

THE COLOPHON

Newsletter of the Riesenfeld Rare Books Research Center University of Minnesota Law Library Spring 2007

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The University of Minnesota Law Library is a leader in exploring, refining and embracing technology to best respond to changing patron needs. As a twenty-first century research facility, the concept of the Library's "collection" has evolved from one focused on physical ownership of information to one centered upon access to information. Minnesota's virtual library is a gateway to current legal information as well as historical resources.

As the Law Library continues to evolve, the place of the Arthur C. Pulling Rare Books Collection as an enduring part of its historical and intellectual landscape becomes more and more apparent. Even as the Library builds on its status as one of the most technologically sophisticated law libraries in the country, its distinction will continue to rest on its extensive print collection, especially its stellar Rare Books Collection.

In this issue of *The Colophon* we celebrate not only our Rare Books Collection, but also our alumni who have been such steadfast supporters of the Law School and the Law Library. Several weeks ago, the Riesenfeld Rare Books Research Center came alive as students, alumni, and faculty spent an evening sampling vintage wines and savoring highlights from our Rare Books Collection. Each wine was paired with a rare book, with some interesting results. As guests sampled Lagar Albarino, a white wine from Galicia in northwestern Spain, they were introduced to Statham's *Abridgement*, printed in 1490, the oldest book in the collection, written in Law French . . . like Galician, a Romance language.

A Saint Gregory Pinot Noir was paired with a lovely edition of *Corpus juris civilis*, printed in 1498, originally compiled around the time of Gregory the Great. The Robertson Constitution Shiraz was surely named with us in mind, provoking as it does thoughts of the Library's remarkable collection of early printings of Magna Carta. Students and guests were fascinated by our 1514 printing of Magna

Carta, the earliest in the Library, as well as our 1540 copy, printed by Elizabeth Redman, London's first woman printer. And, of course, the tart, slightly astringent taste of a 1999 La Colombia Amarone immediately suggested Thomas Paine, the firebrand of the American Revolution, and our 1776 edition of *Common Sense*.

We pay particular tribute in this issue to two of our most distinguished alumni, Benedict Deinard and Amos Deinard, both from the Class of 1921. We are pleased to have added two rare books from the library of Benedict Deinard to the Arthur C. Pulling Rare Books Collection. This gift from Lile Deinard, a partner in Dorsey & Whitney, New York, is but one example of the commitment of the Deinard family and the law firm of Leonard, Street and Deinard to the University of Minnesota Law School.

We also introduce our readers to two of our alumni whose careers have followed interesting and unconventional paths: Don Blyly, Class of 1976, owner of two bookstores in Minneapolis, and Diane Rapaport, Class of 1978, a former trial attorney who now writes in the field of legal history.

We hope you enjoy *The Colophon* and we welcome your comments.

Joan S. Howland

*Roger F. Noreen Professor of Law and
Associate Dean for Information and Technology*

Katherine Hedin

Curator of Rare Books and Special Collections

“Independent Bookstores for Independent Minds”

