

The Minnesota State Law Library is the oldest library in the state. In 1849, when the Minnesota Territory was created, Congress also provided for a library to be established.<sup>1</sup> The act stated

That the sum of five thousand dollars be, ...appropriated, out of any moneys in the treasury not otherwise appropriated, to be expended by and under the direction of said governor of the Territory of Minnesota, in the purchase of a library, to be kept at the seat of government, for the use of the governor, legislative assembly, judges of the Supreme Court, secretary, marshall, and attorney of said Territory, and such other persons and under such regulations as shall be proscribed by law.<sup>2</sup>

## BACKGROUND

The first legislature was in session from September 1849 to November 1849.<sup>3</sup> That fall the first territorial legislature attempted to pass a bill relating to the appointment of a librarian and operation of the library, but the House and Council were unable to come to agreement.<sup>4</sup> After the legislature adjourned, without providing a process for providing a librarian, Governor Alexander Ramsey appointed Charles Cavileer as the first Territorial Librarian.<sup>5</sup> Cavileer was the librarian until 1851, when President Fillmore appointed him as the first collector of U.S. customs for Minnesota.<sup>6</sup> He went on to become a postmaster in Pembina, which is now part of North Dakota. He is considered to be one of the first permanent white settlers in North Dakota. Cavalier County, in North Dakota, is named after him.<sup>7</sup>

The territorial legislature passed an act relating to the library during the second session.<sup>8</sup> The act detailed the appointment procedure for, and duties of, the librarian. It also outlined rules regarding

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<sup>1</sup> 9 Stat. 403 (1849).

<sup>2</sup> *Id.* at 408.

<sup>3</sup> 1849 Minn. Laws 5.

<sup>4</sup> See e.g. Minn. C.F. 19 1st Sess. (Oct. 2, 1849).

<sup>5</sup> *Compendium of History and Biography of North Dakota, Containing a History of North Dakota Embracing an Account of Early Explorations, Early Settlement, Indian Occupancy, Indian History and Traditions, Territorial and State Organization* 657 (G.A. Ogle, 1900).

<sup>6</sup> *Id.*

<sup>7</sup> Curt Eriksmoen, *Charles Cavileer was First in Many Things*, Bismarck Trib. (Feb. 2, 2013).

<sup>8</sup> 1851 Minn. Laws 3.

use of the library.<sup>9</sup> The fine for late library materials was twenty five cents per day, per item.<sup>10</sup> If an item was injured, lost or destroyed the borrower owed the library three times the value of the item.<sup>11</sup>

While the legislature and supreme court were in session the library was to be open from 9:00 a.m. until 12:00 p.m. and 2:00 p.m. until 9:00 p.m. At all other times of the year the library was to be open Monday through Saturday for four hours per day.<sup>12</sup>

## THE COLLECTION

The librarian was tasked with collecting "...books, charts, &c., into the Library previous to the session of the Legislature, and he shall report to the Legislative Assembly at the commencement of the session, a catalogue of the books and other property belonging to the Library at the last report, and purchased or received into the Library since..."<sup>13</sup> The first librarian stated in his first report:

...Upon the commencement of my duties I found that only part of the appropriation of \$5000.00 for the library had been expended. But since that time the full amount has been applied as required...

Besides which Congress has contributed triplicate copies of Congressional Acts from the year 1843 to 1849 and one copy of the "United States Exploring Expedition" in seven vols with an atlas...

The States of Penn. Ohio, N Car, New Jersey, Del., Mich, Ind, Wis and Florida have courteously sent copies of the Laws and Reports of their respective states for the years 1849-50. Also duplicate copies of the "Sixty third annual Report of the Regents of the University of the State of New York", and one of the "First Biennial Reports of the Geology of Alabama" have been sent to the library, and all are received and acknowledged.

Several Literary and Scientific associations have kindly bestowed their Productions and the Hon. H. H. Sibley has contributed in public Docts. scientific reports maps etc. - some 37 different works making the whole No. of vols in the library 2120.<sup>14</sup>

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<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 4.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> 1851 Minn. Laws 4.

<sup>14</sup> Minn. Terr. Lib. Rpt. 1 (Oct. 29, 1850).

