The Law Library Rare Book Room

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tion of the necessity for the conservation function is to show them how it will save money in the long run. Never mind reminding them of their responsibility for the preservation of mankind’s accumulated knowledge.

The Law Library Rare Book Room

PROFESSOR COHEN: In recent years, the library profession quite properly has been concerned with providing maximum accessibility of its collections and services to the reader. An unfortunate byproduct of this enlightened view, however, has been a popular depreciation of the traditional custodial role of the librarian. To avoid the stereotypic image of the over-protective librarian, zealously guarding the collection against the user, many libraries have neglected their proper responsibility for conservation and preservation. Forty years ago, back in 1941, one librarian said: “. . . the current Messianic emphasis on the dissemination of knowledge through books has resulted in undue neglect of the conservation of knowledge in books” (G. Flint Purdy, 66 Library Journal 144, February 1941). Valuable materials are being lost through deterioration of book paper and binding, careless photocopying, poor storage conditions and other natural hazards and reader abuses. Accessibility and dissemination require that the library’s materials be available for use, but also that they be handled and maintained in a manner consistent with their survival for future readers.

Perhaps the most important concern of librarians in the field of preservation and conservation are “rare books,” those books which are either irreplaceable in their original form, or so difficult or costly to replace as to require special care in their use, special regard for their physical security and special environmental conditions for their survival. The use of the term “rare books” on this panel makes me uneasy, since the need for preservation extends to many library materials which are not “rare.” Your other panelists will be making that clear, so I will continue to focus on this more limited category, where the problem is perhaps most pressing. The enemies of books are well known and have been the subjects of library literature for hundreds of years—fire, water, dust, neglect, insects and other vermin, and theft. In recent years, with the development of science and technology, we have become aware of other dangers: photocopiers, air pollution, the inherent weaknesses or deteriorative tendencies of paper and binding in the books themselves, and extreme or fluctuation of temperature and humidity in the storage environment.

The potential human culprits, beyond the book thief—who, incidentally, is a relatively minor villain in the total picture—are librarians, bookbinders, book shlevers, cleaners of library premises and users. The protection of valuable library materials must include a wide range of safeguards to meet the dangers posed by these various agents.

I. How to identify a rare book

The definition of rare books in law libraries is as elusive as the definition of rare books in librarianship generally. One could reasonably base a definition on such factors as an arbitrary date limit; high cost or unavailability in the market; inclusion of valuable illustrations or manuscript notes; unique historical significance of its contents; or association of the volume with a particular individual, institution, or event of importance to the library holding it or to scholarship generally. The exclusive use of any single one of these criteria is unsatisfactory. But some standard is necessary
for a rational discussion of the library administration of such materials. I would suggest a combination of criteria, but emphasize that routine access and normal use of the contents of those works which fall within these definitions can and should be provided by reprint editions, facsimiles or microforms. Our concern here is primarily with the protection of the original work, and access to and use of that original may have to be limited to assure its preservation—limited, but not prohibited. If the books are not to be used at all, there is little point in holding them.

I would suggest the following criteria for identification of those materials which require special treatment:

1. A date limit, which can be varied by any library depending on the scope and nature of its collections, the extent and type of use, the available physical facilities, and other relevant factors. I would suggest the following dates as generally appropriate for special treatment:
   (a) Monographic material printed in the United States before 1870
   (b) Monographic material printed outside of the United States before 1800
   (c) Serial publications printed in the United States or elsewhere before 1820
   (d) All manuscripts material retained for research purposes

These dates are not absolute—other dates have been widely used by librarians and bibliographers. For American monographs, 1820 is perhaps the most common cut-off date, having been originally chosen by Evans in his *American Bibliography*, and used by many fine libraries including several at Harvard. My personal preference for 1870 reflects my own study of the availability, preservation needs, and use patterns of American law books.

2. Books of substantial historical interest, regardless of date of printing, which cannot be obtained on the open market, either as in-print publications, or as reasonably priced and easily available second-hand books.

3. Books which have a unique value or quality by virtue of their physical publication (e.g. limited editions, private printings, etc.), their past ownership or association, or internal notes or annotations of significance.

4. Market value. Price, alone, is an inadequate criteria for this purpose, but obviously it must be considered. Some librarians, and even some experts in this field, put great emphasis on price—sometimes even fixing a dollar value (say $100 or $250) and routinely assigning books of that or greater value to special treatment or storage. In times of inflationary prices and high cost of law books generally, this seems absurd. An easily replaceable $250 looseleaf service does not require special handling, but a $5 tract from 1850 probably does. Market value can, however, provide a useful clue to rarity, as in the case of certain early volumes of state session laws or court reports, of which few copies were printed, or where the back stock was destroyed by fire. Antiquarian book dealers' catalogs and the annual guides to book auction prices are useful in establishing such value. Since both dealers and auctions are often erratic determinants of value, however, they are not absolutely reliable.

