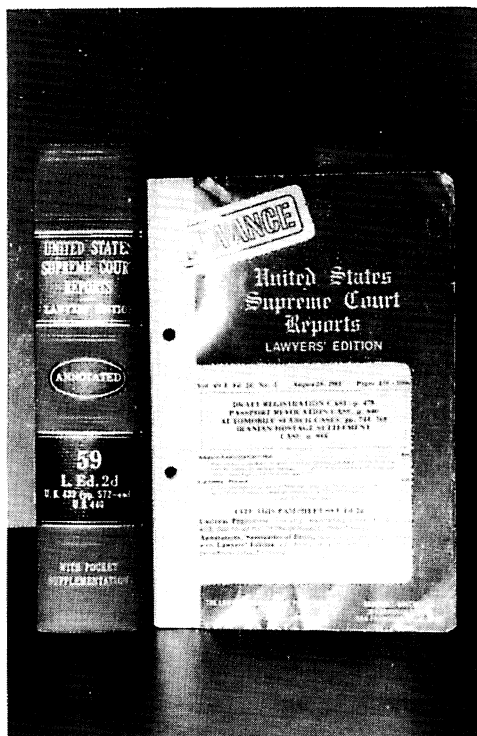
Currency and Validity of Information: The bound volumes and advance sheets of *Lawyers' Edition*, taken together, constitute a complete

and current file of the text of written decisions of the United States Supreme Court. When even greater currency is called for, the researcher should rely upon the *U.S. Supreme Court Bulletin* (Commerce Clearing House) and the *United States Law Week* (Bureau of National Affairs). In order to ascertain how a case is being used in later cases, one should consult *Shepard's United States Citations*.

Special Features: The advantages of unofficial court reports over the official *United States Reports* lie in the speed with which the decisions are published and the special features of the commercial publication. The major additions made by the Lawyers Co-Operative Publishing Company include the following:

1. Each volume of *Lawyers' Edition* includes a list of the judges of the courts covered during the time covered by the volume.
2. Each volume of *Lawyers' Edition* includes an alphabetical listing of the cases contained in that volume. The alphabetizing is done by the first named party to the action.

3. Each volume of *Lawyers' Edition* includes an index which provides subject access to the decisions and annotations contained in that volume.
4. For each case there are included the following elements beyond the text of the opinion:
 - a. Name of case.
 - b. Date of the decision.
 - c. Docket number of the case.
 - d. Summary of the case.
 - e. Names of attorneys.
 - f. Name(s) of the justice(s) who wrote the individual opinion(s).
5. For each case a synopsis of the briefs of counsel are included.
6. Most cases have a textual annotation concerning legal matters raised by the case. The textual annotation can sometimes be the most extensive treatment available on narrow subjects.
7. Cases are headnoted and the headnotes provide direct access to the *U.S. Supreme Court Reports Digest*. Thus, from any case one can proceed efficiently to other cases and/or annotations dealing with the same legal area.
8. Each volume contains a table of statutes construed in that volume.
9. Each volume contains a table to allow the researcher to ascertain parallel citations between *Lawyers' Edition* and the *United States Reports*.
10. "Star Pagination", a device to allow the researcher to know where page breaks occur in the *United States Reports*, is included in *Lawyers' Edition*.



Title: *New York Supplement* (N.Y.S., N.Y.S.2d)

Publisher: West Publishing Company

Composition of Set: This set is a single state reporter of state appellate opinions. Publication began in 1888. All state appellate courts are covered. Since 1932 the appellate decisions of New York's highest court have also appeared in the *North Eastern Reporter*.

Arrangement of Materials: The text of the New York appellate decisions included in the *New York Supplement* are reported in chronological order. There is no division of materials by court of subject.

Finding Aids: West Publishing Company publishes a separate digest specifically to provide subject access to this individual set of books. Access can also be gained by consulting the *American Digest System*, also from West Publishing Company.

Currency of the Set: The *New York Supplement* is a constantly growing file. As a new decision is rendered it is incorporated into advance sheets. Advance sheets are cumulated into permanent bound volumes as sufficient materials become available.

Currency and Validity of Information: The bound volumes and advance sheets of the *New York Supplement*, taken together, constitute a complete file of the available written appellate opinions from 1888 to date. For the text of opinions prior to 1888, official court reports and/or individual nominative reports must be consulted. In order to ascertain how a case is being utilized in later cases, one should consult *Shepard's New York Citation*.

Special Features:

1. Each volume of the *New York Supplement* includes an alphabetical listing of the cases contained in that volume. The alphabetizing is done by the first named party to the action.



2. Each volume of the *New York Supplement* includes a list of the judges of the courts covered during the time covered by that volume.
3. Each volume of the *New York Supplement* includes a digest which provides subject access to the decisions contained in that volume.
4. For each case there are included the following elements beyond the text of the opinion.
 - a. Name of case.
 - b. Date of the decision.
 - c. Docket number of the case.
 - d. Summary of the case and headnotes which provide the appropriate West Key Numbers.
 - e. Names of attorneys.
 - f. Name(s) of the judge(s) who wrote the individual opinion(s).
5. Each volume contains a table of statutes construed in that volume.
6. Each volume contains a "Words and Phrases" section which shows, in dictionary order, both legal and non-legal words or phrases which have been judicially defined in that volume.

Title: *North Eastern Reporter* (N.E., N.E.2d)
Publisher: West Publishing Company
Composition of Set: This set is a multi-state reporter of state appellate decisions. Publication of this unofficial reporter began in 1885. Jurisdictions covered include Illinois, Indiana, Massachusetts, New York and Ohio. All states in this reporter also publish official state court reports.

Arrangement of Materials: The text of the state appellate decisions included in the *North Eastern Reporter* are reported in chronological order. There is no division of the materials by state or subject.

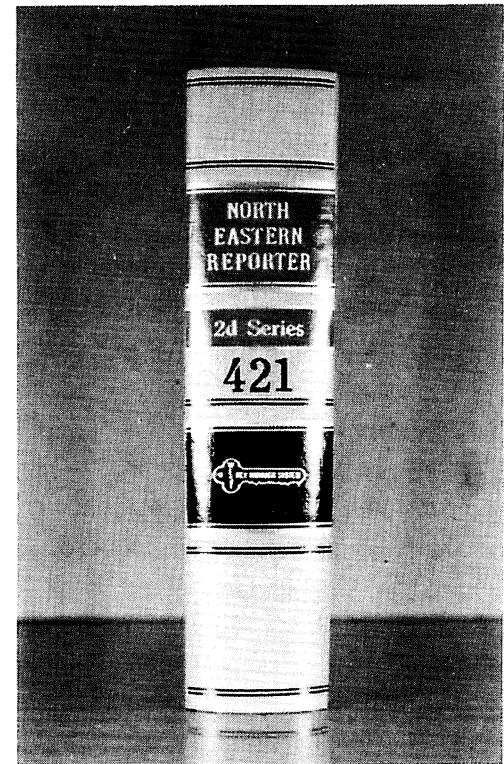
Finding Aids: West Publishing Company does not publish a separate regional digest for the *North Eastern* 1st and 2d series. To access cases for this region, the researcher can use the *American Digest System* or individually published state digests. (West publishes an individual digest for each of the states in the *North Eastern Reporter*).

Currency of the Set: *The North Eastern Reporter* is a constantly growing file. As a new decision is rendered it is incorporated into advance sheets. Advance sheets are cumulated into permanent bound volumes as sufficient materials become available.

Currency and Validity of Information: The bound volumes of both series and the advance sheets to the second series, taken together, constitute a complete file of the available written appellate opinions from 1885 to date for the jurisdictions covered. For the text of opinions prior to 1879, official court reports and/or individual nominative reports must be consulted. In order to ascertain how a case is being used in later cases, one should consult *Shepard's North Eastern Citation*.

Special Features:

1. Each volume of the *North Eastern Reporter* includes a list of the judges of the courts



- covered during the time covered by that volume.
2. Each volume of the *North Eastern Reporter* includes an alphabetical listing of the cases contained in that volume. The alphabetizing is done by the first named party to the action.
3. Each volume of the *North Eastern Reporter* includes a digest which provides subject access to the decisions contained in that volume.
4. For each case there are included the following elements beyond the text of the opinion.
 - a. Name of case.
 - b. Date of the decision.
 - c. Docket number of the case.
 - d. Summary of the case and headnotes which provide the appropriate West Key Numbers.
 - e. Names of attorneys.
 - f. Name(s) of the judge(s) who wrote the individual opinion(s).
5. Each volume contains a table of statutes construed in that volume.

6. Each volume contains a “Words and Phrases” section which shows, in dictionary order, both legal and non-legal words or phrases which have been judicially defined in that volume.

Title: *North Western Reporter* (N.W., N.W.2d)

Publisher: West Publishing Company

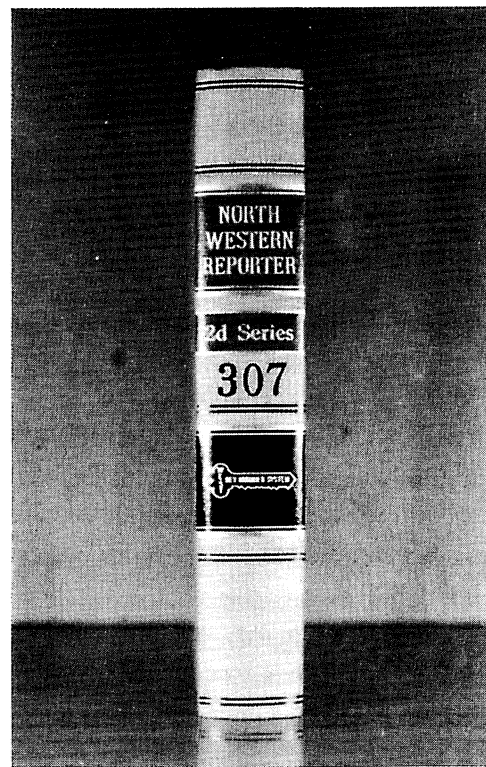
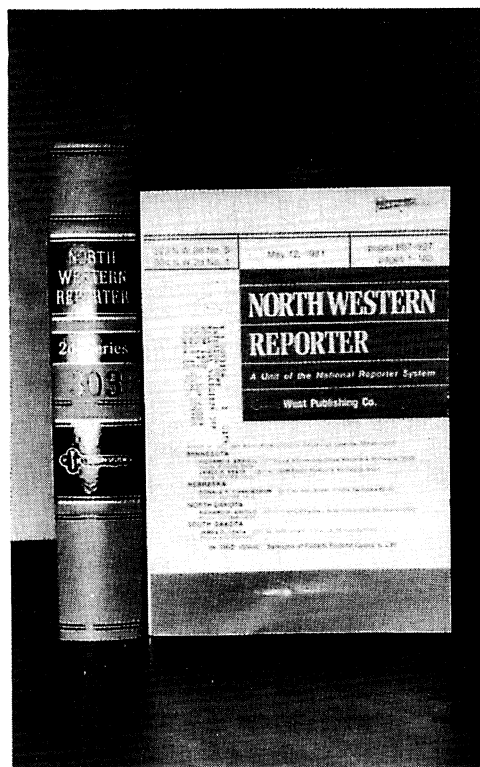
Composition of Set: This set is a multi-state reporter of state appellate opinions. Publication of this unofficial reporter began in 1879. Jurisdictions covered include Iowa, Michigan, Minnesota, Nebraska, North Dakota, South Dakota and Wisconsin. Though the two series of this set are unofficial, the discontinuance of some official state court reports makes this set the only source for some more current court reports.