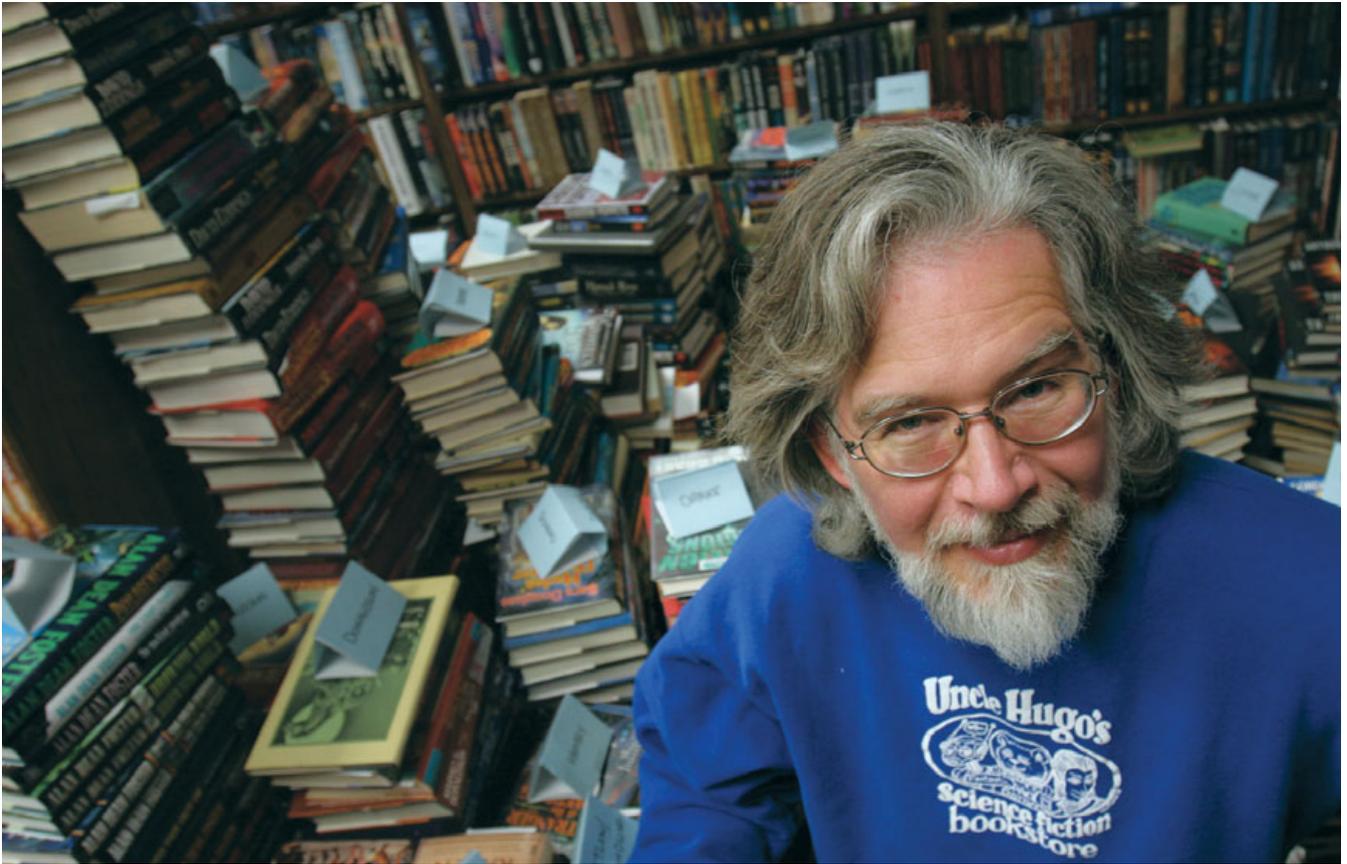


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Although book collecting is a natural pastime for attorneys, given the prominent place of books and language in the profession of law, not many have become full time book dealers. Don Blyly, Class of 1976, is one graduate of the University of Minnesota Law School who has done exactly that.

Uncle Hugo’s Science Fiction Bookstore and Uncle Edgar’s Mystery Bookstore, both on E. Franklin Avenue in Minneapolis, began as the daydream of a restless law student. Don Blyly remembers a day in 1974 sitting in the Law Library at Fraser Hall, falling asleep over a constitutional law textbook, wishing he could trade it for one of his favorite science fiction reads, and musing about the possibility of starting a bookstore rather than a law practice. Blyly returned his attention to his studies, graduated from Law School, passed the bar, and hung his shingle . . . outside a bookstore.

Uncle Hugo’s, the oldest surviving science fiction bookstore in the United States, opened for business on March 2, 1974, during Blyly’s first year of Law School. Named for Hugo

Gernsback, who launched the first science fiction magazine in 1926, the store features thousands of new and used science fiction books, stacked on the floor, overflowing from shelves. Uncle Edgar’s, which opened in 1980, is named after the man most famous for his cultivation of mystery and the macabre, Edgar Allan Poe.

Customers come from states or even continents away, looking for books they can’t find elsewhere. A recent article in the *Star Tribune* explained that some fans come from afar as on a pilgrimage: “There are times when we’ll have a regular customer from England and a regular customer from Australia meet here in the store, because they were in North America anyway and that was an excuse to come here,” Blyly told reporter Allie Shah.¹

Uncle Edgar's is a rich source of titles for the University of Minnesota Law Library's newly inaugurated Barbara Steffens Hedin Alcove on Law, Literature, and the Arts. The Alcove features legal fiction and legal mysteries, both classic and popular, featuring the bench and bar. The genesis for the collection was the extensive library of Barbara S. and Douglas A. Hedin, donated to the Law Library in the fall of 2006. Douglas Hedin, a recently retired Minneapolis attorney, has a keen interest in legal fiction—a love shared by Barbara, who can talk with enthusiasm about virtually all of the 1,500 titles in the collection.

Readers interested in mysteries featuring lawyers and judges can find wonderful titles—both in the Hedin Alcove and in Uncle Edgar's. The following are but a sampling of titles that come to mind: *Nineteen Minutes*, Jodi Picoult; *Murder in the Supreme Court*, Margaret Truman; *Silent Witness*, Richard North Patterson. At a recent visit to Uncle Hugo's we unearthed several science fiction titles with a legal twist: *Against all Enemies* and *Rules of Evidence*, both part of a series *JAG in Space* by John Henry; *Gladiator-at-Law*, Frederik Pohl and C. Kornbluth; *Little Fuzzy*, H. Beam Piper.

Uncle Edgar's and Uncle Hugo's epitomize the slogan for independent bookstores adopted a few years ago by the American Booksellers Association: "independent bookstores for independent minds." Independent booksellers have a reputation for "putting the right book into the hands of the right consumer," says Oren Teicher, former head of the American Booksellers Association—thus making bestsellers of works such as *Cold Mountain* and *Angela's Ashes*.² Craig Popelars, director of marketing at Algonquin Books of Chapel Hill, credits much of the success of *Water for Elephants* to independent booksellers, whose enthusiasm for the book boosted the book's print run and the author's tour schedule. "I felt like I had a staff of 500 people working for me, and the independent booksellers took the job out of my hands," said Popelars.³

Shops full of personality and flavor, and booksellers with a passion for books set independent booksellers apart from large bookstore chains. Wrote Barbara Kingsolver in a preface to *Book Sense Best Books*, "It's not only starving artists who should care about what we are losing when an independent bookstore dies. This is not about retail; it's about people who serve as community organizers in places where you can always find

kindred spirits, a good read, maybe even love behind the spine of Virginia Woolf."⁴

An alternative view to the David vs. Goliath debate is expressed in an online comment to an article on bookstores in *Slate Magazine*: "People who lament the death of independent bookstores are people who lived in the few areas of the country that had decent bookstores . . . Living out in flyover country, I cannot describe what a godsend Barnes and Noble, Borders and Amazon have been."⁵

Independent booksellers face formidable foes. Membership in the American Booksellers Association has fallen from 5,200 bookstores in 1991 to 1,702 in 2005. The following seems an apt description of their fate: "The old-fashioned bookstore was a charming place, but charm alone will not solve the problem of modern book distribution . . . Hard though it may be to face the fact, the bookstore of today cannot primarily be a place for those who revere books as things-in-themselves."⁶ In fact, that quote dates from the 1930s: evidence of the long struggle of independent booksellers.