Over the years the library received many of its materials by exchange with other states and territories and the federal government. Local newspapers were either donated by the publishers or given in exchange for legislative materials. The collection also contained many resources on English law.<sup>15</sup> Initially, the state library collected a broad array of materials, including charts, paintings, maps and engravings. However, creation of a State Historical Society in 1864 changed that focus. From early on, the library was dedicated to the collection of materials related to law.<sup>16</sup> In 1873 materials not related to law were transferred to the University of Minnesota and the Historical Society libraries.<sup>17</sup> And while the current statutes continue to refer to what we know as the state law library as the state library, an early Legislative Manual states “...the state library is the law library of the state...”<sup>18</sup>

#### LIBRARIAN

Originally, the state librarian was appointed by the governor, “by and with the advice and consent of the Council”.<sup>19</sup> The librarian’s salary was set at four hundred dollars per year.<sup>20</sup> He was tasked with the duty to “provide a suitable and convenient room at the seat of Government...” for the library. The librarian was also responsible for obtaining insurance for the library property.<sup>21</sup> During the times the legislature and supreme court were in session the librarian had the authority to appoint a deputy or assistant. That person’s compensation was set by the Legislature.<sup>22</sup>

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<sup>15</sup> See e.g. Minn. St. Lib. Rpt. (Dec. 23, 1859); Minn. St. Lib. Rpt. (Jan. 5, 1861); Minn. Legis. Man. (1891).

<sup>16</sup> Minn. Legis. Man. (1901).

<sup>17</sup> W.B. Henderson, *The State Library*, 4 Bench & Bar of Minn. 9 (Jan. 1947).

<sup>18</sup> See Minn. Stat. 480.09 (2013); Minn. Legis. Man. (1893).

<sup>19</sup> 1851 Minn. Laws 3.

<sup>20</sup> *Id.* at 5.

<sup>21</sup> *Id.* at 3.

<sup>22</sup> *Id.* at 4.

There have been 26 librarians over the years. A few have been of special historical note. Samuel P. Jennison, who was librarian in 1860<sup>23</sup>, resigned to serve in the Civil War and later became a general.<sup>24</sup> Louisa Goodwin, librarian from 1865 to 1867, was the first woman state librarian in the United States.<sup>25</sup> Captain DeWitt Smith (Jan. 1864 to Apr. 1864) and his wife Melissa Smith (1867 to 1873) were the first husband and wife to hold the same state office in Minnesota.<sup>26</sup> William Henry Harrison Taylor (1877 to 1894) was a nephew of President William Henry Harrison.<sup>27</sup> Elias Lien (1911-1921) was the president of the American Association of Law Libraries from 1914 to 1916.<sup>28</sup> The first librarian to have had training as a professional librarian was Josephine Smith, who served from 1945 to 1953.<sup>29</sup>

## LOCATION

The original library was located in Central House, at the corner of Bench and Minnesota Streets in St. Paul. It served as a temporary capitol for the new legislature. In addition to the library, it housed the Secretary of State's Office, the House and Council's chambers. The rest of the building was used as a hotel. The library was on the second floor, in a 10' by 16' room.<sup>30</sup> It was lit by candles and water was supplied by carts.<sup>31</sup> The library has also resided in all three of the state capitol buildings and has survived two fires – in 1857 and 1881 - and a flood.<sup>32</sup>

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<sup>23</sup> Minn. St. Lib. Rpt. (Jan. 5, 1861).

<sup>24</sup> Minn. Printing Comm., *Minnesota in the Civil and Indian Wars, 1861-1865*, vol. 1, 707 (Minn., by Pioneer Press Co.).

<sup>25</sup> Curt Brown, *Two Civil War Widows became Pioneering Librarians* Star Tribune (Mar. 30, 2019).

<sup>26</sup> *Id.*

<sup>27</sup> *Col. W. H. H. Taylor Dead*, Daily Globe (Jan. 30, 1894).

<sup>28</sup> American Association of Law Libraries, *Past AALL Presidents / 1906-2019*, <https://www.aallnet.org/about-us/who-we-are/history/past-aall-presidents/> (accessed Jan. 10, 2020).

<sup>29</sup> Henderson, 4 Bench & Bar of Minn. at 11.

<sup>30</sup> Minn. Legis. Man. (1887).

<sup>31</sup> Henderson, 4 Bench & Bar of Minn. at 10.

<sup>32</sup> See e.g. Minn. Terr. Lib. Rpt. 1 (Oct. 29, 1850); Minn. Legis. Man. (1887); Minn. Legis. Man. (1899); Minn. Legis. Man. (1901).