Arrangement of Materials: The text of the state appellate decisions included in the *North Western Reporter* are reported in chronological order. There is no division of the materials by state or subject.

Finding Aids: West Publishing Company publishes a separate digest specifically to provide subject access to this individual set of books. It is the *North Western Digest*. All materials in the *North Western Digest* are also included in the *American Digest System*, also from West Publishing Company.

Currency of the Set: The *North Western Reporter* is a constantly growing file. As a new decision is rendered it is incorporated into advance sheets. Advance sheets are cumulated into permanent bound volumes as sufficient materials become available.

Currency and Validity of Information: The bound volumes of both series and the advance sheets to the second series, taken together, constitute a complete file of the available written appellate opinions from 1879 to date for the jurisdictions covered. For the text of opinions prior to 1879, official court reports and/or individual nominative reports must be consulted. In order to ascertain how a case is being used in later cases, one should consult *Shepard's North Western Citations*.



Special Features:

1. Each volume of the *North Western Reporter* includes a list of the judges of the courts covered during the time covered by that volume.
 2. Each volume of the *North Western Reporter* includes an alphabetical listing of the cases contained in that volume. The alphabetizing is done by the first named party to the action.
 3. Each volume of the *North Western Reporter* includes a digest which provides subject access to the decisions contained in that volume.
 4. For each case there are included the following elements beyond the text of the opinion.
 - a. Name of case.
 - b. Date of the decision.
 - c. Docket number of the case.
 - d. Summary of the case and headnotes which provide the appropriate West Key Numbers.
 - e. Names of attorneys.
 - f. Name(s) of the judge(s) who wrote the individual opinion(s).
 5. Each volume contains a table of statutes construed in that volume.
 6. Each volume contains a "Words and Phrases" section which shows, in dictionary order, both legal and non-legal words or phrases which have been judicially defined in that volume.
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Title: *Pacific Reporter* (P., P.2d)

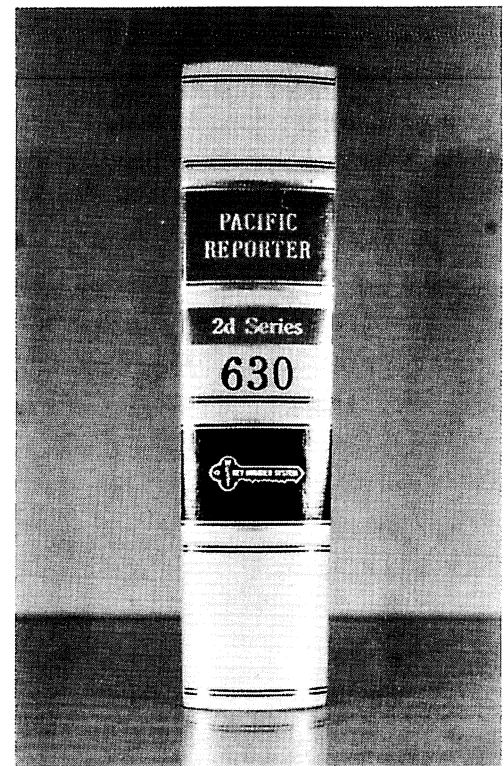
Publisher: West Publishing Company

Composition of Set: This set is a multi-state reporter of state appellate opinions. Publication of this unofficial reporter began in 1883. Jurisdictions covered include Alaska, Arizona, California (only the California Supreme Court cases since 1960), Colorado, Hawaii, Idaho, Kansas, Montana, Nevada, New Mexico, Oklahoma, Oregon, Utah,

Washington and Wyoming. Though the two series of this set are unofficial, the discontinuance of some official state court reports makes this set the only source for some more current court reports.

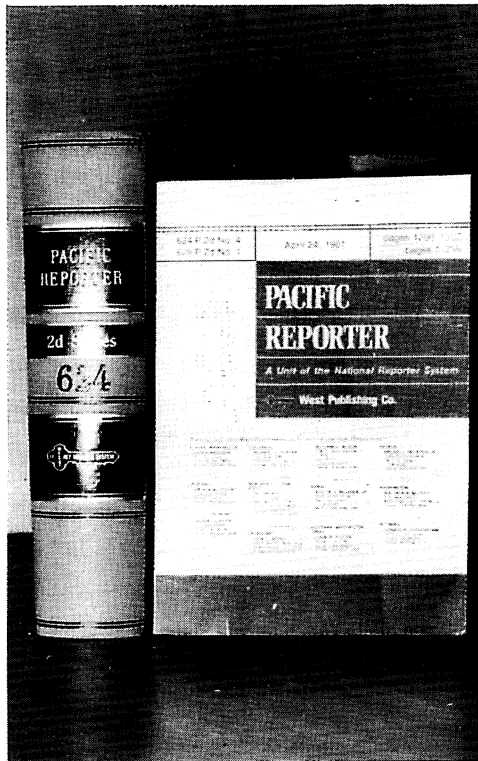
Arrangement of Materials: The text of the state appellate decisions included in the *Pacific Reporter* are reported in chronological order. There is no division of the materials by state or subject.

Finding Aids: West Publishing Company publishes a separate digest specifically to provide subject access to this individual set of books. It is the *Pacific Digest*. All materials in the *Pacific Digest* are also included in the *American Digest System*, also from West Publishing Company.



Currency of the Set: The *Pacific Reporter* is a constantly growing file. As a new decision is rendered it is incorporated into an advance sheet. Advance sheets are cumulated into permanent bound volumes as sufficient materials become available.

Currency and Validity of Information: The bound volumes of both series and the advance sheets to the second series, taken together, constitute a complete file of the available written appellate opinions from 1883 to date for the jurisdictions covered. For the text of opinions prior to 1883, official court reports and/or individual nominative reports must be consulted. In order to ascertain how a case is being used in later cases, one should consult *Shepard's Pacific Citations*.



Special Features:

1. Each volume of the *Pacific Reporter* includes a list of the judges of the courts covered during the time covered by that volume.
2. Each volume of the *Pacific Reporter* includes an alphabetical listing of the cases contained in that volume. The alphabetizing is done by the first named party to the action.
3. Each volume of the *Pacific Reporter* includes a digest which provides subject access to the decisions contained in that volume.
4. For each case there are included the follow-

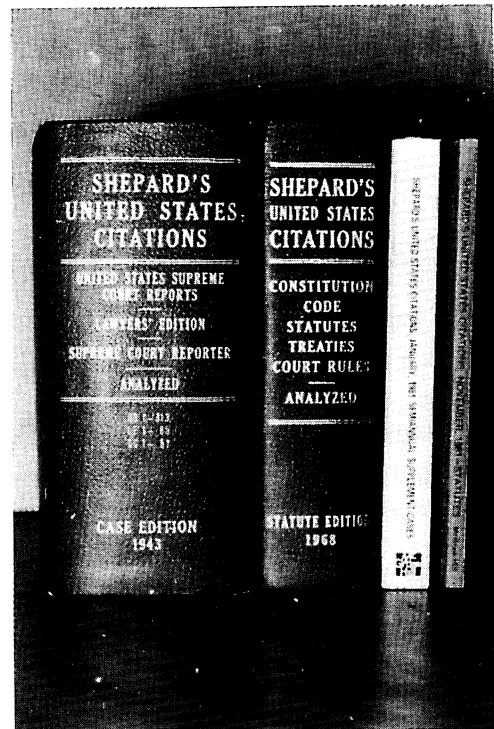
ing elements beyond the text of the opinion.

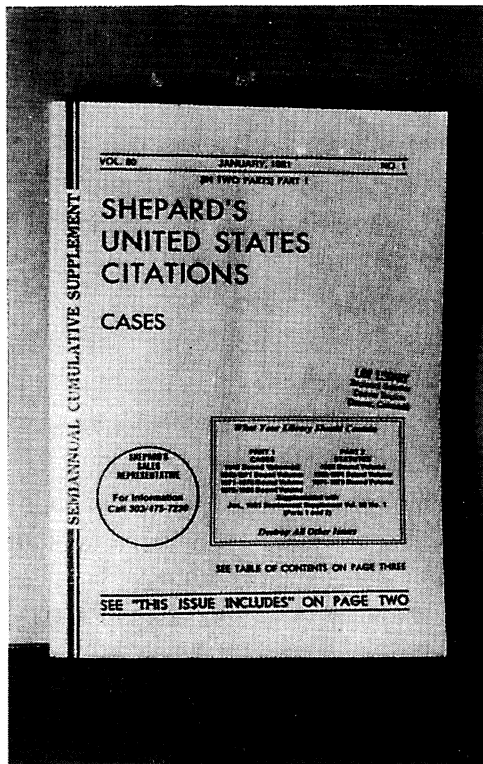
- a. Name of case.
 - b. Date of the decision.
 - c. Docket number of the case.
 - d. Summary of the case and headnotes which provide the appropriate West Key Numbers.
 - e. Names of attorneys.
 - f. Name(s) of the judge(s) who wrote the individual opinion(s).
5. Each volume contains a table of statutes construed in that volume.
 6. Each volume contains a "Words and Phrases" section which shows, in dictionary order, both legal and non-legal words or phrases which have been judicially defined in that volume.

Title: *Shepard's Citations*

Publisher: Shepard's/McGraw Hill

All *Shepard's Citations* are covered in **SECTION IV, A.9**. *Shepard's CFR Citations* is also covered in **SECTION II. E.1.c**.





Title: *South Eastern Reporter* (S.E., S.E.2d)

Publisher: West Publishing Company

Composition of Set: This set is a multi-state reporter of state appellate opinions. Publication of this unofficial reporter began in 1887. Jurisdictions covered include Georgia, North Carolina, South Carolina, Virginia and West Virginia.

Arrangement of Materials: The text of the state appellate decisions included in the *South Eastern Reporter* are reported in chronological order. There is no division of the materials by state or subject.

Finding Aids: West Publishing Company publishes a separate digest specifically to provide subject access to this individual set of books. It is the *South Eastern Digest*. All materials in the *South Eastern Digest* are also included in the *American Digest System*, also from West Publishing Company.