Many of the same protests heard today against Barnes and Noble and Borders were evident in 1869 when Macy's opened its first book department. Cross-merchandising (using books to sell other items), price-cutting, and staff who viewed books as merely another product are perhaps all valid criticisms, but criticisms that failed to deter most people. "Within a decade," notes book historian Laura Miller, "Macy's was one of the largest book outlets in the country."⁷ In the 1920s and 1930s independent booksellers were at odds with drugstores that sold cheap books, and in the postwar era with Book-of-the-Month Club.

The tide seemed to turn in the third quarter of the twentieth century. Independent booksellers in the 1970s and 1980s flourished, while chains in shopping malls—B. Dalton, Waldenbooks—lost business. In 1990 *Newsweek* proclaimed that "business for independent publishers and booksellers has never been better."⁸ That optimism was short-lived, ending in 1991 when, as Jenny Brown noted in *The Bookstore Jungle*, "Barnes and Noble owner Leonard Riggio came up with a novel idea: the book superstore."⁹ Amazon delivered the next blow, allowing people to easily order books from their own homes. An additional assault came with the growth of price clubs such as Sam's Club with racks of discounted books.

Yet, Logan Fox, who in January closed the legendary Micawber Books adjacent to Princeton University, says that the real culprit in the closing of many independent booksellers is not superstores, but rather “a change in American culture, in the quickening pace of people’s lives, in the shrinking willingness to linger . . . The old days of a person coming in for three or four hours on a Saturday and slowly meandering, making a small pile of books, being very selective, coming away with six or seven gems they wanted, are pretty much over.”¹⁰

The closing of several independent bookstores in Minneapolis and St. Paul in recent years attests to the struggle of independents in the face of what Michael Powell, owner of Powell’s Books in Portland Oregon, calls “the Killer Bs—Borders and Barnes & Noble.”¹¹ In spite of all this—and in spite of a few years worth of debilitating road construction—Uncle Hugo’s and Uncle Edgar’s remain viable businesses, two small stores crammed with over 150,000 volumes, offering book signings, book reviews which feature established authors as well as emerging authors, and knowledgeable and personable staff. 

Katherine Hedin

Curator of Rare Books and Special Collections

Notes

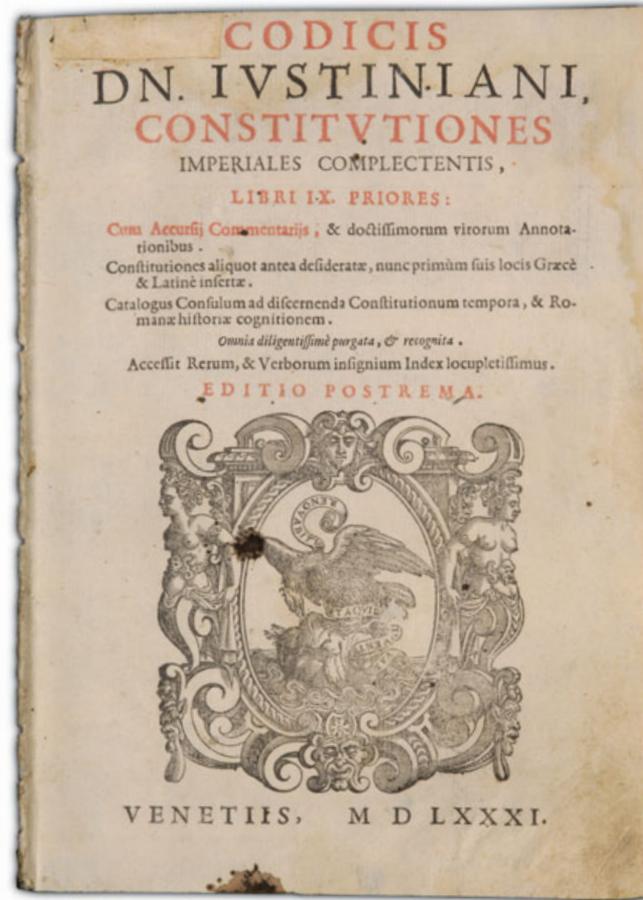
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- 2 Yvonne Zipp, “The Tomes, They are a-Changing,” *Christian Science Monitor*, June 7, 1999.
- 3 “An Independent Booksellers Success Story: *Water for Elephants*,” Book Sense Marketing Case Study. (Book Sense, November 2006), 3.
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- 6 Paul Collins, “Chain Reaction” *The Village Voice*, May 22, 2006.
- 7 Laura J. Miller, *Reluctant Capitalists* (Chicago: Univ. of Chicago Press, 2006), 36.
- 8 Malcolm Jones Jr. and Ray Sawhill, “Grass Roots Gold Rush,” *Newsweek* 116, no. 3 (July 16, 1990): 56.
- 9 Jenny Brown, “The Bookstore Jungle,” *Bostonia* Fall 2003; 40.
- 10 Julie Bosman, “A Princeton Maverick Succumbs to a Cultural Shift,” *New York Times*, January 3, 2007.
- 11 Jeffrey A. Trachtenberg, “To Compete with Book Chains, Some Think Big: Independent Sellers Gain with Size and Service,” *Publishing Research Quarterly* 21, no. 2 (2005): 35.

