Rediscovering Rare Books in an Electronic Age

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When I assumed the direction of the Cornell Law Library in July 1993, my main charge was to strengthen the foreign and international law collection and move the library further into the electronic age. But somewhere on the way to achieving those goals, I discovered and fell in love with the rare books in the library. That came as a surprise to me, because, until then, information was more important to me than the physical attributes of books. In spite of coming from a family where both my mother and sister have university degrees in history and know everything about the lives of the French kings and history in general, history did not hold much interest for me, aside from its relevance to specific research projects. However, once I started discovering the treasures our library had in its midst, I quickly developed an appreciation for the beauty of the books as artifacts; I admired their rarity and the civilization they represent.

The Cornell Law Library's rare book collection, one of the finest in the United States, consists of four distinct parts: the rare books in the Edwin S. Dawson Rare Book Room (funded through a generous gift of Donato A. Evangelista '57 in honor of his father-in-law), and its centerpiece, the Samuel Thorne collection of English legal history; the endowed Bennett collection of early statutory and session laws; the Edwin Marshall collection of books on equity; and the Nathaniel Moak trials collection. What makes those collections stand apart is that each reflects the life effort of a person devoted to the purposeful acquisition of a collection, one book at a time. They have left us an awesome legacy.

After rediscovering the rare books that generations of scholars and librarians had patiently and actively collected over the years, I came to believe that these treasures should be shared more widely with groups of faculty, students, staff, and alumni. The question was, who would be knowledgeable enough to explain the importance and interpret the books for a diverse audience? By a stroke of good luck, my research assistant, Marshall Grant '96, introduced me to his wife, Barbara Grant. Both hold Ph.D.'s in medieval studies from Yale, and the library was fortunate to be able to hire Barbara as the curator of law rare books. Thanks to her background in medieval manuscripts and her paleographic and linguistic skills, she has been influential in the work we have done so far with the rare books.

Rediscovering these treasures has helped me understand the special role of rare books in legal education and in contemporary society: rare books provide the needed historical context to the modern study of law, and they serve as an important balance in the transition to a world dominated by computers. They need to be preserved and shared with current and future generations of scholars and students in this new electronic information age.

**RARE BOOKS PROVIDE HISTORICAL CONTEXT**

Rare books serve as the best exhibits in retracing legal historical milestones. They provide a historical and visual context for the study of legal developments. For instance, when I teach my introduction to French law seminar, we spend the first class session in the rare book room.

We talk about the historical development and roots of the civil law and common law systems. We go back to medieval times and discuss the revival of Roman law studies on the European continent through the rediscovery and glosses of Justinian's *Corpus juris civilis*, and the universities' role in shaping the law through the systematic exposition of legal principles.

We talk about England, which received Roman law in some fashion, as demonstrated by the great work attributed to Bracton, *De legibus et consuetudinibus Angliae*, a commentary on the
writs, which also expounded Roman law. We reflect on the thought that if Bracton’s ideas had prevailed, Roman law might have been received more extensively into England, and the English legal system would have developed more along the lines of the continental legal systems. But Bracton was too late for England, because the royal courts had already developed a strong centralized system of writs before university law schools were founded. While European lawyers were educated in the universities and focused on substantive legal rules, rather than form and questions of procedure, the English legal system was developed on a case-by-case basis. English lawyers were trained at the inns of court and studied writs and pleadings. That explains the paucity of scholarly writings in England and the absence of systematic exposition of the law. It was only in the eighteenth century that Blackstone’s Commentaries was celebrated as the first comprehensive exposé of English law since Bracton.

We look at the Year Books, the first law reports of English medieval society, from about 1260 to 1535, highly subjective and written in law French, that curious mixture of French and English that developed after William the Conqueror of Normandy became the King of England in 1066 and was the language of the courts from the mid-thirteenth century to the seventeenth century. We talk about how the Graunde Abridgement by Anthony Fitzherbert and the one by Sir Robert Brooke were the sixteenth-century predecessors to the West digest system. We discuss the controversial proposition that on-line searching is now fundamentally altering the way we find legal information, and perhaps even the notion of “the law.”