Currency of the Set: The *South Eastern*

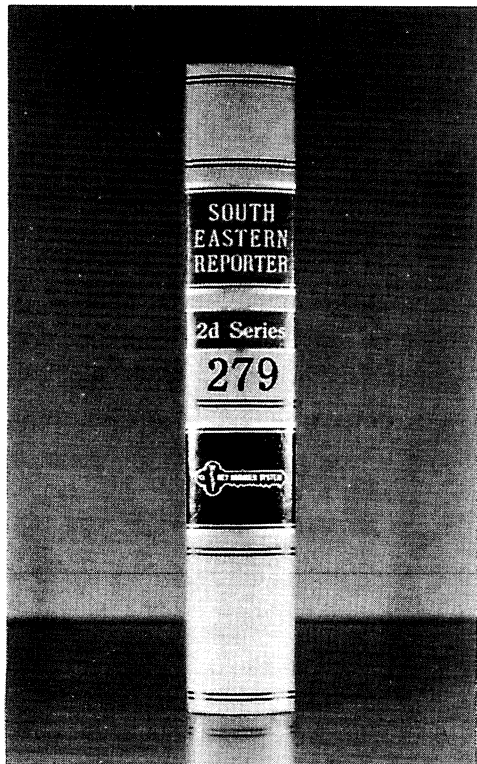
Reporter is a constantly growing file. As a new decision is rendered it is incorporated into advance sheets. Advance sheets are cumulated into permanent bound volumes as sufficient materials become available.

Currency and Validity of Information: The bound volumes of both series and the advance sheets to the second series, taken together, constitute a complete file of the available written appellate opinions from 1887 to date for the jurisdictions covered. For the text of opinions prior to 1887, official court reports and/or individual nominative reports must be consulted. In order to ascertain how a case is being used in later cases, one should consult *Shepard's South Eastern Citations*.

Special Features:

1. Each volume of the *South Eastern Reporter* includes an alphabetical listing of the cases contained in that volume. The alphabetizing is done by the first named party to the action.
2. Each volume of the *South Eastern Reporter* includes a list of the judges of the courts covered during the time covered by that volume.
3. Each volume of the *South Eastern Reporter* includes a digest which provides subject access to the decisions contained in that volume.
4. For each case there are included the following elements beyond the text of the opinion.
 - a. Name of case.
 - b. Date of the decision.
 - c. Docket number of the case.
 - d. Summary of the case and headnotes which provide the appropriate West Key Numbers.
 - e. Names of attorneys.
 - f. Name(s) of the judge(s) who wrote the individual opinion(s).
5. Each volume contains a table of statutes construed in that volume.
6. Each volume contains a "Words and

Phrases” section which shows, in dictionary order, both legal and non-legal words or phrases which have been judicially defined in that volume.



the *American Digest System*, also from West Publishing Company.

Currency of the Set: The *Southern Reporter* is a constantly growing file. As a new decision is rendered it is incorporated into an advance sheet. Advance sheets are cumulated into permanent bound volumes as sufficient materials become available.

Currency and Validity of Information: The bound volumes of both series and the advance sheets to the second series, taken together, constitute a complete file of the available written appellate opinions from 1887 to date for the jurisdictions covered. For the text of opinions prior to 1887, official court reports and/or individual nominative reports must be consulted. In order to ascertain how a case is being used in later cases, one should consult *Shepard's Southern Citations*.

Special Features:

1. Each volume of the *Southern Reporter* includes an alphabetical listing of the cases contained in that volume. The alphabetiz-

Title: *Southern Reporter* (So., So.2d)

Publisher: West Publishing Company

Composition of Set: This set is a multi-state reporter of state appellate opinions. Publication of this unofficial reporter began in 1887. Jurisdictions covered include Alabama, Florida, Louisiana and Mississippi.

Arrangement of Materials: The text of the state appellate decisions included in the *Southern Reporter* are reported in chronological order. There is no division of the materials by state or subject.

Finding Aids: West Publishing Company publishes a separate digest specifically to provide subject access to this individual set of books. It is the *Southern Digest*. All materials in the *Southern Digest* are also included in



ing is done by the first named party to the action.

2. Each volume of the *Southern Reporter* includes a list of the judges of the courts covered during the time covered by that volume.
3. Each volume of the *Southern Reporter* includes a digest which provides subject access to the decisions contained in that volume.
4. For each case there are included the following elements beyond the text of the opinion.
 - a. Name of case.
 - b. Date of the decision.
 - c. Docket number of the case.
 - d. Summary of the case and headnotes which provide the appropriate West Key Numbers.
 - e. Names of attorneys.
 - f. Name(s) of the judge(s) who wrote the individual opinion(s).
5. Each volume contains a table of statutes construed in that volume.
6. Each volume contains a "Words and Phrases" section which shows, in dictionary order, both legal and non-legal words or phrases which have been judicially defined in that volume.

Title: *South Western Reporter* (S.W., S.W.2d)

Publisher: West Publishing Company

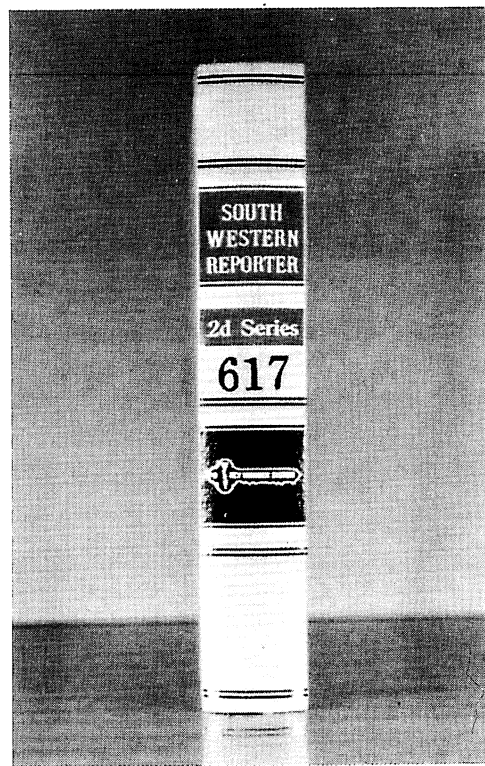
Composition of Set: This set is a multi-state reporter of state appellate opinions. Publication of this unofficial reporter began in 1886. Jurisdictions covered include Arkansas, Kentucky, Missouri, Tennessee and Texas. Though the two series of this set are unofficial, the discontinuance of some official state court reports make this set the only source for some more current court reports.

Arrangement of Materials: The text of the state appellate decisions included in the *South Western Reporter* are reported in chrono-

logical order. There is no division of the materials by state or subject.

Finding Aids: West Publishing Company does not publish a separate regional digest for the *South Western* 1st and 2d series. To access cases for this region, the researcher can use the *American Digest System* or individually published state digests. (West publishes an individual digest for each of the states reported in the *South Western Reporter* 1st and 2d.)

Currency of the Set: The *South Western Reporter* is a constantly growing file. As a new decision is rendered it is incorporated into an advance sheet. Advance sheets are cumulated into permanent bound volumes as sufficient materials become available.



Currency and Validity of Information: The bound volumes of both series and the advance sheets to the second series, taken together, constitute a complete file of the available written appellate opinions from 1886 to date for the jurisdictions covered. For the text of opin-

ions prior to 1886, official court reports and/or individual nominative reports must be consulted. In order to ascertain how a case is being used in later cases, one should consult *Shepard's South Western Citations*.

Special Features:

1. Each volume of the *South Western Reporter* includes a list of the judges of the courts covered during the time covered by that volume.
2. Each volume of the *South Western Reporter* includes an alphabetical listing of the cases contained in that volume. The alphabetizing is done by the first named party to the action.
3. Each volume of the *South Western Reporter* includes a digest which provides subject access to the decisions contained in that volume.
4. For each case there are included the following elements beyond the text of the opinion.
 - a. Name of case.
 - b. Date of the decision.
 - c. Docket number of the case.
 - d. Summary of the case and headnotes which provide the appropriate West Key Numbers.
 - e. Names of attorneys.
 - f. Name(s) of the judge(s) who wrote the individual opinion(s).
5. Each volume contains a "Words and Phrases" section which shows, in dictionary order, both legal and non-legal words or phrases which have been judicially defined in that volume.

Title: *Supreme Court Reporter* (S. Ct.)

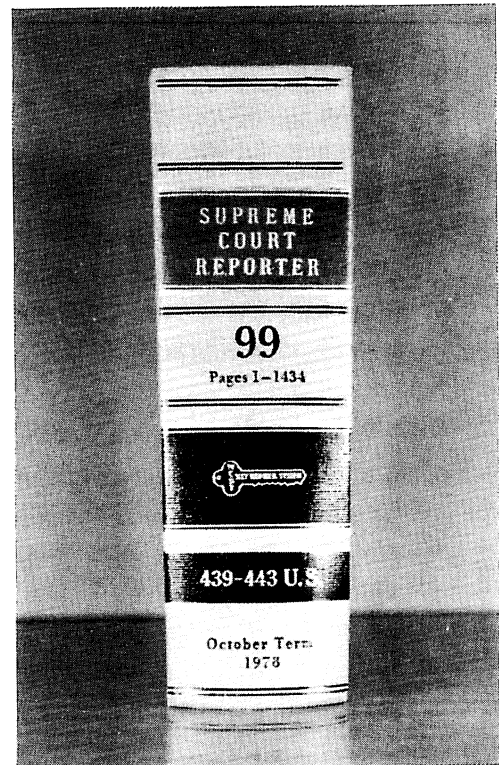
Publisher: West Publishing Company

Composition of Set: The *Supreme Court Reporter* constitutes a complete file of all United States Supreme Court written opinions since 1882. It is an unofficial publica-

tion. Not all per curiam opinions are published but this set contains a greater percentage than does the official *United States Reports*. This set is a part of the *National Reporter System*.

Arrangement of Materials: The text of the appellate decisions included in the *Supreme Court Reporter* are reported in chronological order. There is no subject arranged file.

Finding Aids: The publisher of the *Supreme Court Reporter* also publishes a separate set of books entitled *U.S. Supreme Court Digest* which is designed specifically to provide access to the *Supreme Court Reporter*. In addition, the West Publishing Company publishes a variety of other digests of more general coverage which include the decisions of the United States Supreme Court.



Currency of the Set: The *Supreme Court Reporter* is a constantly growing file. As a new decision is rendered it is incorporated into an advance sheet. Advance sheets are cumulated into permanent bound volumes

as sufficient materials become available.

Currency and Validity of Information: The bound volumes of both series and the advance sheets of the *Supreme Court Reporter*, taken together, constitute a complete file of the text of written decisions of the United States Supreme Court from 1882 on. When even greater currency is called for, the researcher should rely upon the *U.S. Supreme Court Bulletin* (Commerce Clearing House) and the *United States Law Week* (Bureau of National Affairs). In order to ascertain how a case is being used in later cases, one should consult *Shepard's United States Citations*.