Support independent booksellers

Check out **BookSense.com**, the online home for indies throughout the country. Search for stores near you, look at the Book Sense Bestseller List, and Book Sense Picks, a monthly selection of eclectic new books chosen by independent booksellers. Book Sense also offers a gift card welcome at hundreds of participating independent bookstores.



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An Enduring Commitment to Excellence

The superb collection of Roman law in the Arthur C. Pulling Rare Books Collection was enhanced in March 2007 with two books from the library of Benedict S. Deinard, Class of 1921. Both books are a gift from Lile H. Deinard, partner of Dorsey & Whitney, New York.

Codicis dn. Ivstiniani constitvtiones imperiales was printed in Venice in 1581. This work—referred to as the Codex—is the fourth part of the great *Corpus Juris Civilis*, compiled under the direction of Justinian in the 6th century. When Justinian became Roman Emperor in 527, Roman law was in chaos. By 1533 imperial jurists had organized the law into the Institutes (an introduction to the law), the Digest (writings of the jurists), the Codex (the law), and the Novels (imperial decrees issued after the publication of the Codex). This edition of the Codex includes the commentary of Accursius, a 13th century jurist responsible for the renovation of Roman law. According to online databases, there are no copies of the 1581 edition of Justinian’s Codex in this country. This book, bound in vellum and printed in red and black, is inscribed “Benedict Deinard, Roma, 1937.”

The second book donated to the Pulling Collection by Lile Deinard is titled *Brachylogus ivris civilis*, printed in Frankfurt in 1743. Brachylogus is a textbook of Roman law, originally written in the 11th or early 12th century. The earliest extant edition of this work was published at Lyons in 1549. According to online databases, there is one copy of the 1743 edition at the Harvard Law Library and five 1743 editions in libraries in Europe. This book is also inscribed by Benedict Deinard.

Both volumes are of value to the Riesenfeld Rare Books Research Center not only because they are significant additions to our Roman law collection, but also because they were part of the library of

Benedict Deinard, one of the University of Minnesota Law School’s most distinguished alumni. The story of Benedict S. Deinard (1899-1969) and his brother Amos S. Deinard, Sr. (1898-1985), Class of 1921, and the founding of Leonard, Street and Deinard is fascinating and is but one example of what Professor and former Dean Robert A. Stein characterized as an “enduring commitment to excellence” by the Law School and generations of graduates.

Both Amos and Benedict Deinard attended the University of Minnesota Law School and Harvard Law School. Because Amos’s sight was impaired, Benedict read all their lessons and cases aloud. Amos was the

first president of the Women's Suffrage Association at the University of Minnesota, early evidence of a life-long dedication to human and civil rights. He became widely known for his work to eliminate discrimination in hiring. Appointed to the Minneapolis Fair Employment Practices Commission in 1945 by Mayor Hubert H. Humphrey, he served on the Commission



Amos S. Deinard, Sr.

for 17 years, 15 of them as chairman. In a newspaper interview in 1947, Amos outlined his philosophy: "Unfair employment practices lead to tension, strikes and unemployment, which, in turn, develop poverty, disease and other social maladjustments in community life. The right to gainful employment is as essential to democracy as the right to vote and civil liberties."¹ Deinard's groundbreaking and visionary work in this field are preserved in the Amos S. Deinard Papers at the Minnesota Historical Society.

Benedict Deinard was a successful trial lawyer and an Adjunct Professor of Law at the University of Minnesota. An unpublished history of Leonard, Street and Deinard tells the story of his first appeal before the Minnesota Supreme Court: he was so stage struck, he was rendered speechless. His partner, Arthur Street, sat him down and argued the case for him. In spite of such an unpromising start, he soon became a brilliant trial lawyer. A local attorney remembers a long trial in which he was involved. "Law students," he recalls, "used to go day after day to watch Ben Deinard argue in court and to study his courtroom style."

During World War II, Benedict Deinard served as Associate General Counsel for the Board of Economic Warfare (later known as the Foreign Economic Administration) and as Special Assistant to the U.S. Attorney General. After the war, Benedict was one of four civilians who participated in the Nuremberg war crimes trials. He played a lead role in the prosecution of Alfried Krupp, convicted for the employment of slave labor in his massive munitions plants.

Reminiscences of George Leonard (1872-1956), also a founder of Leonard, Street and Deinard, are preserved in a document called *The Leonard Papers*, described by Mr. Leonard as "recollections of some incidents in my life." The Law Library was pleased to recently add *The Leonard Papers* to our Law School Archives. Mr. Leonard's reminiscences provide a remarkable window to education in the highly selective Russian gymnasium of the late nineteenth century, legal education in the early twentieth century under Dean William S. Pattee at the University of Minnesota Law School, and the rise of the Socialist Party and the Farmer Labor Party in Minnesota.

In 1881, at age nine, George Leonard was accepted in a gymnasium in Lithuania, where, under the supervision of the Russian government, he received nine years of classical education. Although no deviation from conventional political attitudes of loyalty to the State was allowed, Leonard notes that of the eighteen students who graduated, seventeen belonged to secret groups interested in the relaxation of autocratic



Benedict S. Deinard

rule. The curriculum required 4 years of German, 4 of French, 8 of Latin, 5 of Greek, Russian history and literature, algebra, physics, and chemistry—all supplemented by tutors who kept the young students in close touch with the liberal ideas of Europe as well as forbidden Russian writers. It was an education that well prepared Leonard for Law School:

"So, when in June 1894 I visited Dean W. S. Pattee of the Minnesota College of Law with regard to my admission to the Law School, I began reciting to him the required subjects of my study before graduating, he stopped me saying 'That will do' before I finished."