Bear in mind that for some jurisdictions or areas, dates other than those I have described may be more appropriate because of particular historical events, political changes, or printing developments. In many states, the later development of local printing, governmental organization and legal structures, must be taken into account. Libraries can properly differ in the criteria and definitions they select for this purpose, and common sense requires some flexibility in their application. But it is essential to the proper administration of a library that standards be formulated and a specific policy set for the identification, segregation and handling of such
materials. The Rare Book Code of the University of California offers a useful warn­
ing: "No rules of thumb can be devised which will take the place of personal
knowledge, intelligence, and discrimination." The policy adopted may (but need
not) involve restricted storage and use in a separate rare book facility. It should,
however, in some way provide security against environmental dangers and careless
use. A library’s policy can conceivably exclude from the collection books which are
usually considered rare or unique, but that issue must be carefully considered and
decided. If such materials are to be collected, a policy should be devised, recorded
and implemented to assure their preservation.

Implementation of the policy includes three steps. It should begin with a review
of the library’s existing holdings to determine what books are to be transferred to the
special collection. Second, new acquisitions, particularly gifts, should be routinely
screened by knowledgeable staff members to identify further candidates for this
treatment. Third, a policy of acquiring additional materials of this kind should be
developed—by purchase, if funding can be generated, and by the stimulation of gifts
from friends of the library.

The formulation and application of the policy will vary in each library depend­
ing upon its own collecting interests, the facilities available, the likely use or abuse of
the books and its own resources of staff and money. The materials to be considered
may include not only books but also pamphlets, broadsides (single printed sheets
such as posters, handbills, ballads, or notices), manuscripts, legal documents, letters
and other ephemera. The nonbook materials may be the most elusive to obtain, the
most valuable in terms of price and the most vulnerable to the dangers we’ve men­
tioned.

If the library lacks the resources to collect and preserve such materials, it is no
disgrace to arrange for the transfer of those now held to another library where they
can be properly preserved. That can be done by sale, gift, exchange, or long-term
loan. It may be hard for a librarian to take that step, but transfer certainly involves
greater professional integrity than retention under conditions which will not assure
their preservation and future use. If it is decided to sell such holdings, care should be
taken to assure that the library is getting a fair price. Antiquarian book prices have
been rising rapidly and many uninformed librarians have sold valuable books at
unrealistically low prices. On the other hand, many 19th century volumes in old
sheep bindings have virtually no value and library markings tend to diminish the
value of books being sold. Impartial, outside appraisals may be useful before selling
a large amount of material.

I should also note my own conviction that, regardless of the holding library’s
capacity to protect them, certain specific materials properly belong in particular
libraries or institutions by virtue of their association with that place or their reserach
value for use as part of a larger collection in that library or institution. For example,
papers of Joseph Story or Oliver Wendell Holmes belong at Harvard; John Jay
papers at Columbia; Franklin D. Roosevelt at the Hyde Park Roosevelt Library;
early western American at the Bancroft or Beinecke Libraries; early Texas history in
Austin. If the holding library is reluctant to transfer such material to the more ap­
propriate repository, at the very least photocopies or microform copies should be
made and turned over to the specialized repository for the use of researchers there.

II. What law libraries should have a rare book collection?

My own view is that not every law library should have a rare book collection.
Generalizations on this issue are hard to make since special factors may justify
rare book holdings in a particular library which does not fall in the category of libraries typically collecting or needing rare material. The primary considerations should be the purpose of the library, the needs of its clientele, its size and resources and its ability to handle and preserve the books properly.

I would place the libraries of law firms, corporations and government agencies at one end of a spectrum, as not ordinarily collecting rare books. A few rare volumes, having special archival or sentimental value to the office, can properly be retained and given appropriate care, but that does not constitute a rare book collection. At the other end of the spectrum are those large research law libraries serving a wide range of users who will need a comprehensive legal collection of both depth and breadth. This category, usually requiring significant holdings of rare materials, includes large academic law libraries, state law libraries and the larger bar association and county libraries.

My own conviction is that every law school library should have at least a small collection of rare books, not because they are rare, but because they can more dramatically illustrate the traditions and history of the law and its literature. Functionally, legal history can be taught and even researched from texts, reprints, facsimiles and microforms, but the pedagogical value of seeing and holding classics of the law in their original form adds a major dimension to the educational experience of at least some students. Early editions can, of course, also facilitate exhibits of greater educational force and enrich the cultural atmosphere of the institution. A small collection of such classics need not be expensive to acquire, and would not require a separate rare book room. Appropriate care and security can be provided in a staff office, in locked cases, or in a closed section of stack. Appropriate cataloging and environmental safeguards are, of course, a necessity. In many schools, the beginnings of such a collection already exists within the library's holdings. A review of the treatise collection and early primary sources will probably reveal some rare books.