Special Features: The advantages of unofficial court reports over the official *United States Reports* lie in the speed with which the decisions are published and the special features of the commercial publication. The major additions made by the West Publishing Company include the following:

1. Each volume of the *Supreme Court Reporter* includes a list of the justices on the court during the time covered by the volume.
2. Each volume of the *Supreme Court Reporter* includes an alphabetical listing of the cases contained in that volume. The alphabetizing is done by the first named party to the action.
3. Each volume of the *Supreme Court Reporter* includes an index which provides subject access to the decisions contained in that volume.
4. For each case there are included the following elements beyond the text of the opinion.
 - a. Name of case.
 - b. Date of the decision.
 - c. Docket number of the case.
 - d. Summary of the case and headnotes which provide the appropriate West Key Numbers.
 - e. Names of attorneys.
 - f. Name(s) of the judge(s) who wrote the individual opinion(s).
5. Each volume contains a table of statutes construed in that volume.
6. Each volume contains a table to allow the researcher to ascertain parallel citations between the *Supreme Court Reporter* and the *United States Reports*.
7. "Star Pagination", a device to allow the researcher to know where page breaks occur in the *United States Reports*, is included in the *Supreme Court Reporter*.
8. Each volume of the *Supreme Court Reporter* includes a "Words and Phrases" section which shows, in dictionary order, both legal and non-legal words or phrases which have been judicially defined in that volume.

Title: *United States Code* (U.S.C.)

Publisher: Government Printing Office

Composition of Set: The *United States Code* contains the text of the United States Constitution and current federal legislation which is both permanent and public. The text of this official publication is identical to that found in the unofficial *United States Code Annotated* and the unofficial *United States Code Service*.

Arrangement of Materials: The text is initially sub-divided into fifty (50) broad titles. Each title is then further sub-divided into chapters, sections and sub-sections as needed. Each title is preceded by a table of contents which shows the chapters contained in it. Each chapter is preceded by a table of contents which displays the array of materials which it contains. The arrangement is identical to that found in both unannotated codes and, therefore, a citation to the *United States Code* can be utilized in the *United States Code Annotated* and *United States Code Service*.

Finding Aids: The publisher provides a multi-volume general index which provides access to the entire set. Individual title indexes are

not provided.

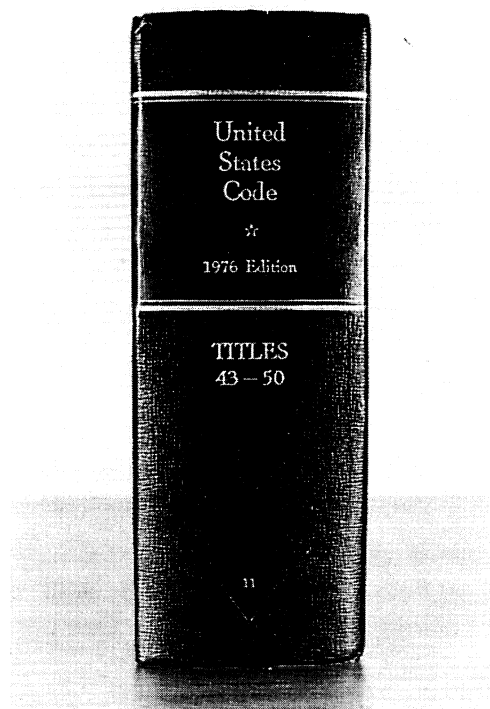
Currency of the Set: The *United States Code* began publication in 1926. Since that date there have been issued periodic subsequent editions. The schedule currently calls for a six-year cycle with the most recent edition being 1976. In order to avoid the researcher being as much as six years out of date, the publisher issues annual bound cumulative supplements.

Currency and Validity of Information: Using the *United States Code* and all supplementation which is provided, supplies the researcher with the current text of the United States Constitution and the current body of statutory material excepting those items added, repealed or amended in the current session of Congress. Greater currency is possible by utilizing either the *United States Code Annotated* or the *United States Code Service*. In order to ascertain how the text is being utilized by the judicial system and as a further check against unknown revision of the legislation itself, one should consult *Shepard's United States Citations*.

Special Features:

1. **Historical Notes** - Following the text of a section in the *United States Code*, the publisher provides historical notes. These notes provide the researcher information concerning the initial passage of the legislation, subsequent amendments to the legislation, and cross references to other applicable parts of the *United States Code*.
2. **Retroactive File** - Though perhaps unintended, the method of publication of the *United States Code* provides the researcher with a useful feature. Because all materials are issued in bound form and the entire set is recompiled simultaneously, libraries tend to retain prior editions. Complete files of all editions of the *United States Code* are widely available. If the researcher has a need to ascertain what the statutory law was at

any time back to 1926, the process is significantly less cumbersome using the *United States Code* than it would be with either the *United States Code Annotation* and *United States Code Service*.



Title: *United States Code Annotated* (U.S.C.A.)

Publisher: West Publishing Company

Composition of Set: The *United States Code Annotated* contains the text of the United States Constitution and current federal legislation which is both permanent and public. The text is identical to that found in the official *United States Code*.

Arrangement of Materials: The arrangement of the materials is identical to that of the official *United States Code*. This arrangement subdivides all covered legislation into fifty (50) broad titles. Each title is then further subdivided into chapters, sections and subsections as needed. Each title is preceded by a table of contents which shows the chap-

ters contained in it. Each chapter is preceded by a table of contents which displays the array of materials which it contains.

Finding Aids: The publisher provides a multi-volume general index which provides access to the entire set. In addition, the final volume for each title contains an index to that specific title.

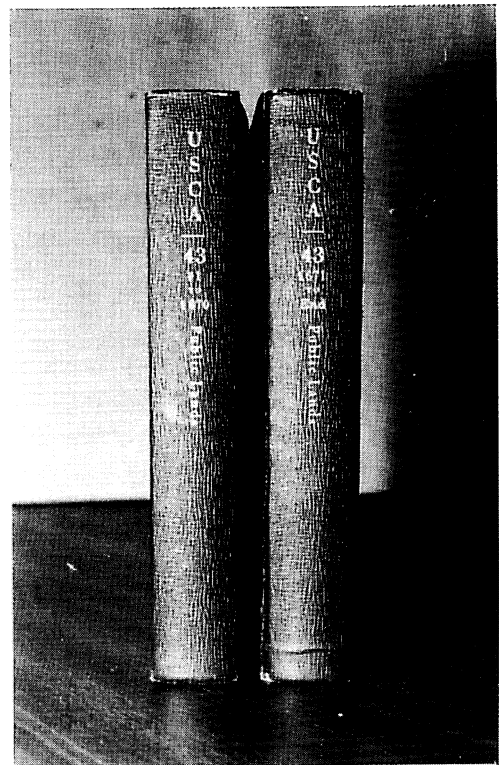
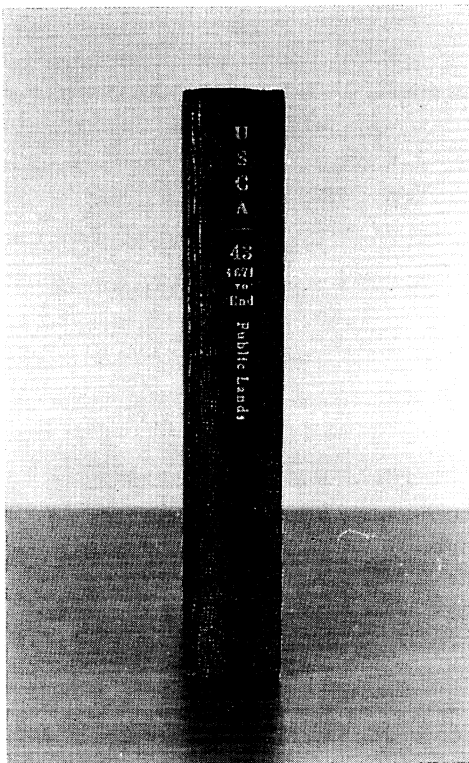
Currency of the Set: The *United States Code Annotated* is being continuously up-dated. During the course of a Congress, West publishes a pamphlet service three times per year which up-dates materials in the parent set. At the end of the year, these pamphlets are cumulated into more permanent supplementation. Depending upon the quantity of supplementary material, it is added as a pocket part to a bound volume, as a free-standing paper bound supplement to a bound volume, or as a totally new bound volume replacing one previously in the set.

Currency and Validity of Information: Using the *United States Code Annotated* and all sup-

plementation which is provided, supplies the researcher with the current text of the United States Constitution and the current body of statutory material. In order to ascertain how the text is being utilized by the judicial system and as a further check against unknown revision of the legislation itself, one should consult *Shepard's United States Citations*.

Special Features: The advantages of annotated codes over the official *United States Code* lie in the speed with which the material is published and the special features of the commercial publication. The major additions made by the West Publishing Company in the *United States Code Annotated* include the following:

1. **Historical Notes** - Following the text of a section in the *United States Code Annotated*, the publisher provides historical notes. These notes provide the researcher information concerning the initial passage of the legislation, subsequent amendments to the legislation, and some cross-



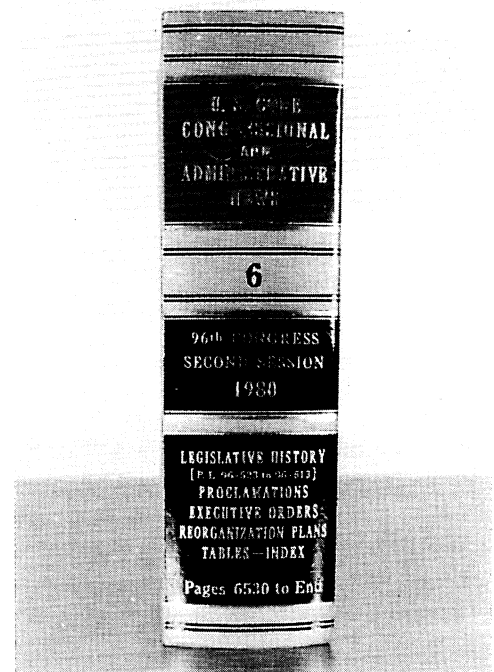
- references to documents forming a part of the legislative history of the statute.
2. Library References - Following the historical notes section, the publisher provides cross-references to other publications produced by the publisher such as *Corpus Juris Secundum* and the *American Digest System* (by giving the appropriate West Key Number). With increasing frequency, the researcher is also provided with appropriate cross-references to the *Code of Federal Regulations*. As an increasing percentage of the volumes in the parent set are replaced, this feature will become more standard.
 3. Annotations - Entitled "Notes of Decisions", this segment provides paragraph-length summaries of and citations to state and federal cases important to an understanding of the statute consulted. This feature follows the Library References portion of the editorial material following a section.
 4. Related Materials - The publisher often incorporates materials into the *United States Code Annotated* which does not technically belong in a statutory compilation. As a result the text of Reorganization Plans and Executive Orders will be included when there is a logical relationship to a statute and the publisher feels that such publication would be useful to the researcher.
 5. Tables - Supplied with the *United States Code Annotated* are several volumes of tables. Use of these tables will allow the researcher to convert from a *United States Code Annotated* citation to the appropriate citation in the *Revised Statutes of 1878*. In addition one can use these tables to proceed from the *United States Code Annotation* to the *Statutes at Large* or to find specific executive documents promulgated under the authority of federal statutes.

6. Popular Names - Many statutes become well known by a popular name or short title. The last volume of the multi-volume index to the *United States Code Annotated* contains a table of such acts. For the convenience of the user, the popular names also appear as entries in the General Index and the indexes following each title.