Of particular interest is Leonard's account of his secret role among gymnasium students as a librarian, developing a library of European and Russian liberal literature, including Darwin, Huxley, Marx, Mills, and Stuart. Within the shadow of school authorities and the secret police, Leonard collected and cataloged some eight hundred titles. The library was kept in movable trunks, the place of distribution changing from time to time.

George Leonard played a prominent role in liberal politics in Minnesota throughout his career. Shortly after his arrival in Minneapolis in 1894, he was instrumental in organizing the Minneapolis Section of the Socialist Labor Party and organized the First Socialist Students' Club at the University of Minnesota. A *New York Times* article in 1923 describes Mr. Leonard as the "master mind" of the labor segment of the Minnesota Farmer-Labor Party. (James Manahan, Class of 1889, the first Law School Class, is credited as the genius behind the farmer end of the coalition).²

Two scholarship funds at the University of Minnesota Law School are generously supported by Leonard, Street and Deinard. The first was established in 1969 and particularly honors Amos S. and Benedict S. Deinard. In 2001 a second and complementary fund was conceived to support the Leonard, Street and Deinard Foundation Scholarship. It provides three \$10,000 scholarships per year. In 2004 the Joint Degree Program in Law, Health & the Life Sciences and the Center for Bioethics launched the Deinard Memorial Lecture Series on Law & Medicine. The lecture series is supported by a general donation from the family of Amos S. Deinard, Sr. and Benedict S. Deinard. 

Katherine Hedin
Curator of Rare Books

Notes

1. Quoted in "A History of Leonard, Street and Deinard" (Mpls., n.d.).
2. Helen Lowry, "Master Minds of the Mid-West," *New York Times*, November 18, 1923.



Treasured Vintages: F

On March 8, 2007, the Riesensfeld Rare Books Research Center celebrated the Law Library's 50th anniversary with delicious chocolates. The editorial boards of Minnesota Law Review, Minnesota Journal of International Law, and Minnesota Journal of Law, Science & Technology were in attendance, along with Law Library alumni and friends of the Law Library in a celebratory reception. The evening featured an intriguing selection of wines under the guidance of the Law Library's renowned



Nathan LaCoursiere (Class of 2007), Associate Dean Joan S. Howland, Michael Reif (Class of 2006)



Katherine McKnight (Class of 2008), Justice G. Barry Anderson (Class of 1979), Sarah Crangle (Class of 2008), Kristin Petersen (Class of 2008)



Joseph T. O'Neill (Class of 1956), Judge Marilyn B. Rosenbaum



Justice G. Barry Anderson (Class of 1979), Regent Patricia Simmons



Katherine Hedin, Curator, with Statham's Abridgement, printed in 1490, the oldest book in the Law Library's collection



Philip S. Garon (Class of 1972)

Fine Wines and Rare Books

...ter sparkled with fine wines, wonderful conversation, and
...aw Review, Law and Inequality, Minnesota Journal of
...nce & Technology were joined by a group of distinguished
...ion of vintage wines and rare books. Guests sampled
...a sommelier while savoring a few of the highlights of
...ed Rare Books Collection.



Dean Guy-Uriel Charles, Judge James M. Rosenbaum (Class of 1969)



Suzanne Thorpe (Class of 1989), Allen I. Saeks (Class of 1956)



Katherine Hedin, Suzanne Thorpe (Class of 1989), Benita Johnson



Allen I. Saeks (Class of 1956), Sarah Corris (Class of 2008), Andrea Templeton (Class of 2008), Archana Nath (Class of 2007), Dean Guy-Uriel Charles



Elizabeth Sobotka (Class of 2007), Justice Paul H. Anderson (Class of 1968), Archana Nath (Class of 2007)



The Case of the Harvard Heretic

by Diane Rapaport Class of 1978

In November 1654, as the night watchman made his rounds through the streets of Cambridge, Massachusetts, candlelight still flickered inside the big house next to Harvard College. There at the president's residence sat Henry Dunster, close to the hearth to keep his ink from freezing, while the only sounds were the scratch of his quill pen against parchment and the raspy coughs of his sick wife and child in their bed chamber across the hall. Instead of preparing the next day's Latin lecture for his Harvard scholars, as Dunster normally spent his evenings, he was composing a petition to the Massachusetts General Court. After years of devoted service as the respected head of this first American college, Dunster was no longer Harvard's president; he had been forced to resign, and he was threatened with banishment from the colony in a matter of days. Worried about his bleak future prospects, Dunster wrote one final humiliating appeal to the magistrates, begging to stay in the house through the coming winter until he could settle his family elsewhere.

Fourteen years earlier, when Dunster arrived in Boston as an earnest young graduate of England's Cambridge University, no one could have predicted the astounding rise—and fall—of his fortunes in the Massachusetts Bay colony. In 1640, brand-new Harvard College needed a professor, and Dunster's mastery of Latin, Greek, Hebrew and other arcane scholarly subjects came to the attention of Puritan authorities. Despite Dunster's inexperience (he had worked only briefly in England as a schoolmaster), he soon found himself installed as Harvard's president and sole instructor. He married a wealthy widow (acquiring stepchildren and the colony's first printing press), married again when his first wife died, and began raising a family of his own, all while turning Harvard into a first-class educational institution comparable to the best colleges in the Old World.