We study Dyer’s Report, written by the well-known judge and court reporter Sir James Dyer, and compare it with the manuscript by the same reporter, circa 1560, written in cursive secretary’s hand. It is touching to imagine the person writing the annotations with a typical sixteenth-century script. We talk about the Napoleonic code, which was used as a model for many nations of the civil law tradition. The law library edition of 1809 has a fine engraving of the emperor that gives a feel for the person.

The students appreciate the atmosphere and beauty of the room. They linger after class and ask questions. They enjoy seeing and touching the books. They are also intrigued to find out that they, as modern-day law students, speak law French without realizing it, since so many common words of the modern legal language, used in courts and even in TV shows, came through the French: “voir dire,” “grand jury” and “petit jury,” “plaintiff,” and “tresspass,” are but a few examples. Also, the habit of using paired words, “act and deed,” “breaking and entering,” “to pardon and forgive,” “to devise and bequeath,” and so on, comes from the hesitation to use the French alone, and the desire for clarification or emphasis.

Every student should have the opportunity to touch the books that have contributed to shaping the common law and form the basis of the Anglo-American legal system and to see the early statutes of the state they come from, even back to colonial times. It is through the contact with rare books that students can gain a true sense of the evolution of law.

RARE BOOKS ARE TREASURES TO BE PRESERVED FOR THE FUTURE

Rare books are part of our international heritage and bear witness to our civilization. They reflect a distinctively human enterprise and need to be preserved for future generations. The library collection is considerable. Amazingly, it holds the originals of most of the works cited in the standard texts on English legal history. It possesses the original editions of books that scholars have devoted their lives to studying. Reproductions exist, and are used when usage warrants it, but to
hold the original book in one’s hands is to touch a part of human history. One needs the physical contact with the artifact to realize the importance of the book in the dissemination of information and the communication of knowledge.

Rare books have been admired for a long time and have always been important to scholars. What is different today is that rare books offer great comfort and a pleasant respite from the rigors of modern life. At a time when most of us are bound to sit for hours and strain our eyes before a terminal, spending time in the rare book room with one of these marvelous books is like sitting in a beautiful gothic cathedral and finding a quiet place to reflect on the best the human mind has produced. In this age of tumultuous changes in every facet of life, rare books offer calm, peace, and a sense of security. They also force us to slow down. Rare books cannot be speed-read. Deciphering the annotations written in old cursive handwriting or the mysterious law French takes time.

Rare books are not just old books. They come alive through the skill of those who know how to put the book into the proper historical context and impart knowledge about it. Books should be treated not as museum pieces but as usable objects, accessible to all. They present a great potential for continuing use over time. For rare books in law, the added value is that they are needed for research.

The collection is vulnerable, however, and the library needs help to preserve the collection for future generations. Unlike many rare collections that passed from private collectors to rare book libraries, much of the Cornell law collection was in active use by the law school community or in the private libraries of lawyers. As the collection now stands, more than half the volumes are too fragile to be handled without risk of further damage. Preservation treatment may consist of complete rebinding and deacidifying and repair of paper, as well as restoration of original binding fragments. Archival linen boxes can also be custom-made for each book to protect the original bindings. Although the costs of preservation are high, once the books are stabilized, they will need no further treatment for perhaps a hundred years. It is a onetime expenditure.

The Cornell Law Library is resolutely embracing the future and building a vast digital library by providing access to worldwide electronic information sources from the many computer stations in the law school and through its own Web site, accessible from any point in the world. The distinction of the library, however, now and even more so in the future, comes from its possessing an extensive print collection, including over two thousand rare books. We encourage alumni and friends to come and look at the books and appreciate them. By discovering or rediscovering these treasures of the past, one can savor their beauty, be inspired by the human spirit they attest to, and acquire new perspectives in approaching legal problems.