Title: *United States Code Congressional and Administrative News* (U.S. Code Cong. & Ad. News)

Publisher: West Publishing Company

Composition of Set: This set is a commercial publication which prints documents relating to the legislative, administrative and executive components of government. Its speed of publication and breadth of coverage make it useful as an up-dating device for sets like the *United States Code Annotated* and as a single source to monitor the current output of the various components of the federal government covered.



Arrangement of Materials: The materials presented in this set are first arranged by the issuing source. The first major section presented is Congressional documents. These include the text of public laws as well as selected Congressional documents relating to specific statutes. This is followed by presidential messages, proclamations and executive orders. Finally, there is a section providing the text of new administrative regulations.

Finding Aids: Each issue has its own index as does the annual bound compilation at the end of the session. There is no cumulative index which covers multiple years.

Currency of the Set: *The United States Code Congressional and Administrative News* is first issued in monthly paperbacks. At the end of a session of Congress all this material is reissued in a bound volume for permanent retention.

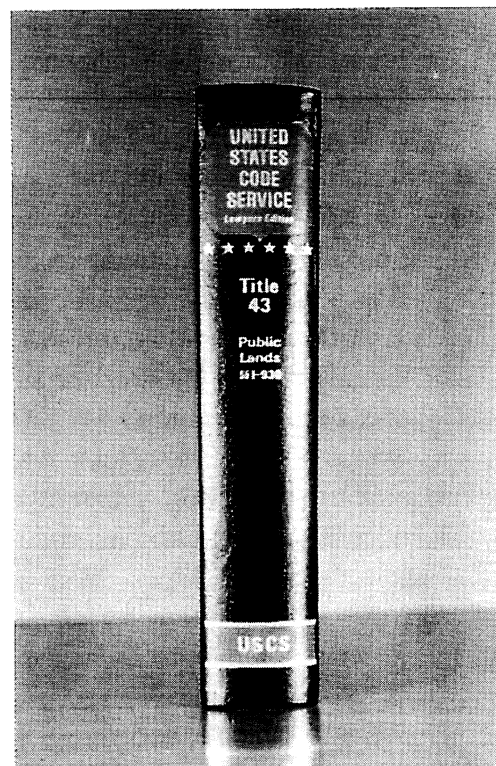
Currency and Validity of Information: Being a monthly publication, the currency of the materials contained is reasonable. Marginal gains can, however, be made by consulting the *Federal Register*. Presidential documents can be found which are more current through the use of the *Weekly Compilation of Presidential Documents*.

Special Features: The end of each issue and the final bound volume of each annual set contains a significant array of tables. Among the most useful are tables showing citations for legislative histories for enacted public lands, tables giving access to statutes by popular names and tables showing major bills pending (in the monthly pamphlets) and major bills passed (in the annual cumulation).

Title: *United States Code Service* (U.S.C.S.)
Publisher: Lawyers Co-Operative Publishing Company, Bancroft-Whitney Company
Composition of Set: The *United States Code*

Service contains the text of the United States Constitution and current federal legislation which is both permanent and public. The text is identical to that found in the official *United States Code*.

Arrangement of Materials: The arrangement of the materials is identical to that of the official *United States Code*. This arrangement subdivides all covered legislation into fifty (50) broad titles. Each title is then further subdivided into chapters, sections and subsections as needed. Each title is preceded by a table of contents which shows the chapters contained in it. Each chapter is preceded by a table of contents which displays the array of materials which it contains.



Finding Aids: The publisher provides a multi-volume general index which provides access to the entire set. In addition, the final volume for each title contains an index to that specific title.

Currency of the Set: The *United States Code*

Service is being continuously up-dated. Lawyers Co-Operative Publishing Company publishes a pamphlet service monthly which up-dates materials in the parent set. At the end of the year, these pamphlets are cumulated into more permanent supplementation. Depending upon the quantity of supplementary material, it is added as a pocket part to a bound volume, as a free-standing paper bound supplement to a bound volume, or as a totally new bound volume replacing one previously in the set.

Currency and Validity of Information: Using the *United States Code Service* and all supplementation which is provided, supplies the researcher with the current text of the United States Constitution and the current body of statutory material. In order to ascertain how the text is being utilized by the judicial system and as a further check against unknown revision of the legislation itself, one should consult *Shepard's United States Citations*.

Special Features: The advantages of annotated codes over the official *United States Code* lie in the speed with which the material is published and the special features of the commercial publication. The major additions made by the Lawyers Co-Operative Publishing Company in the *United States Code Service* include the following:

1. Historical Notes - Following the text of a section in the *United States Code*, the publisher provides historical notes. These notes provide the researcher information concerning the initial passage of the legislation, subsequent amendments.
2. Library References - Following the historical notes section, the publisher provides cross-references to other publications produced by the publisher such as *American Jurisprudence 2d*, textual annotations in *American Law Reports, Federal*. A standard feature of the *United States Code*

Service is the provision of cross-references to the *Code of Federal Regulations*. References to law review articles frequently appear.

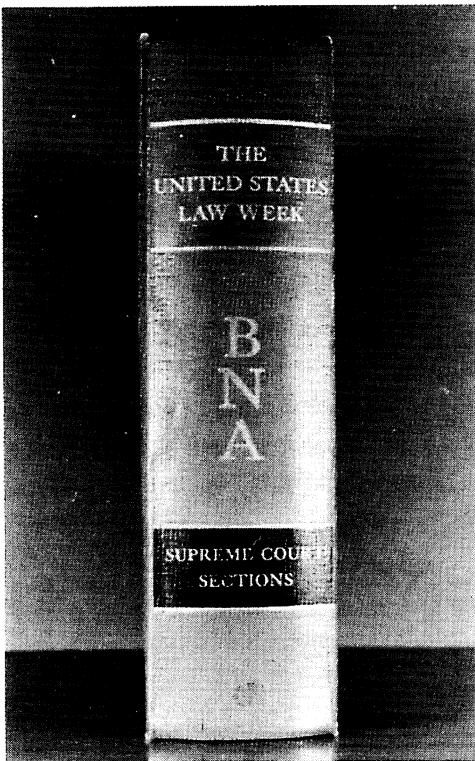
3. Annotations - Entitled "Interpretive Notes and Decisions", this segment provides paragraph-length summaries of and citations to state and federal cases important to an understanding of the statute consulted. In addition there are some cross-references to attorneys' general opinions and documents of federal regulatory agencies. This feature follows the Library References portion of the editorial material following a section.
4. Related Materials - The *United States Code Service* contains a separate volume for uncodified laws. This volume does not contain the text of such uncodified materials but does provide interpretive notes and decisions relating to uncodified statutes, proclamations and treaties.
5. Tables - Supplied with the *United States Code Service* are several volumes of tables. Use of these tables will allow the researcher to convert from a *United States Code Service* citation to the appropriate citation in the *Revised Statutes of 1878*. In addition one can use these tables to proceed from the *United States Code Service* to the *Statutes at Large* or to find specific executive documents promulgated under the authority of federal statutes.
6. Popular Names - Many statutes become well known by a popular name or short title. The tables volume of the *United States Code Service* contains a table of acts by popular name.

Title: *United States Law Week* (U.S.L.W., S.W.2d)

Publisher: Bureau of National Affairs

Composition of Set: This is a two-volume loose-leaf service for which the first volume is designed specifically to provide coverage of the United States Supreme Court. While often thought of as a fast method for getting access to the opinions of the court, the set is valuable in a variety of other ways for keeping abreast of Supreme Court activities. The second "General Law" volume provides selected coverage of legal developments unrelated to the Supreme Court but which have national significance.

Arrangement of Materials: As already noted, this set contains a copy of the opinions rendered during the current term. In addition, there are sections which provide subject access to everything in the court's docket and a copy of the docket. Full calendar information is also provided.



Finding Aids: Much of the set is, in fact, a finding aid. All sections including text are made accessible by the various indexes incorporated.

Currency of the Set: As a weekly looseleaf service, the *United States Law Week* provides as much speed as is commercially available.

Currency and Validity of Information: The speed of publication of the *United States Law Week* is such that there are no faster services available to consult for up-dating functions. Indeed, a primary use of this service is for up-dating court reports, files or digests covering the United States Supreme Court.

Title: *United States Reports* (U.S.)

Publisher: Volume 1-256, Various Private Publishers

Volume 257 (1922), Government Printing Office

Composition of Set: The *United States Reports* constitutes a complete file of all United States Supreme Court written opinions. It is the official publication. Some per curiam opinions are included in this official set but a larger percentage can be found in the unofficial *Supreme Court Reporter* or the unofficial *Lawyers' Edition*.

Arrangement of Materials: The text of the appellate decisions included in the *United States Reports* are reported in chronological order. There is no subject arranged file.

Finding Aids: The publishers of the *United States Reports* provide no subject digest to the complete set. Access can be had, however, by using the digests available from commercial sources. Those commercial digests providing coverage of the *United States Reports* include the *U.S. Supreme Court Reports Digest* (Lawyers Co-Operative Publishing Company), *U.S. Supreme Court Digest* (West-Publishing Company), *Federal Practice Digest 2d* (West Publishing Com-

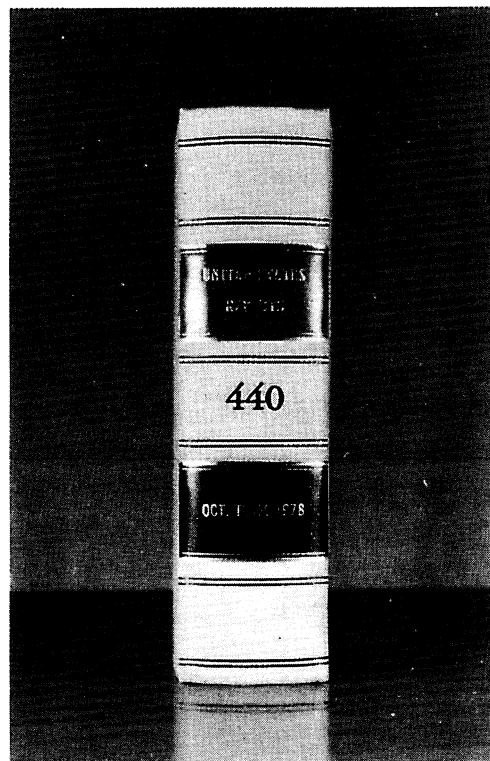
pany), and the *American Digest System* (West Publishing Company).

Currency of the Set: The *United States Reports* is a constantly growing file. As a new decision is rendered it is first published as a "slip decision." When sufficient numbers of slip decisions are available they are issued in a paper bound advance sheet which are called "Preliminary Prints." When sufficient numbers of advance sheets have been issued, the cases are re-issued in a new, permanent bound volume which is added to the permanent set.

Currency and Validity of Information: The bound volumes of the *United States Reports* are published less promptly than are those for *Lawyers' Edition* or the *Supreme Court Reporter*. Though the disparity is not as great the same relationship exists between the advance sheets of the *United States Reports* and those of the unofficial reporters. The lack of any file structure does not generally allow the slip decision to be conveniently utilized as a up-dating device. For the text of the most current decisions, most researchers find it more efficient to rely upon the *U.S. Supreme Court Bulletin* (Commerce Clearing House) and *United States Law Week* (Bureau of National Affairs). Use of either of these unofficial loose-leaves to cover periods of time following the latest advance sheets provides the researcher access to the full file of opinions. In order to ascertain how a case is being used in later cases one should consult *Shepard's United States Citations*.