Under Dunster's energetic leadership, Harvard thrived, and he might have stayed on as president for life, if only he had not chosen to question one of the basic tenets of Puritan belief. Ironically, the very qualities that served him well as the scholarly head of Harvard—intellectual curiosity, outspoken honesty, and a love of debate—led to his downfall.

The subject that so inflamed Puritan authorities and triggered Dunster's soul searching was infant baptism. Established

church doctrine required that children be baptized shortly after birth, and parents could be punished for failing to do so. In England and the colonies, however, a rebellious sect (Baptists, also called "Anabaptists") began questioning the theological validity of infant baptism. Should all people, they argued, have the opportunity to decide for themselves whether to make a commitment to God through baptism? Why should parents make this decision for children who could not yet speak for themselves? Should baptism be reserved for adults who freely chose the rite?

These questions set off a firestorm of controversy, and Puritan Massachusetts reacted with fear and heavy-handed persecution, determined to prevent the Baptist contagion from spreading. In 1651, a notorious court case focused public attention on the Baptists and their beliefs. Three men—minister John Clarke, preacher Obadiah Holmes, and John Crandall, all members of the Baptist church in Newport, Rhode Island—dared to cross the border into Massachusetts for a visit to blind and aged William Witter of Lynn. At Witter's invitation, they conducted a worship service and baptized several converts in his home, before a constable came to arrest them. At a trial in Boston, Governor Endicott raged that the Rhode Island Baptists "deserved death," but he sentenced them to heavy fines "or to be well whipped." Compassionate friends paid the

finer for Clarke and Crandall, but Holmes declined payment of his fine and received thirty lashes at the whipping post, a near-killing punishment that left him severely injured. Rather than quelling dissent about infant baptism, however, that brutal beating gained new sympathizers for the Baptist cause and led Dunster to a crisis of conscience.

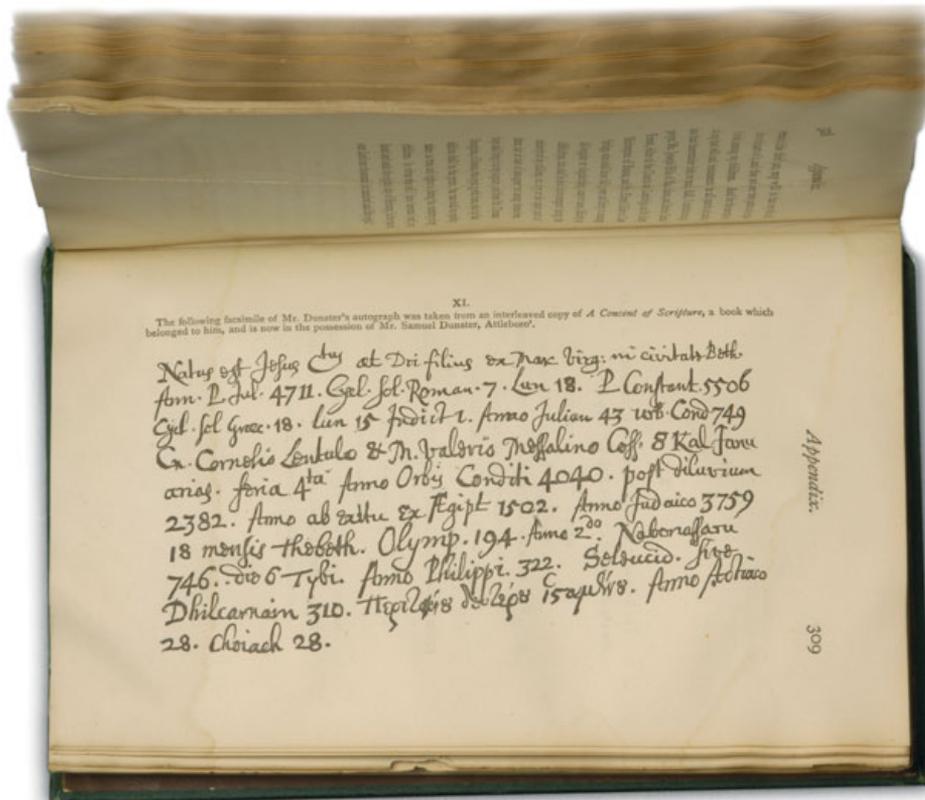
Ever the scholar, Dunster plunged into intensive research about baptism, re-reading the Bible and the writings of noted theologians. To Dunster's surprise, he could find no scriptural support for the Puritan insistence on baptizing infants; to the contrary, his analysis convinced him that the only people entitled to baptism were true adult believers. The logical next step, for New England's most prominent educator, was to share the results of his research with others. Dunster began by speaking out during sermon time at church, and when his fourth child was born in 1653, Dunster declined to have him baptized.

Anyone else who expressed open opposition to infant baptism could have expected arrest and a quick trip to court, but this dissenter was the president of Harvard College. Dunster's unorthodox views presented Puritan authorities with an embarrassing dilemma, and they tried, at first, to handle the matter quietly. Youthful Cambridge minister Jonathan

Mitchell paid Dunster a visit, hoping to rescue the good man from his unaccountable lapse of judgment and to set him straight again. Unable to persuade Dunster of his doctrinal errors, however, Mitchell left the meeting with a horrifying suspicion: was the Devil working through Harvard's president?

Mitchell reported his qualms to the Massachusetts Court of Assistants, who responded with the urgent missive to ministers throughout the colony, seeking investigation of Dunster's "practice and opinions against infant baptism." The result was a two-day debate in Boston. Twelve scholarly church leaders lined up against Harvard's president (arguing in the formal syllogistic style they had all learned at college in England), but they could not sway Dunster from his beliefs.