2. We have the first edition, published in 1765–69.
4. David Mellinkoff’s The Language of the Law 15–16 (1963) has many such examples and represents an admirable work on the subject.
5. Id. at 121.
8. For instance, Blackstone’s Commentaries.
9. A preservation report, prepared by Barbara Grant, highlighting the needs and costs of preserving the collection, is available from the author.
10. The URL for the library Web site is http://www.law.cornell.edu/library/default.html. The Cornell Law Library is also participating with other libraries in efforts to preserve rare books through digital technologies. Digitization of rare materials serves two purposes. One goal is to preserve and save information printed on brittle paper, acidic since the beginning of the industrial revolution. That will help preserve our collection of nineteenth-century trials. The second goal is to make the information available to a larger group of people by producing digital facsimiles. The Cornell University library system is joining the efforts of the Library of Congress’s National Digital Library program, which aims to make available five million items, including photographs and rare materials, by the year 2000. The L.C. Web site can be accessed at http://www.loc.gov/.
Barbara P. H. Grant discussing some of the rare books with the law library staff in the Dawson Rare Book Room.
Tucked away in a back corner of the Cornell Law Library is a small but elegant room that often goes unnoticed by law students, who pass by preoccupied with the pressing concerns of their next class or job interview. Some wonder from time to time just what is behind the locked and alarmed door, and occasionally in their third year they wander in when the room is open to see what they might have missed before graduation. Many are unaware that in this room is an invaluable collection of rare law books that not only contain the historical roots of the law they are studying but also are beautiful examples of the early printer’s art. A number of the books in this room are extremely rare—one of fewer than ten copies in the world. Others are still in their original, often ornate, bindings, and many represent the first printed edition of a work.

The collection reflects over a century of acquisitions by the Cornell Law Library. Some works were bought as part of the normal development of the collection a hundred years ago, and today, by virtue of the simple passage of time, they are considered rare. Others were part of private collections that became part of the law library.

When the law school opened, in 1887, the original library was composed of four thousand volumes from the collection of Merritt King, a prominent Ithaca lawyer, and books from the personal libraries of the law school faculty. Merritt King’s books still form part of the collection (some are now housed in the rare book room) and bear the original bindings with his name stamped on the cover.

In 1893 about 12,500 volumes from the library of Nathaniel Moak, an Albany attorney and avid book collector, were presented to the Cornell Law Library by the widow and daughter of Dean Boardman. This collection, consisting of an extensive practitioner’s library, doubled the size of the law library at that time and made it one of the best law school collections in the country. Many volumes from the Moak collection are included in the rare book collection today.

Another outstanding gift, in 1945, was the library of alumnus Edwin J. Marshall of Toledo. The unique collection of 949 books in the fields of equity, trusts, and receivers reflects the lifelong effort of an expert to gather every book published in those fields. Marshall gave a number of particularly rare materials to the library, including a fine collection of Calendars of Chancery Rolls (the earliest published volume bearing the date 1609) and a 1574 edition of Rastell’s Entries.

In 1978, under Dean Roger Cramton and law librarian Jane Hammond, the law library made one of its wisest acquisitions—the collection of Samuel Thorne, which includes 125 of the rarest printed editions of works of medieval and early modern English law. The Bennett Endowment, which funds the collection of statutory materials, has also been used to acquire rare original editions of colonial and other early statutes and session laws, so that the Cornell Law School can boast a remarkable array of original materials rather than later reprints or microfilm.

Thus the law library possesses an extraordinary collection of rare volumes. On the following pages I want to share with you a sample of those riches.

Although the rare book room includes materials from America, England, and the Continent, the heart of the collection is in English law and includes printed books from the beginning of the sixteenth century (only about fifty years after the invention of the printing press and the Gutenberg Bible) to the nineteenth century. The depth of the collection is remarkable; it contains primary sources such as yearbooks, reporters, and abridgements, as well as treatises. Not only does Cornell...
have copies of the most respected early abridgements, such as Fitzherbert and Brooke, but it also has most of the major editions of those works, so that scholars can trace the development of legal ideas through time by the additions of new cases.

The collection also includes a manuscript edition of part of Dyer's Reports from the mid-sixteenth century that demonstrates the way reporters were originally copied and circulated before they became sufficiently well known in the legal profession to be printed. The collection of legal treatises covers nearly every aspect of the law; indeed, if one were to imagine an ideal legal library of the seventeenth century (the "golden age" of English law), the Cornell collection would contain most of it. Of course, the typical lawyer of that period would not have been able to afford that ideal library; the Cornell collection would have been the envy of the seventeenth-century legal profession!

Among the gems of the rare book room is a 1516 edition of Fitzherbert's Abridgement. That three-volume work is an exceptionally fine example of the printer's art, and volumes two and three are attributed to Wynkyn de Worde, considered to be, alongside Gutenberg, one of the greatest of the early printers. As was typical of medieval manuscripts, the edition has a lovely colophon at the end of the work provided by the printer to record the date of the completion of the work.