The decision to create a rare book room, specially designed and designated for the storage and use of these materials, obviously depends on the size of the collection, the space available and the resources of the library. A facility of this kind, properly constructed and maintained, requires reasonably constant temperature and humidity controls within a narrow tolerance, preferably operating 24 hours a day, 365 days a year. As you know, in these days of energy conservation, many air conditioning systems are turned off at night, over weekends and during holidays. Rare book storage requires a uniform environment at all times. It also requires some system of air filtration or purification to prevent pollution from the outside air. The technical details of such a facility are available in the literature, and are beyond the scope of this talk—however, they are expensive.

How big a collection merits this special treatment? Assuming that funding, space and staff are available—and the needs exist—I would say that a minimum collection of 2,000 rare books would be required to justify the investment. I suspect that many experts would argue for a much higher figure, but I could not find an authoritative statement of a recommended minimum figure in the literature. The Treasure Room of the Harvard Law School Library holds 25,000 volumes, and we have just completed an additional facility with environmental conditions for housing another 200,000 volumes of relatively rare material. Bear in mind, however, that a small collection can be reasonably maintained, without a separate room, if proper safeguards are taken. If funding and space are easily available, a rare book room might be justified, without staffing, for as few as 500 volumes. That would be merely
a storage and exhibit facility, with staff assigned only when a reader appeared. Such a room would undoubtedly be an extravagance beyond the means of most institutions, however.

Where, as in many universities, the law library is part of a larger library system which already has a proper rare book room, an argument can be made to deposit the rare law collection in that facility. From the law librarian's point of view, however, that is a sad decision to have to make in most cases, unless the books are very valuable and the law library use is virtually nil. Such transfers may effectively remove the material from the law library's future use and from the educational life of the law school.

III. Development of the rare book collection

As I've indicated already, the main sources of new acquisitions are purchases and gifts. The literature of librarianship provides ample coverage of this topic and I can refer you to the several sources listed in the bibliography of suggested readings attached hereto.

Gifts can be attracted in a variety of ways. These include articles or notices in law school publications (particularly the alumni bulletin), local bar journals, or other media reaching potential donors; the development of groups of "friends of the library"; annual library dinners or colloquia on book themes; and the selective cultivation of known collectors among the institution's alumni, trustees, or library users. The promotion of memorial book funds with attractive bookplates and annual reporting of purchases from such funds can generate new sources of giving. These and other techniques are fully described in the literature and need not be elaborated here. Appraisals for tax deductions are, of course, an essential aspect of gift stimulation, but should not be made by the recipient librarian. Conflict of interest requires an outside appraisal.

Gifts with conditions are often a problem, particularly when they involve the named designation of the collection or part of the library for the donor, or as a memorial. The delicate balance of encouraging the gift and resisting the encumbrances is a challenge which may not be the most pleasant part of developing a rare book collection. Fragmentation of the collection, proliferation of memorial plaques, and restrictions on access are the usual problems, and can be minimized by a clear statement of policy which is uniformly applied and firmly supported by the governing board and administration of the institution.

The allocation of specific acquisitions funds for rare book purchases is virtually impossible in most libraries today, particularly with the inflationary squeeze on current acquisitions. The designation of a fixed percentage of the book budget, say 10 percent, for development or enrichment of the collection would be most desirable. Some of that allocation could be used for historical materials of this kind. But with the continuation component of many law library book budgets nearing 90 percent, it is increasingly difficult to maintain even current monographic acquisitions. Except for those few libraries which have been able to obtain large appropriations for retrospective collection development, gifts will be the primary source for rare acquisitions. The creation of specifically designated endowment funds, set up by class gifts, memorials, or individual donations, are the most effective means of financing a rare book collection. The creation of those funds and the encouragement of potential donors of either books or money will take careful planning and substantial institutional support. To secure that support, the administration may have to be persuaded that regular donations are not being diverted from more pressing needs.
The effective expenditure of such funds as are available for rare book purchases requires knowledge of the antiquarian book market in general and law book prices in particular. Prices on the antiquarian market vary widely, and often seem unrelated to the research value or rarity of the individual title. When collection goals have been established, the librarian should become familiar with the dealers likely to offer the type of books sought, and the prices being charged. There are now perhaps a half dozen dealers issuing one or more second hand law book catalogs a year—Meyer Boswell in San Francisco, Robert Rubin in Stoughton, Massachusetts, Q. M. Dabney in Washington, D.C., Frognal in London, and Richard Adamiak in Chicago. Many general dealers in rare books include some law books in their catalogs and occasionally issue a separate catalog of law books. Many of your regular law book dealers maintain inventories of second hand law books and welcome inquiries or browsers. The prices of books found on the shelf at a dealers are likely to be lower than those shown when the book is listed in a catalog. Want lists can be sent to dealers, but if search orders are sent to several dealers, you can create a false market for the title and thereby increase the price. By establishing a relationship with one or two second hand dealers, you can also be kept apprised of auctions offering law books—but you will be expected to use that dealer for bidding at the auction.