The Puritan authorities dithered, reluctant to fire Dunster but also unwilling to tolerate his dangerous challenge to church doctrine. In May 1654, the General Court declared, in an act obviously aimed at Dunster, that teachers who "have manifested themselves unsound in the faith" shall not continue "educating . . . youth . . . in the college." Dunster responded by tendering his resignation from "the place wherein hitherto I have labored with all my heart." The General Court referred the matter to a governing board of college overseers, instructing



Henry Dunster's handwritten notes on a page from *A Concord of Scripture*, a book in his personal library. From Rev. Jeremiah Chaplin, *Life of Henry Dunster* (Boston: James R. Osgood, 1872).

them to seek a replacement for Dunster if “he persist in his resolution more than one month.” They were leaving the door open—giving Dunster one last chance to renounce his heretical opinions.

“Under Dunster’s energetic leadership, Harvard thrived, and he might have stayed on as president for life, if only he had not chosen to question one of the basic tenets of Puritan belief.”

But Dunster refused to back down. On July 30, Dunster interrupted a baptism ceremony at church, once again trying to explain his views. This disturbance landed Dunster in county court and sealed his fate at Harvard. The college overseers informed Dunster that “the interests of the College and Colony required his removal,” and Dunster submitted a second and final resignation on October 24. The overseers immediately offered the presidency (and Dunster’s house in Cambridge) to Rev. Mr. Charles Chauncy, a Plymouth minister who believed in infant baptism.

Although Dunster had built his house at his own expense, Harvard considered the dwelling to be college property. Winter was coming on, and since Dunster had no other home or employment, he petitioned the General Court to stay in the house until Harvard had settled his accounts. He also asked permission to support his family by “preaching the Gospel . . . , teaching or training up of youth, or . . . any other laudable or liberal calling as God shall chalk out his way” The magistrates curtly denied Dunster’s petition, making it clear that they expected him to leave the colony.

Dunster wrote back, offering to “willingly bow my neck to any yoke of personal self-denial,” but “[m]y wife is sick, and my youngest child extremely so, . . . that we dare not carry him out of doors.” Dunster also penned these poignant remarks: “The whole transaction of this business . . . , when all things come to mature consideration, may very probably create grief on all sides; yours subsequent, as mine antecedent. I am not the man you take me to be.”

This appeal gained Dunster a few extra months in the house—until March 1655—but no further concessions. Driven from Massachusetts, the family settled in more-tolerant Plymouth Colony, at Scituate, where Dunster preached sermons in the remaining five years of his life. Before he died, in 1659, Dunster bequeathed some of his books to Cambridge minister Jonathan Mitchell and to the new Harvard president, Charles Chauncy. Dunster also asked that his body be transported back to Cambridge for burial. Dunster’s final resting place lies in the Old Burying Ground, just steps away from his beloved Harvard College. 📖

Selected Sources

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Diane Rapaport is an author and former trial lawyer who graduated from the University of Minnesota Law School in 1978 and now lives in the Boston area. “The Case of the Harvard Heretic” is excerpted from her forthcoming book, *The Naked Quaker: True Crimes and Controversies from the Courts of Colonial New England*, to be published by Commonwealth Editions in the fall of 2007. The “Harvard Heretic” also appeared in the Holiday 2006

issue of *New England Ancestors Magazine*, a publication of the New England Historic Genealogical Society. For more information about New England Ancestors magazine and the New England Historic Genealogical Society, please visit www.newenglandancestors.org.

Diane’s first book, *New England Court Records: A Research Guide for Genealogists and Historians*, was published in 2006 by Quill Pen Press. Visit Diane’s website, www.Diane-Rapaport.com, for more information about her publications and lecture schedule.

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rials and Tribulations

... A Sampling

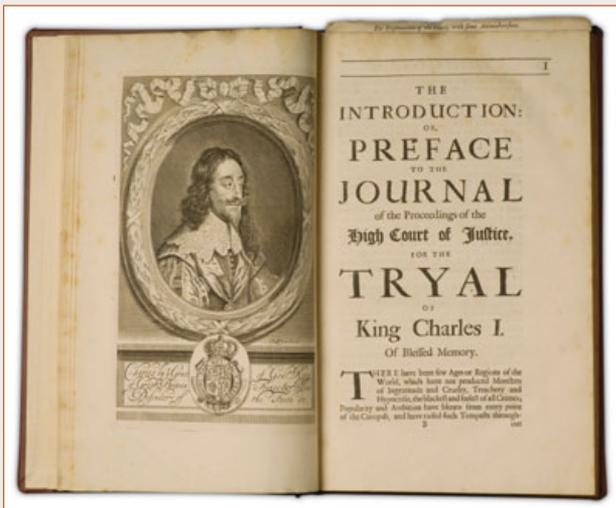
The Law Library's collection of rare and historic trials is a fascinating component of the Arthur C. Pulling Rare Books Collection. These trial reports, many of which were popular narratives written primarily for general audiences, span a period from the seventeenth through the nineteenth century. They illustrate political or public issues and crimes of private lives. These stories of famous (and infamous) trials provide an invaluable window to the past. Rich in facts, personalities, and flavor, they shed a powerful light on the everyday life of an era and provide unique source material for the fields of legal and social history.



Trial of Charles I, 1649

A True Copy of the Journal of the High Court of Justice, for the Tryal of K. Charles I. London, 1684.

Charles I (1600-1649), the only reigning British monarch to die on the scaffold, was tried for treason after the Second Civil War.