Another book with an illustrous history is a first printed edition of Bracton's De legibus et consuetudinibus Angliae, which was in the collection of Samuel Thorne, legal historian at Harvard and Yale, who was a prominent scholar of Bracton. In fact, Thorne used this first edition to create his critical translation, which represents the definitive modern work on the subject. An inscription also records that the book was owned by one J. T. Coleridge, an editor of Blackstone's Commentaries and nephew of the poet Samuel Taylor Coleridge.

A volume that possesses both a remarkable history and great aesthetic value is a 1605 edition of part five of Coke's Reports. Bound in the original limp vellum binding, with gold-stamped decoration on the covers and spine, and remnants of the green silk once used to tie the book closed, the volume appears to have been a presentation copy from the author. That is, according to an annotation on the title page, it was a gift from Sir Edward Coke to the first owner, thought to have been the prominent Elizabethan court reporter Sir John Savile. The book itself is written, as was typical of the period, in law French (a mixture of French and English dating from the Norman Conquest), and its title and introduction are in Latin and English. The text is annotated frequently in the margins by an Elizabethan hand, showing that although the edition was deluxe, with an ornate typeface and decorative woodcuts, the work was used by its early owner.

Among its English works, the rare book room contains a special collection of editions of Blackstone's Commentaries, including a recently preserved copy of the very rare first edition and most subsequent editions through the nineteenth century. Through that collection, scholars can trace changes in editions of the work and the influence of Blackstone on American law, since American editions are also included. That influence was, of course, immense, as Blackstone was the first truly comprehensive treatise on English law after Bracton in the thirteenth century. When the Cornell Law School opened, Blackstone, and Kent's Commentaries, were the primary textbooks.

Among the books from Merritt King's library now in the rare collection is a copy of the textbook Atherley's Marriage Settlement, used by King to teach law in his Ithaca law office in the late nineteenth century. The signature of Chancellor Kent appears on the flyleaf, and notes, in Kent's handwriting, on matters relating to the property rights of married women appear on blank pages in the front and back. Those notes were included in the completed work of Kent's Commentaries. Thus it appears that among the textbooks donated by King was a volume from the private library of Chancellor Kent that he used in the composition of his great treatise.

The continental materials in the rare book room are noteworthy because of both their scope and the quality of many of the volumes. Although some countries are better represented than others, the collection includes works from France, Germany, the Netherlands, Italy, Spain, Russia, and Hungary.
There are also a number of editions of works of Roman law, in Latin and in translation. One of the finest examples is a 1538 edition of Corpus juris civilis, printed in Venice. It is a small book, intended for use as a school text, but is beautifully printed in red and black with a number of fine woodcut illustrations, including a full page depicting a “tree of consanguinity,” used in marriage law since the Middle Ages. The layout of pages is also noteworthy. Titles of chapters and headings are printed in red, and the text is placed in the center of the page, with commentary by later legal scholars surrounding it. Often the commentary overwhelms the text—reflecting a history in which only a few lines of law had generated enormous comment. That page layout was also typical of medieval legal texts, and indeed, it is characteristic for early printed books like this one to imitate the medieval manuscripts that had preceded them. It is as if the first printers, insecure in their new art, sought to reproduce the script, decoration, and format of the earlier scribes. Perhaps readers of the first printed books found that reassuring as well.

French materials are particularly well represented in the rare collection, and of them, a number are especially noteworthy. Recently discovered in the general collection and now residing in the rare collection is an 1809 edition of the Code Napoléon, one of a limited edition. A large volume with heavy gilt-edged paper, the book also includes a very fine engraving of Napoléon sporting his imperial regalia and an extremely realistic collar of fine Venetian lace. It is one of several early editions of the Napoleonic code in the collection, including an edition translated into Italian. The French collection also includes a very rare example of regional law—a collection of laws concerning Provence, produced in 1540 and currently attributed to Thibaud Payen, a prominent printer from Lyon. With a lovely architectural title page and a large, elegant typeface, the edition is one of only five known copies in the world. It was a gift to the library by a very generous anonymous donor, and so our collection continues to grow!