Purchases from second hand catalogs can be made “on approval,” and all such acquisitions should be carefully checked and collated for completeness against the catalog description and standard bibliographies. Library processing and marking of rare books should not follow your regular accessioning procedures. Books should be closely inspected for mold, mildew, and insect infestation, and consideration given to fumigation and deacidification before the book is added to the collection. Rubber stamps on the title page, perforated ownership marks and pasted spine labels are among the standard library crimes against rare books which should be avoided. Cataloging of rare books requires special care and has been much discussed in recent articles.

IV. Operation of the rare book room

The risk of theft, and the prevention of damage and unnecessary wear and tear on rare books require tighter security controls, supervision of use and special rules for readers. Our time limits today do not permit a full discussion of these conditions, but they are described in detail in the several readings. In addition, you can collect the printed rules for readers and application forms from several rare book libraries before drafting your own.

There are many other issues which must be considered in administering a rare book collection, and I will mention several for your own further study, although I cannot treat them here:

1. Restrictions on photocopying rare materials.
2. Arrangements for handling commercial requests for reproduction of rare materials.
3. Controls on circulation and interlibrary loan.
5. Staff training for handling rare materials and administering the collection.
6. Reference service for historical research and the development of a specialized reference collection to support the use of these materials.
7. Preparation of exhibits, tours, book talks, bibliographies and other educational efforts to stimulate interest in the collection.

8. Coordination of use of the rare book collection with related materials on microform, with reprints and with the regular collection.


While undoubtedly posing problems and challenges to the conscientious librarian, the rare book collection offers many professional satisfactions and considerable intellectual stimulation. For many libraries, such collections are as integral a part of their holdings and program as the microform collection or the documents collection. They carry unique responsibilities, however, and offer opportunities for interesting new friends in the library’s support, assisting new readers, and providing new potential for service.

The late Randolph Adams, the great curator of the Clements Library and author of the classic article, “Librarians as Enemies of Books” (7 Library Quarterly 317, July 1937) stated one view of rare book librarianship: “... no really worthy book should be put into the hands of the average barbarian, but librarians have made the subject easy of solution by ruining the book before it can be had by the reader.” Another illustrious builder of great library collections, Archibald Coolidge of Harvard, said “Have very few rules, and break them all.” The message I’ve tried to convey to you today sees some truth in both of these attitudes, but suggests that you plot your own course between the extremes. The justification for your efforts was well stated by Sir Edward Coke in what has become the motto of the Treasure Room of the Harvard Law School Library: “Out of the ould fields must spring and grow the new corne.

A BRIEF BIBLIOGRAPHY OF KEY READINGS ON CONSERVATION.

Rare Books.


Care and Handling of Library Materials.


“GUIDELINES For the Handling of Microforms in the Yale University Library,” 9 Microform Review no. 1 (Winter 1980) and 9 Microform Review no.2 (Spring 1980).

MS. VINCENT-DAVIISS: Like most professional law librarians, with the exception of Morris Cohen and a handful of others, I am not a conservation expert. I have no professional training in conservation. No courses were offered when I was in library school. I had been working as a law librarian for a number of years before I became aware that conservation was a subject of relevance to all librarians and not the private preserve of conservators, that it did not have application only to rare book rooms and large collections of unique materials, but was something that should be integrated into the daily operations of all collections, regardless of size and age. As librarians, we are all as responsible for conservation of the physical objects as we are for their acquisition and organization and for providing access to the information they contain.

I would like to focus on the conservation problems of law libraries, some unique to the format of legal literature, many common to all libraries and to offer some practical approaches to their solution. I am assuming that the vast majority of law libraries do not have resident conservators and that most cannot draw on the advice and expertise of a conservator through the institution of which they may be a part, such as a large university library or a regional center such as the New England Conservation Center.

A hot controversy is currently raging between conservators and librarians. Many conservators maintain that librarians should at the most identify the problem...