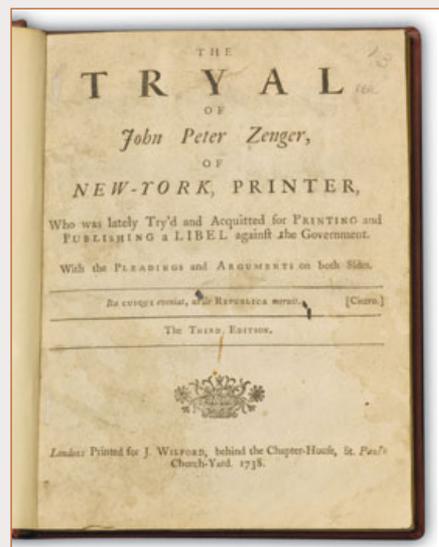
The Proceedings upon the Bill of Divorce Between His Grace the Duke of Norfolk and the Lady Mary Mordant. London, 1700.

Between 1700 and 1857, when the Divorce Act in Great Britain was enacted, a divorce which allowed remarriage required a private act of Parliament, thereby effectively limiting this option to all but the wealthy. The Duke of Norfolk's successful petition for divorce was the first Parliamentary divorce granted.



The Tryal of John Peter Zenger, of New York, Printer, who was Lately Try'd and Acquitted for Printing and Publishing a Libel against the Government. London, 1738.

Zenger, a German immigrant and former indentured servant, was accused of libel and imprisoned for nearly 10 months for publishing scathing attacks on the government of the British Crown Colony of New York in the *New-York Weekly Journal*. His famous acquittal in 1735 was instrumental in establishing freedom of the press in the colonies.



The African Captives. Trial of the Prisoners of the Amistad on the Writ of Habeas Corpus. New York, 1839.

The rebellion of July 2, 1839 on the slave ship *Amistad* near the coast of Cuba had a significant impact on the American abolitionist movement. The decision of the United States Supreme Court in 1841 to free the rebels was an important victory for the country's antislavery forces.

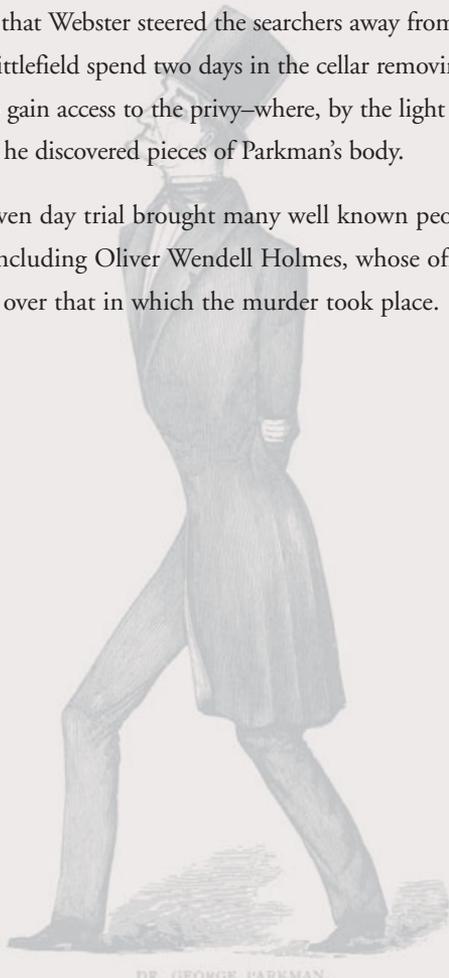


Trial of Professor John W. Webster for the Murder of Dr. George Parkman in the [Harvard] Medical College, November 23, 1849. Boston. 1850.

One of a number of accounts in the Arthur C. Pulling Rare Books Collection of the murder of Dr. George Parkman, a prominent Bostonian and Harvard alumnus, by Professor John Webster. Although a city wide search for Parkman after his disappearance on November 23 revealed nothing, Ephraim Littlefield, the janitor of the Harvard Medical College, had his own suspicions. He had witnessed a confrontation between Webster and Parkman, in which Parkman had demanded that Webster repay him some money, and had threatened him with the loss of his job.

In the days following Parkman's disappearance, Littlefield found himself barred from Webster's laboratory—and witnessed the roaring fire which Webster built in his assay furnace. Although the building was thoroughly searched, the janitor noticed that Webster steered the searchers away from his private privy. Littlefield spend two days in the cellar removing bricks in order to gain access to the privy—where, by the light of an oil lantern, he discovered pieces of Parkman's body.

The eleven day trial brought many well known people to the stand, including Oliver Wendell Holmes, whose office was directly over that in which the murder took place.



DR. GEORGE PARKMAN.

The King Against Daniel Isaac Eaton. London 1794.

In 1794 Eaton, a London bookseller, was tried for publication of the satirical *Politics for the People, or Hog's Wash*, which included a story about a game-cock, “meaning our lord the king.”



The Correct, Full and Impartial Report of the Trial of Rev. Ephraim K. Avery . . . for the Murder of Sarah M. Cornell. Providence, R.I. 1833.

Sarah Cornell's death might have been called suicide, were it not for her note, “If I should be missing, enquire of the Rev. Mr. Avery, of Bristol,—he will know where I am.” Thus began one of the most famous nineteenth century murder trials.



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THE COLOPHON

Newsletter of the Riesenfeld Rare
Books Research Center
University of Minnesota Law Library
Spring 2007

The Colophon is published annually by the
University of Minnesota Law Library.

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