

## Codes & Revised Statutes

During the 19th century, the concept of "codes" was introduced as a means to classify and organize a group of laws related in subject matter into one published volume. These codes included such things as a code of civil procedure, a code of criminal procedure, a penal code, a code of probate courts, a building code, a private corporations code, etc. Each of these codes covered one specific subject or subject area.

As these codes became more widely used, there resulted considerable debate over their validity and usefulness. A summation of the arguments for and against these codes is listed in *West's Annotated Californian Codes*, vol. 1, in which it discusses the "Development of the Law in California." It mentions the objects of modern codification as laid down by David Dudley Field, who was the pioneer advocate of codification. His views on codification, as expressed in *20 Amer. Law. Rev.* 1, 1886, were that codes would make it easier to find the law and would keep judges from making laws ("bench law"). But the writers of this annotation did not see these objectives being fulfilled in modern times:

The history of lawmaking in California demonstrates, that the hopes expressed by David Dudley Field have not been fully attained even in our comprehensive program of codification; judges still engage in the making of law; the ordinary citizen is still lost and often bewildered among the myriad of laws; and finding the law is yet often a laborious process for even the experienced practitioner.

Many debates also existed regarding the legality or constitutionality of such codes. An

Alabama court stated that the criminal code enacted in its state was "not within the letter or spirit of the mandate of the constitution, \* \* \* nor can it be supposed that it was within the contemplation of the framers of the constitution."<sup>1</sup> The Court also said that the code was done for the sake of "convenience."

Whatever has been said or could be said of these specific-subject codes in a negative sense, much more could be said of the modern-day comprehensive codes or revisions. These works are a revision of all the statutes of the state or nation, and thus embrace every subject in a multi-volume publication.

To understand the nature and validity of today's modern codes and revisions, we need to understand the established or constitutional method of enacting and publishing laws. When laws are passed by both houses of a legislative body, the bill is sent to the governor or president to sign. If it is signed the enacted bill goes to the office of the Secretary of State, who is the keeper of all official government documents and records. The Secretary of State is the official who possesses the state seal (or national seal), and affixes that seal to the true and valid documents and records that come to his office. Most State Constitutions prescribe these facts. Thus the laws passed by the legislature which are generally recognized as such are those that are issued or published by the Secretary of State:

We consider that the Secretary of State has an indisputable legal duty to publish validly enacted laws; a duty imposed upon him by Article IV, Section 4(b) of the Florida

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<sup>1</sup> *Ex parte Thomas*, 21 So. 369, 370 (Ala. 1897).