Title Variances: The first ninety (90) volumes of the *United States Reports* were originally issued under the names of the individual reporters. These nominative reports have since been renumbered as volumes in the *United States Reports* set but citations in the old form are still encountered. The parallel citations are as follows:

Dallas v.1-v.4 (1790-1800) U.S. v.1-v.4
Cranch v.1-v.9 (1801-1815) U.S. v.5-v.13
Wheaton v.1-v.12 (1816-1827) U.S. v.14-v.25
Peters v.1-v.16 (1828-1842) U.S. v.26-v.41
Howard v.1-v.24 (1843-1860) U.S. v.42-v.65
Black v.1-v.2 (1861-1862) U.S. v.66-v.67
Wallace v.1-v.23 (1863-1874) U.S. v.68-v.90



Special Features:

1. Each volume of the *United States Reports* includes a list of the justices on the court during the time covered by that volume.
2. Each volume of the *United States Reports* includes an alphabetical listing of the cases contained in that volume. The alphabetizing is done by the first named party to the action.
3. Each volume of the *United States Reports* includes a digest which provides subject access to the decisions contained in that volume.
4. For each case there are included the following elements beyond the text of the opinion:

- a. Name of case.
 - b. Date of the decision.
 - c. Docket number of the case.
 - d. Summary of the case.
 - e. Names of the attorneys.
 - f. Name(s) of the justice(s) who wrote the individual opinion(s).
5. Selected volumes of the *United States Reports* will include other materials the Court wishes distributed. These include such things as memorials to former members of the Court, court rules, and list of attorneys newly admitted.

Title: *United States Statutes at Large* (Stat.)
 Publisher: v. 1-17, Various Private Publishers
 v. 18- (1873-), Government Printing Office
 Composition of Set: The *Statutes at Large* fundamentally a complete, permanent file of all federal legislation passed since 1789. In addition treaties and international executive agreements were included prior to volume 65 (1951).

Arrangement of Materials: The arrangement of the materials in the *Statutes at Large* is chronological rather than by subject.

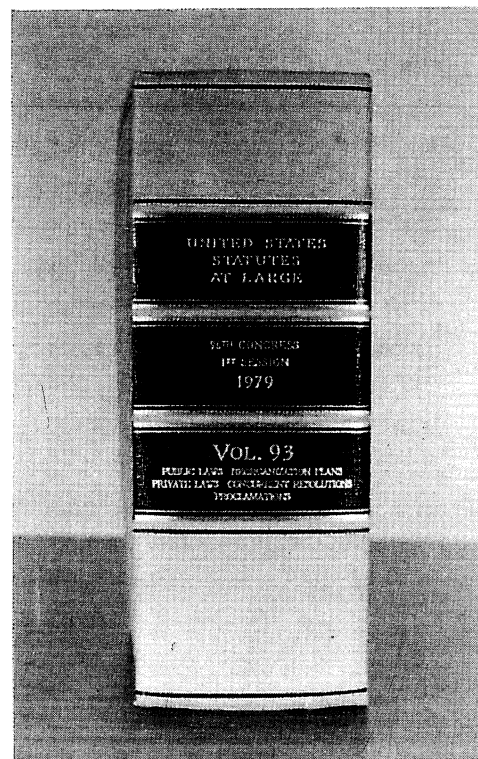
Finding Aids: There is no general index to the *United States Statutes at Large*. Each volume does contain a subject index but the coverage is limited to materials contained in that volume.

Currency of the Set: New volumes are now added to the set at the end of a session of Congress. Prior to 1939, a new volume was not issued until the entire Congress had been completed, thereby covering a two-year period. Slip laws may be viewed as advance sheets to the *Statutes at Large*.

Currency and Validity of Information: The chronological arrangement of the material

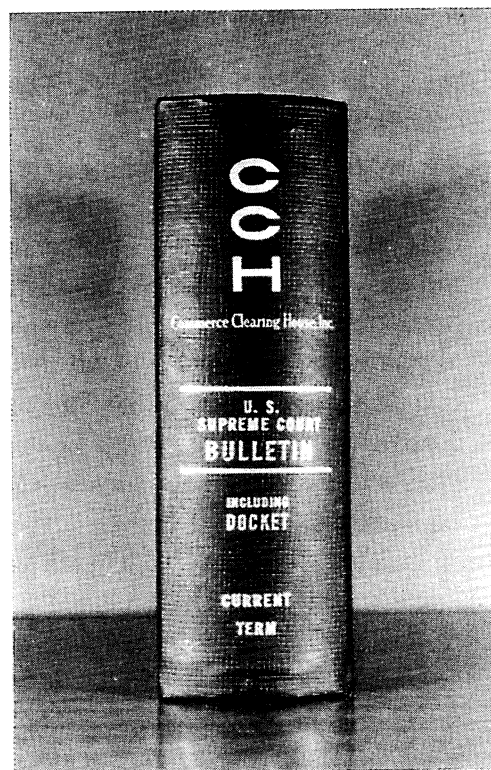
largely precludes the use of the *Statutes at Large* as a substitute for the statutory compilations. The *Statutes at Large* can be Shepardized, however, to the extent that the material for which judicial treatment is being sought was not codified.

Special Features and Utility of the Set: While the lack of a subject arrangement does not allow the researcher to substitute this set for a statutory compilation, the permanent all inclusive nature of the materials makes the the *Statutes at Large* a necessary adjunct to the *United States Code*, *United States Code Annotated*, and *United States Code Service*. Special uses for and features of the *Statutes at Large* include the following:



1. The *Statutes at Large* provide the researcher with a permanent file of materials which do not go into statutory compilations. It, thus, is often the sole source for the text of private legislation, temporary legislation, and legislation not deemed to have been of general interest.

2. The *Statutes at Large* provide the researcher with a permanent file of materials which was once in the statutory compilations but which is no longer current.
3. For that portion of United States Federal Statutes which has not been carried forward from the *United States Revised Statutes* or re-codified into positive law in the *United States Code*, the *Statutes at Large* remain the "best evidence."
4. The *Statutes at Large* provide the researcher with a permanent source of all federal legislation in its original form. This is important since the statutory compilations frequently find it necessary to divide an act in order to place it appropriately in the code by subject.
5. Since 1933, the publishers have provided information in the margins which is often very useful in the process of producing a legislative history.
6. Beginning with volume 77, each volume contains a section entitled "Guide to Legislative History of Bills Enacted Into Public Law." This section provides citations to most of the documents required to produce a federal legislative history.



access to everything on the court's docket and a copy of the docket. Other sections include rules of the court and a tentative calendar for arguments.

Finding Aids: Much of the set is, in fact, a finding aid. All sections including text are made accessible by the various indexes incorporated. Like most looseleaf services, this set contains a section concerning the most efficient methods for utilizing the service.

Currency of the Set: As a weekly looseleaf service, the *Supreme Court Bulletin* provides as much speed as is commercially available.

Currency and Validity of Information: The speed of publication of the *Supreme Court Bulletin* is such that there are no faster services available to consult for up-dating functions. Indeed, a primary use of this service is for updating court reports files or digests covering the United States Supreme Court.

Title: *U.S. Supreme Court Bulletin* (Sup. Ct. Bull.)

Publisher: Commerce Clearing House

Composition of Set: This is a looseleaf set designed specifically to provide coverage of the United States Supreme Court. While often thought of as a fast method of getting access to the opinions of the court, the set is valuable in a variety of other ways for keeping abreast of Supreme Court activities.

Arrangement of Materials: As already noted, this set contains a copy of the opinions rendered during the current term. In addition, there are sections which provide subject

Title: *Weekly Compilation of Presidential Documents*

Publisher: Government Printing Office

Composition of Set: Starting in August, 1965, the *Weekly Compilation of Presidential Documents* began publication. This set includes not only executive orders, proclamations and reorganization plans (all of which are also published elsewhere) but also speeches, press conferences and the like. All official presidential documents, except executive agreements, are included.

Arrangement of Materials: The Presidential materials included in the *Weekly Compilation of Presidential Documents* are arranged in chronological order. This allows the researcher to access materials when only a date is known. This feature is often useful for items like press conferences.

Finding Aids: Each issue is indexed at the beginning of that issue. At the end of the issue is a cumulative index covering all issues since the latest free standing index. Free standing indexes are issued quarterly and cumulated semi-annually and annually.

FINAL REVIEW EXERCISES

1. You are interested in finding later, and perhaps better, cases than the HUDSPETH case which involve trespassers cutting and removing timber from federally owned lands. There are several research options you can employ.

List at least two ways to update the HUDSPETH case, giving a brief explanation of the procedures involved.

1. Shepardize the HUDSPETH case using SHEPARD'S FEDERAL CITATIONS. Look for later cases.
2. Using the FEDERAL PRACTICE DIGEST 2D, scan the digested cases found under the topic of Public Lands, key numbers 8-16, 22-28 in the bound volume and in the pocket part.
3. Check the ALR FEDERAL QUICK INDEX for annotated cases relating to trespassers cutting and removing timber from federally owned lands.
4. Check a legal encyclopedia (AM.JUR. 2D or C.J.S.) for coverage of the topic "trespassers on public lands".
5. The HUDSPETH case cites 43 U.S.C. §772. One could go to 43 U.S.C.A. §772 or 43 U.S.C.S. §772 and read annotations in the volumes and pocket parts for citations to cases or Shepardize the statute.

If one has access to a large law library, the following are OTHER SOURCES to use:

American Digest System
Looseleaf services
Legal periodicals
Treatises and specialized books
WESTLAW or LEXIS

review: *Workbook*, Finding Tools, Section IV. Especially digests, encyclopedias and citators.

Workbook, Statutory Law, Section II. U.S.C., U.S.C.S., U.S.C.A.

Workbook, Case Law, Section III. Reports and Reporters; A.L.R.

2. Updating UNITED STATES v. HUDSPETH 384 F.2d 683 (9th Cir 1967).

By using SHEPARD'S CITATIONS, answer the following:

- a) Which Shepard's unit will you use to Shepardize the HUDSPETH case?
- b) Which specific volume or supplement of the Shepard's unit you listed in (a) above will you begin with? Why?
- c) Which SHEPARD'S FEDERAL CITATIONS volumes or supplements list the HUDSPETH case?
- d) In the Shepard's used in (c) above find a citation to a 10th Circuit Court case citing the HUDSPETH case. Write this citation below.

(a) SHEPARD'S FEDERAL CITATIONS

(b) The 1969 SHEPARD'S FEDERAL CITATIONS volume. This volume covers 201-390 F.2d; HUDSPETH is in 384 F.2d.

(c) SUPPLEMENT 1969-1977 p. 1078, second column. HUDSPETH was decided in 1967.