In 1973 a portion of the collection was moved to the Ford Building, located at 117 University Avenue. The library maintained two locations until the majority of the collection was moved to its current location in the Minnesota Judicial Center.<sup>33</sup> In 1999 the Legislature amended the state library statute by removing the provision that the library be maintained in the capitol.<sup>34</sup>

## OVERSIGHT

From the early beginnings of the library, the state librarian was to be appointed by the governor.<sup>35</sup> However, who was to oversee the library was not defined. In 1878 the legislature amended the statute to provide that “[t]he judges of the Supreme Court shall exercise a general oversight of the library. They shall have the power to adopt all such rules and regulations for the government and conduct of the same and its affairs as they see fit.”<sup>36</sup> It wasn’t until 1963 that the Minnesota Constitution was amended to remove the language regarding gubernatorial appointment of the State Librarian.<sup>37</sup> In 1965 the legislature amended the statutes to provide that the supreme court justices would have the authority “to appoint a state law librarian to serve at their pleasure.”<sup>38</sup>

## LIBRARY PATRONS

The Organic Act establishing the Territory of Minnesota provided that the Library was for the “...use of the governor, legislative assembly, judges of the Supreme Court, secretary, marshall, and attorney of said Territory, and such other persons and under such regulations as shall be proscribed by

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<sup>33</sup> Minn. St. Lib. Rep. (1974); Minn. St. Lib. Rep. (1990).

<sup>34</sup> 1999 Minn. Laws 312.

<sup>35</sup> 1851 Minn. Laws 3; Minn. Const. (1857).

<sup>36</sup> 1878 Minn. Laws 150.

<sup>37</sup> 1963 Minn. Laws 1591.

<sup>38</sup> 1965 Minn. Laws 74.

law.”<sup>39</sup> The session laws of 1851 provided a more detailed list of persons allowed to use the library and borrow materials:

The members of the Council and House of Representatives, and their officers, the Governor of the Territory, the Judges of the Supreme Court, members of the bar during the sitting of the Supreme and District Courts, the Secretary of the Territory, the Attorney General and Marshal of the Territory, the Delegate in Congress, and the Clerk of the Supreme Court, Ministers of the Gospel, ex-members and officers of the Legislature and the ex-Librarian, may have free access to the Library...and may take any work therefrom...<sup>40</sup>

Another provision in that act indicated that the library was not open to the general public. The act goes on to state “[t]he persons privileged to remove books, &c., from the Library, may introduce citizens or strangers into the Library, who shall have the privilege,..., of reading the books therein...”<sup>41</sup> This might have been a change in policy from the first year of the library. The first librarian stated in his 1850 report that “[t]he library has been visited generally by our citizens of both sexes and has been a favorite resort for strangers who have spent a few days or weeks in our Ter.”<sup>42</sup>

In 1861 the law relating to library users was changed. The list of who could borrow materials was decreased. The clerk of the supreme court, the delegate in Congress, ministers, ex-members and officers of the legislature, and ex-librarians were dropped as persons with borrowing privileges. The act also removed the provision requiring people to be introduced by those who could borrow materials before they could use the library.<sup>43</sup> The reason for one of these changes might be captured in the state librarian’s 1860 report. State librarian S. P. Jennison wrote “[t]he present law in relation to the State Library is far too liberal in its privileges, for the security of the books and other property in the care of the Librarian. Too many people are authorized to take out books.”<sup>44</sup> Several librarians reported concern

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<sup>39</sup> 9 Stat. 403 (1849).

<sup>40</sup> 1851 Minn. Laws 4.

<sup>41</sup> *Id.*

<sup>42</sup> Minn. Terr. Lib. Rpt. (Oct 29, 1850).

<sup>43</sup> 1861 Minn. Laws 163.

<sup>44</sup> Minn. St. Lib. Rpt. (1960).

about materials missing from the library, but nothing about the library being open to the public.<sup>45</sup> By 1891 the library rules indicated that it was "...a free library room for examination of any volume in the library."<sup>46</sup>

The State Law Library has come a long way since its early years at the Central House. It has grown from a library of 2,120 volumes in 1850 to an institution with over 230,000 volumes in 2019. The creation of subsequent state institutions (State Historical Society, Legislative Reference Library) altered the patron base and collection's focus to some extent. The emergence of the internet expanded the means by which we obtain and provide resources. However, the State Law Library remains steadfast in its historic purpose to provide legal information to the people of Minnesota.

Liz Reppe, State Law Librarian

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<sup>45</sup> See e.g. Minn. Terr. Lib. Rpt. 1 (Oct. 29, 1850); Minn. St. Lib. Rpt. (1960); Minn. St. Lib. Rpt. (1962).

<sup>46</sup> Minn. Legis. Man. (1891).