As noted above, the Bennett statutory law collection includes many original editions of the earliest state laws. Among them are over a hundred volumes printed before 1800; many of them date from before the American Revolution and thus represent the original record of colonial America. The Cornell Law Library has a particularly good collection of acts of the assemblies of the colonies of New York, Connecticut, and Massachusetts from the early eighteenth century that provides an intimate view of social issues from taxation to adultery in the colonial period. Many of the volumes are beautiful as well, displaying ornate type and coats of arms on the title page and woodcut decoration throughout the text. One of the humblest pre-1800 volumes may in fact be the most valuable. Bound in simple calf with an unadorned title page is a 1742 edition of the

Marshal S. Grant ’96 (left): “The rare book room provides unique access to a broad cross-section of original documents representing the formative period in the development of Anglo-American law.” Also pictured are Melissa Baal ’96, Barbara Grant, and Christopher K. Dalrymple ’96.
charters of the province of Pennsylvania and the city of Philadelphia that states that it was "printed and sold by B. Franklin."

Although it is usually books printed before 1800 that are considered rare, the Bennett collection also has a large number of later books that are of great value because they represent the earliest laws published by the western territories (before statehood). Many of them were printed locally by the newspaper of the largest town, as only the newspaper office had a printing press. One of the most interesting of the early western imprints is a collection of the early laws of Utah; the title page records that it was printed by Brigham Young. There is also a remarkable collection of the earliest laws of the Alaska Territory (printed in Juneau) and extremely rare session laws from the territory of Hawaii during the period of the monarchy.

The trials collection is another, perhaps unexpected, source of rare books. Largely a collection of nineteenth-century official and popular trial accounts, the material provides a fascinating and often sensational view of social issues of the nineteenth century. Scholars of women's history would find the collection to be a gold mine, as women were not only the victims but also among the most cold-blooded criminals and ardent spectators at the trials. Many of the most infamous cases of the period are recorded in the volumes here, including several accounts of the murder trial and execution of Ruloff, known to most Cornell law students because of the Collegetown pub that bears his name. Many of the popular accounts are original pamphlets, often with their lurid covers still intact, that told tales of murder, adultery, and child abuse, which the nineteenth-century reader apparently adored. In one recorded case, a victim's husband was engrossed in reading one of those sensational trial accounts as his wife was being murdered by a hired hand in a field nearby. The husband himself, of course, then became the subject of another popular pamphlet.

Possessed of such an embarrassment of riches, the law library has endeavored this year to mount several exhibitions in the Edwin S. Dawson Rare Book Room. During the fall some of the finest sixteenth-century books in the collection were put on display for the Law School Advisory Council, the faculty, and the library staff. The exhibit was also open to the public by appointment. This spring, for reunion weekend, the rare book room displayed an exhibit of some of the more sensational materials from the trials collection (complete with graphic illustrations) in the reading room of the law library. There was also an exhibit on the conservation of rare books in the rare book room itself.

Preservation is, of course, a central concern of the library. These books are both extremely valuable and extremely old. Often an original binding needs to be repaired or a later binding needs to be replaced with a new archival binding. The paper used in pre-1800 books was of better quality than that used today. It has survived two hundred to four hundred years, looking almost as white and fresh as the day the book was printed. However, many of the volumes were rebound in the late nineteenth or early twentieth century in bindings made of paper with a high acidity, which can damage even the best paper over time. Thus many books must be rebound in acid-free materials or even given a deacidifying bath. Whenever possible, however, original bindings are preserved. The work is expensive and requires an expert conservationist, but the law library has made good progress in the preservation of its collection and is investigating new sources of funding for the project.

The rare book room contains a treasure of history and bibliographic art, and it is important to mention those who made the creation of the room possible. With the generous gift of alumnus Donato A. Evangelista '57 in honor of his father-in-law, Edwin S. Dawson, the Ithaca architecture firm of O'Brien Taube Associates transformed a periodicals reading room into a graceful space for the safe storage of books and the use of scholars. The room, opened in November 1982, also contains two antique clocks, one a gift from the estate of Dean Stevens's widow and the other a family heirloom of Jane M. G. Foster '18, one of the first female graduates of the law school. Mysteriously, both clocks stopped at nearly the same time. That is somehow appropriate, as the room is a place where the passage of time has been suspended, and in fact, one can go back in time to explore past eras.