(d) Cir. 10 468 F2d⁶³⁶

review: *Workbook*, Finding Tools, Section IV. See citators, especially Step 5.

3. Obtain 468 F.2d. Read the case beginning on page 636 and answer the following:

- a) What is the style of this case?
- b) How does the elevated 6 in the Shepard's citation 468F2d⁶636, relate to the DOYLE case? In other words, what is the meaning of the elevated 6?

(c) through (h) deal with case analysis of the DOYLE case.

- c) In general, how is the DOYLE case *similar* to the HUDSPETH case?
- d) In general, what is the difference in the action brought by the government in the HUDSPETH case compared to the action brought by the government in the DOYLE case?
- e) In the federal district court the U.S. District Judge determined the dispute in the government's favor and granted injunctive relief. On what basis did the judge grant the injunctive relief in the DOYLE case?
- f) Did the United States Court of Appeals agree or disagree with the Federal District Court? In other words, what is the "holding" of the Court of Appeals in the DOYLE case?
- g) Did the Court in the DOYLE case state whether a resurvey is conclusive evidence of the location of the original line? Explain.
- h) In the DOYLE opinion, why did the Court refer to the supplemental manual on Restoration of Lost or Obliterated Corners and Subdivisions of Sections of the Bureau of Land Management (1963 ed.)?

3. a) UNITED STATES v. DOYLE

- b) The 6 means the HUDSPETH case is discussed at paragraph [6] in the DOYLE case.
- c) The DOYLE case is a trespass action case. Also, defendants in both cases are claiming mistake as to location of boundaries.
- d) In the DOYLE case, the government sought injunctive relief against the defendants for trespassing.

In the HUDSPETH case, the government brought an action for damages against the defendants in federal district court.

- e) The Judge determined the dispute in the Government's favor on the basis of a dependent resurvey.
(See p. 633, case synopsis)
- f) Yes, the Court of Appeals Affirmed the District Court.
- g) The Court stated "The generally accepted rule is that a subsequent resurvey is evidence, although not conclusive evidence, of the location of the original line." UNITED STATES v. HUDSPETH, 384 F.2d 683, 688 n. 7 (9th Cir. 1967). See p. 636 ([8, 9])
- h) To state that the procedures for restoration of lost or obliterated corners are well established: (1) by the cases cited in the opinion; and (2) by the practices explained in the supplemental manual.
(See p. 636 [10].)

Note on page 637 [11] the citation to Clark on *Surveying and Boundaries* as an example of citing a textbook.

4. Update UNITED STATES v. HUDSPETH 384 F.2d 683 (9th Cir. 1967) by using the FEDERAL PRACTICE DIGEST 2d (FPD2d).

Describe, in step by step detail, how to update the HUDSPETH case by using the topic, descriptive word index, and table of cases methods of research.

4. Methods:

(1) *Topic method.*

Procedure:

Go to the topic "Public Lands" in volume 66 of FPD 2d.

Scan the Public Lands analysis for appropriate topic and key numbers.
(See 66 FPD2d 245-246)

Select key numbers 8 through 16 and 22-28. (Specifically, key numbers 11, 13 and 28.)

Consult notes of cases under Public Lands key numbers 8-16, 22-28 in the bound volume and its pocket part.
(See 66 FPD2d 261-263, 269-272 and latest pocket part.)

Next, cite cases you feel would update the HUDSPETH case. Key number 28, Resurveys, 66 FPD 2d 271-272. U.S. v. DOYLE, 468 F.2d 633. 1972 case.

See also pocket parts. (No relevant cases found.)

To obtain most recent federal cases check FPD2d pocket part closing table to determine the last volumes of F.2d and F.Supp. included. Next, go to the recent bound reporters and advance sheets of F.2d and F.Supp. published since the FPD2d pocket part. Check the digest sections of each volumes and advance sheets.

(2) *Descriptive Word Method.*

Procedure:

Select key or descriptive words to search such as

Public lands
Trespass
Surveys

Go to Descriptive Word Index volume which covers topic selected.

Eg. for public lands, use 91 FPD2d 468-471 and pocket part.

Scan for appropriate entries. (If you know specifically that you want certain key numbers, scan the pages under "public lands" for the key numbers.)

Findings:

Timber (91 FPD2d-471)
cutting and Removing, Public Lands 9-16

Recovery of timber or
damages Pub Lands 13

Next, go to 66 FPD2d which covers Pub Lands and search for cases as described under topic method in (1) above.

Eg. Trespass
Use 92 FPD2d 441-444 and pocket part.

Scan for appropriate entries.

Findings:

Public Lands — (92 FPD2d 443)
Pub Lands 8-16

Next, go to the FPD2d volume which covers Pub Lands and search for cases as described under the topic method in (1) above.

Eg. Surveys
Use 92 FPD2d 288-289 and pocket part.

Findings:

Public Lands
(Several entries listed, specifically, see Resurveys-Pub Lands 28 United States lands-
Pub Lands 22-28)

Then, go to 66 FPD2d which covers Pub Lands and search for cases as described under the topic method in (1) above.

(3) *Table of Cases Method*

Procedure:

Look up U.S. v. HUDSPETH in the Table of Cases (84 FPD2d 442)

There you find a list of topics and key numbers in the HUDSPETH case. Select the most specific entries, e.g., Pub Lands 13, 28.

Next go to 66 FPD2d which covers Pub Lands and search for cases as described under the topic method in (1) above.

review: *Workbook*, Finding Tools, Section IV. Especially use of the *Federal Practice Digest 2d*.

(If your library has the *American Law Reports Federal* (ALR Fed) work the following problem. If not, you will have to visit a larger library which has this set.)

5. Update UNITED STATES v. HUDSPETH, 384 F.2d 683 (9th Cir. 1967) by using ALR FEDERAL QUICK INDEX.

Describe, in step by step detail, your research procedure.

5. Select key or descriptive words to search such as

Public Lands
Trespass
Surveys

(Example of finding): Public Lands

Survey of public lands, 43 U.S.C.S. Sections 51, 751 et seq.

Go to 43 U.S.C.S. * Scan the entries for Chapter 18. Survey of Public Lands (43 U.S.C.S. page 752.) Section 772 deals with Resurveys. Go to that section. (43 U.S.C.S. pages 790-791) Read the statute and the annotations (case notes) which follow the statutes. Next, check the U.S.C.S. pocket part for Section 772.

Note also, that the research guide references at 43 U.S.C.S. §772 (page 791) refer you to 63 AMJUR2d, Public Lands §§39, 41)

(Since you now have reference to 43 U.S.C.S. §772, you may want to go to 43 U.S.C.A. §772 also to scan annotations in this set.)

In U.S.C.A., note the Library References at 43 U.S.C.A. §772 (page 107) lists Public Lands Key No. 28 and C.J.S. Public Lands §33.

*ALR Fed always refers to the U.S.C.S. because both sets are published by Lawyer's Cooperative Publishing Co. However, one can use *either* U.S.C.S. *or* U.S.C.A. (U.S.C.A. is published by West Publishing Co.)

review: *Workbook*, Case Law, Section III. B. 4. A.L.R.

6. Update UNITED STATES v. HUDSPETH, 384 F2d 683 (9th Cir. 1967) by using AM.JUR. 2d or C.J.S.

Describe in detail your research procedure.

6. *AMJUR 2d*

Procedure:

Consult General Index or title (Public Lands) index. Look for entries such as:

Trespass, §123
Resurvey, §41
Damages, §123
Mistakes, §123
Timber
Trespass, §123

OR

Consult the entries for the topic Public Lands at 63 AM.JUR.2d pages 472-476. Select entries as done above.

Go to the most specific sections selected, i.e., 41 and 123. Read these section and the cases footnoted in the volume and its pocket part.

C.J.S.

Procedure:

Consult the General Index or title (Public Lands) Index.
Look for entries such as:

Surveys §33 corrections of surveys and
plots;
Resurveys — p. 683

Trespass
§4 Trespassers on
public lands in
general — p. 651

OR

Consult the entries for the topic Public Lands at 73 C.J.S. pages 639-646. Select entries as done above.

Go to the most specific sections selected, i.e., 4 and 33. Read these sections and the cases footnoted in the volume and its pocket part.

review: *Workbook*, Finding Tools, Section IV. See encyclopedias.

7. Update UNITED STATES v. HUDSPETH, 384 F.2d 683 (9th Cir. 1967) by using U.S.C.S. or U.S.C.A.

Describe how you update the HUDSPETH case by using the statute citation 43 U.S.C. §752 cited in the HUDSPETH case.

7. a) You may begin your U.S.C.S. or U.S.C.A. research with the U.S.C.A. citation in the HUDSPETH case, i.e., 43 U.S.C.A. §752. Simply go to §752. Read Section 752 and the case annotations in the volume and its pocket parts.

(Note: Since there is a citation to a code section in the HUDSPETH case, the method described above is easy to use. However, not all reported cases cite the code.)

or

- b) Shepardize 43 U.S.C. §752. Use the SHEPARD'S UNITED STATES CITATIONS, STATUTE EDITION. Begin with the supplement 1968-1974 (HUDSPETH case was decided in 1969). No cases are listed in this Supplement under §752. Next, consult the Supplement 1974-1979. Two cases are listed under §752, 504 F.2d 136 and 513 F.2d 948. Scan these cases to see if they are relevant. Next check the SHEPARD'S UNITED STATES CITATIONS paper supplements for cases.

or

- c) *U.S.C.S.* Using 43 U.S.C.S. (Public Lands) scan the chapters listed in the table of contents. Find the most appropriate chapter, e.g., Chapter 18. Survey of Public Lands at 43 U.S.C.S. p. 752. Scan the chapter for entries. E.g., section 752 which covers resurveys.

Read Section 752 and the case annotations in the volume and its pocket part.

or

- d) *U.S.C.A.* Using 43 U.S.C.A. (Public Lands) scan the chapters listed in the table of contents. Find the most appropriate chapter, e.g., Chapter 18, Survey of Public Lands at 43 U.S.C.A. p. 60. Scan the chapter for entries. E.g., Section 752 which covers resurveys.

Read Section 752 and the case annotations in the volume and its pocket parts.

8. Assume your office is located where there is no easy access to a law library. If you have correct citations to material you are allowed to call the nearest government law library for service.

If all you had was the HUDSPETH case and wanted the lending library to send you later case annotations on trespassing and resurveys, what information could you give the librarian over the phone?

8. Give the librarian the appropriate key numbers i.e., Public Lands 13 and 28 in order for the librarian to go directly into the FPD2d to copy digested cases for you.
(See HUDSPETH case in *Workbook*.)

or

Give the librarian the HUDSPETH case citation so the librarian can Shepardize the citation and send you copies of the cases listed in Shepard's.

The HUDSPETH case citation is 384 F 2d 684. *Shepard's Citations* will yield cases as found in Question/Answer #2.

9. Your office is having problems with local ranchers building temporary fences on BLM lands which the ranchers have leased for cattle grazing. Your supervisor wants you to find the federal statute which covers such inclosures on public lands. He remembers hearing about such a statute called "the fencing law" or some such title.
- (a) Give the citation to this act.
 - (b) Explain where you found the citation.

Note: There are several ways, thus materials, to find the popular name of a statute.

9. (a) Fencing Act (Public Lands)

Feb. 25, 1885, ch. 149, 23 Stat. 321 (Title 43, §§1061-1066)

(b) U.S. CODE (volume 12)

Popular Names and Tables, Acts Cited By Popular Name, p. 108 under Fencing Act (Public Lands)

OR

U.S.C.A., General Index, Popular Name Table, Popular Name Table for Acts of Congress p. 544 under Fencing Act (Public Lands)

OR

In front of volume 43 U.S.C.A. page XVII, Popular Name Acts, under Fencing Act (Public Lands).

OR

U.S.C.S., TABLES volume, Popular Name Acts, p. 321 under Fencing Act (Public Lands).

OR

SHEPARD'S ACTS AND CASES by Popular Names — Federal and State under Fencing Act (Public Lands) p. 375.

Note: this publication also lists *state acts*.

10. You are surveying BLM property in Colorado during elk season. A hunting party threatens you and your crew with bodily harm if you and your survey crew continue with the survey.

What sort of federal protection are you and the crew entitled to?

- a) Cite a federal statute.
- b) Explain how you found it.

10. a) 43 U.S.C. §774
Protection of surveyor by marshall.

b) 43 U.S.C.A., index
Surveyors, Marshall required
to protect, §774 p. 648

or

43 U.S.C.S., index
surveys and surveying
no entry listed

Marshalls,
United State Marshals, duty
to protect surveyors, 43 §774

or

U.S.C. General Index (volume 16)
Surveyors
Deputies,
Marshal required to protect, 43 §774
Marshal to protect, §774

UNITED STATES MARSHALLS
Surveyor, duty to protect, 43 §774

or *Manual of Surveying Instruction* (1973), page 7.

Protection of surveyor by marshall of district. . . (R.S. 2413; March 3, 1925, 43 Stat. 1144;
43 U.S.C. 774).

11. You have the following information about a federal law which has been codified and published in the U.S. CODE:

Enacted August 14, 1958 as public law 85-641.

- (a) Find the U.S. CODE citation.
- (b) Explain the procedure you used to find the U.S. CODE citation in (a).
- (c) What subject is covered by this U.S. CODE statute?
- (d) What is the STATUTES AT LARGE citation to this public law? Where did you find this citation?
- (e) In 1946 there was a reorganization plan for this statute. What is the effective date of this reorganization plan?

Where did you find this date?

11. (a) 43 U.S.C. §321

(b) Found by looking at Tables volumes of U.S.C., or U.S.C.A. or U.S.C.S. for parallel citations from Public Laws to U.S. CODE citations. First find 1958, then August 14, 85-641. Read across. The parallel table gives the U.S.C. citation as 43 §321.

(c) 43 U.S.C. §321. Desert Land Entries.
Entry right generally; extent of right to appropriate waters.

(d) 72 Stat. 596. Found at end of Section 321 or in parallel table used in (b) above.

(e) 1946 Reorg. Plan. No. 3. §403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.
Found at end of Section 321.

12. (a) Find the latest federal court case defining “Wetlands.”

Give the case citation and the page where Wetlands is defined.

(b) Explain where and how you found your answer.

12. (a) WETLANDS,
AVOYELLES SPORTSMEN'S LEAGUE v. ALEXANDER, D.C. La., 473 F.Supp. 525, 532.

(b) Found in pocket part of 87 F.P.D.2d at page 128.

review: *Workbook*, Finding Tools, Section IV. 1 Digests b. (5) Words and Phrases.

13. (a) Find the definition of “surface coal mining operations.”
- (b) Explain where and how you found the answer.

13. (a) Defined in 30 C.F.R. 700.5

(b) Found in C.F.R.; consult index under surface coal mining operations.

or

Found in 87 I.D. Index-Digest page 735-736.

or

Found in the Surface Mining Control and Reclamation Act of 1977, Pub. L. 95-87, Aug. 3, 1977, 91 Stat. 445.

The Act can be found also by consulting the Popular Name Table in the U.S.C., U.S.C.S., or U.S.C.A.

or

by looking for "surface coal mining operations" in the indexes of the U.S.C. or U.S.C.S. or U.S.C.A.

Reference is to 30 U.S.C. §1291(28).

See, 20 U.S.C.A. pocket part, page 327 or 20 U.S.C.S. page 1031.

14. What do the following abbreviations mean?

Where did you find each?

- (a) P.L.
- (b) IBSMA
- (c) Ct. Cl.

14. (a) P.L. = Public Law

BLACK'S LAW DICTIONARY — abbreviations in back of volume

or

any legal bibliography book in the abbreviations appendix.

(b) IBSMA = Interior Board of Surface Mining and Reclamation Appeals

Found in DECISIONS OF THE DEPARTMENT OF THE INTERIOR, e.g., Sec 88 I.D. 273

(c) Ct. Cl. = Court of Claims (U.S.)

Found in BLACK'S LAW DICTIONARY abbreviations in back of volume

or

any legal bibliography book in the abbreviations section.

15. You want to read a solicitors memorandum, M-36939, which dealt with the question whether leases issued prior to August 4, 1976 subject to readjustment after that date must be readjusted to conform to the Federal Coal Leasing Amendments Act of 1976. For some reason your library doesn't have this particular memorandum in the binder containing "M" opinions. Which other publication might have this particular "M" opinion?

15. GOWER FEDERAL SERVICE — MINING
(Binder: Mining-1982)

16. Using the CODE OF FEDERAL REGULATIONS (CFR), find the latest definition of “Water Supply” as defined by the Desert Land Entries. Give the CFR citation.

16. 43 CFR 2520. 0-5.

Consult the index to title 43 in the CFR.

Ordinarily, one would expect to find a specific entry in the index under “water supply.” However, there is no such entry in the index. Instead, broaden your search terms to more general terms such as “desert land entries.” This broader entry, i.e., “desert land entries”, refers you to Desert Land Act, Subpart 2520.

Next, look at 43 CFR subpart 2520. You find that section 2520.0-5-Definitions (5) defines “Water Supply.”

17. In 43 CFR, locate the table “Alphabetical List of Agencies Appearing in the CFR.”

Find the CFR title, subtitle or chapter number for the Office of Energy. Give this CFR citation.

17. Look under

- (1) Agriculture Department
 Energy, Office of 7, XXIX

or

- (2) Energy, Office of, Department of Agriculture 7, XXIX

Note: This office is within the Department of Agriculture, not the Department of Energy as one may suspect.

18. As the authorized BLM officer for your section or office, you are served with a subpoena duces tecum to produce in federal court an original application for entry of public lands on which a patent has been issued which is now in your BLM office.

- (1) Find the CFR regulation describing your duty as such officer.
- (2) If you do not know what a subpoena duces tecum is, where could you find a definition of this type subpoena?

18. (1) 43 CFR Section 1813.3. Production of records in court.
Section 1813.3-1. Statutory authority.

Consult the index to title 43 in the CFR. Look under terms

Court, production of records in

or

Records, in court

- (2) One can find the definition of subpoena duces tecum (a writ by a court ordering a person to produce certain documents, records, papers, etc. in court) in any law dictionary. The definition can also be found in some unabridged English dictionaries.

19. Consult 43 CFR "List of CFR Sections Affected."

Give the FEDERAL REGISTER citation for the *last* revision of 43 CFR Section 4130.4-1. Explain your answer.

19. 45 FR 47105

Use Title 43 List of CFR Sections Affected.

Work from the latest date, i.e., 1980-1981, retrospectively. Check for revisions to Section 4130.4-1 during 1980-1981. (There is no revision during this period.) Next, check 1979-1980. There you find that section 4130.4-1 was revised at 45 FR 47105.

To check later revisions in the FEDERAL REGISTER, review *Workbook*, Statutory Law, Section II, pp. 35-37.

20. Find 43 CFR Section 3102.2-4. Associations including partnerships.

(a) What is the latest regulatory source and date for the regulation?

(b) What is the *original* regulatory source and date for this regulation?

Explain how you found the answer to part (b).

20. (a) 45 FR 35162, May 23, 1980.

(b) 35 FR 9678, June 13, 1970, unless otherwise noted.

The original source and date is listed at the beginning of each CFR Subpart. (See Subpart 3102 — Qualifications of Lessees.)

If a Subpart has been changed, the latest source is listed at the end of each section.
e.g. (a) above.

21. Find an IBLA decision decided April 30, 1979 which involves appeals from decisions of the Alaska State Office rejecting Native allotment applications.

What is the IBLA and ID citations to this case?

Explain how you found the answer.

21. *John Moore, et al*, 40 IBLA 321, 86 I.D. 279 (1979)

(Note: *et al* means “and others.”)

Consult the *Quinquennial Index-Digest of the Department of Interior*, January 1975 to December 1979, topical index. Look under Alaska, Native Allotments. Reference is given to pages 64-79 of the digest section.

In the digest section, under Alaska, Native Allotments, cases are listed chronologically. Scan the pages until you find the date, April 30, 1979. On page 79 of the digest section you find this date and an abstract of the *John Moore* case with the IBLA and ID citations.

or

You can begin your research in the digest of the *Quinquennial Index-Digest . . .* by looking under Alaska, Native Allotments, then scan the pages as done in the above procedure.

Note: You use the *Quinquennial Index-Digest . . .* because you know the date of your case.

or

You can begin your search by going directly to the I.D. volume which covers the date of your case, i.e. 86 I.D. which covers 1979.

In this volume consult

(1) the Chronological Table of Decisions and Opinions Reported (in front of 86 I.D.)

Look for April 30, 1979. There you find:

Apr. 30: Moore, John, et al, 40 IBLA 321 279

(2) the Index-Digest (in back of 86 I.D.)

Look for Alaska, Native Allotments.

Scan the abstracts until you find the appropriate case. In your problem, abstracts 1 and 2 cover your fact situation. Reference is given to page 279 of 86 I.D.

or

A more time consuming way would be to scan through 86 I.D. searching for the date April 30, 1979. This is more difficult as not all cases are listed in chronological order.

22. (a) Is Executive Order No. 10536 cited in 86 I.D.? Explain how you found the answer.
- (b) Is the regulation you researched in Question 16. cited in any opinion in 86 I.D.? Explain your answer.
- (c) Can you find answers to either (a) or (b) above by using the *Quinquennial Index-Digest* used in Question 21? Explain your answer.

22. (a) Executive Order No. 10536 is cited at 86 I.D. 265.

I.D. volumes have various tables, one of which cites Executive Orders in each volume. By looking in the Table of Executive Orders Cited in 86 I.D. for Order Number 10536 one can find reference to the I.D. page where this Order was cited in a case.

(b) In each I.D. volume there is a table of Departmental Orders and Regulations Cited. (This is found at page CIX of 86 I.D.) By checking this table one does not find 43 CFR Section 2520.0-5 (the section in Question 16) listed.

(c) No. The *Quinquennial Index-Digest* has case and statute tables. There are no tables for Executive and Departmental Orders and Regulations.

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