

Reaching into the Past

Rare Books at Yale Law School by Kaitlin Thomas

Photographs by William K. Sacco, Yale University Media Services



One of the Law Library's oldest and largest printed books, this copy of the Decretum was printed in 1471 (a mere sixteen years after the Gutenberg Bible was printed). The Decretum is considered one of the most important books about canon law. Originally authored by a jurist named Gratian in the 1100s, the book is a teaching text; Gratian's original text is surrounded by later gloss by teachers and commentators.

All that mankind has done, thought, gained, or been: it is lying as in magic preservation in the pages of books.

Thomas Carlyle

[Marginal notes on the left side of the page, partially obscured and difficult to read.]

[Marginal notes at the top of the page, including 'Nec sicut q' h ac...']

Alij cōtempnate p diffināone
hūm^o diffināone h placuit san-
de synodo. ut de pūnia viāna
alter metropolitānus cōuocetur
q̄s vt p eū cōfirmet. q̄s sc̄idū
reclū placuerit canone. *[Mā e*
arum pūnia p̄marē habuit ad
que negotia q̄ p metropolitānū
terminari nō valet referēda sint
[S̄n bonifac^o p̄p̄a p̄p̄s gallic
[Quarta debeatū negotia q̄

[S̄] mter mērio. Expositū nō
q̄s cūsdē cōsiliū dubita-
do emiserit. de eccl̄astico iure ul
de alijs negotijs. p̄mū metropo-
litānus coy cū alijs in cōsilio cō-
suetans rem diuideret et si nō ac-
quiescat vtriq̄ ps iudiciūm
tūc p̄mas regions mter ipsos
audiat. et q̄s eccl̄asticas canonici-
bus et legib^o vstris cōsentamē
sit diffimar. et nulla ps calūlo-
cus valeat oradidere. *[Ite a-*
legandū papa. *[Valeat*

[M]etropolitān^o a quocū-
q̄ cōpromināali ep̄o m cau-
sa p̄na appellatus cū audire di-
stulerit. in prima synodo nego-
cij sui habeat licētā exercendi. et
quicq̄ p̄iusticiā a cōpromināali
bus fuerit statuti debet custodiri
[S̄] h omniū cōpromināaliū
eccordi s̄ma fuerit dāpnatus ma-
ndit erga cū inobis cāsura.

[S̄] n i ambicoeno casio legit-
[Ep̄o q̄ ab ep̄o p̄uocare hie
[p̄onas s̄nāz p̄uocauerit ab

[Q]uis ep̄o alio iudicāti n
criminaliter acclatus. ab
omnib^o q̄ sūt inra pūniā ep̄is
crep̄it vñā cōsonā q̄ s̄nāz ab
alijs ulterius iudicari nō poterit
si manere circa eā oportet tāq̄ cō-
uenientē. q̄ ab omnib^o placā est
firmā ratiq̄ s̄nāz. *[Subintel-*
ligen dū vxo d̄t nisi ad iudicem
maioris auctōis fuerit puocati.

tūc em p appellaōne soluta se-
tēcia firmitatē nō obauer.

*[S̄]n nicolaus p̄p̄a airi. *[S̄]mēti h̄si*
[m̄ti v̄tate a h̄s nisi v̄t aoi
*[Q̄] bene semel *[auctoritas h̄ic*
diffinitū est. et iterpositus
iuramētis cōsiderati. nulla debet
iteratiōne nisi fortassis ubi fuerit
maior auctoritas iterari. *[Ite*
et conalio sardicensi. *[In euocacōe*
*[iudicij s̄nāz p̄. memoria est***

*[H]is ep̄s dicit *[habenda*
q̄ si aliq̄s ep̄s abiudicat^o
fuerit in aliqua causa. et putet se
bonā causam habere. aliter iudi-
cū renouetur. si vobis placet s̄
c̄i petri memoriā honorem^o vt
scribatur. vel ab h̄ijs qui etiam
nauitū. vel c̄nā ab alijs ep̄is q̄
in pūniā p̄ma morant^o rōno
ep̄o et si iudicauerit renouādum
esse iudiciūm renouet. et ceteri iudi-
ces. si aut p̄bauerit talē causam
vt eā nō resistatur q̄ acta sunt
que decernit romanus ep̄s cōfir-
mata erit. si h̄ p̄b placet omni-
bus statuat. synodus respondit
placet. *[Q̄] ergo de *[Q̄. v.*
fiāte acclatore nō sit ratis cogē-
dus ad p̄bacoēs auctoritate ḡgij
p̄batur. qui scribes mario air.**

[Q]uis p̄uocā d̄o nō maibit
[Q̄] aut postulas vt ill ue p-
sonā dirigerē debeamus. q̄
de h̄ijs que dicantur possit esse p
baao. esse vbiāq̄ trasabile. si
vñq̄ rāo eī q̄ acclatur necessi-
tatem p̄bacoēs iponeret. at post
q̄ nō h̄bi. h̄ acclantib^o h̄ onus
maibit. ad nos sicut p̄fāt sum^o
dilatōe cessante. venire n̄ desinas

[S̄]m acclatus nō nega-
onem. sed crep̄acōne p̄ba-
re debet. *[C. li. iij. n. 2. de p̄bacoem*
bus. *[Acclator q̄s acclatur*
p̄fiteo se p̄bare n̄ posse. rei ne-
cessitate monstrandi cōtrarium

[Main text of the manuscript, containing the majority of the Latin text.]

[Marginal notes on the right side of the page, including 'Q. v.']

[Marginal notes on the left side of the page, continuing from the top.]

Much has been made of the magical properties and immortality of a good book. In the fourteenth century, Chaucer espoused that from old books comes new science. In the 1800s Thomas Carlyle wrote “All that mankind has done, thought, gained, or been: it is lying as in magic preservation in the pages of books.” Marcel Proust, writing in the early twentieth century, likened books to angels keeping watch with outspread wings. And then, in 1942, Franklin Delano Roosevelt said this: “Books cannot be killed by fire. People die, but books never die.”

The librarians at the Lillian Goldman Law Library certainly show an enthusiasm for their paper and ink charges that rivals these poetic musings. But their approach to the Law School’s rare book collection also contains an element of measured practicality. “You can’t get *too* distracted by how beautiful books are,” says Rare Books Librarian Mike Widener. “They are beautiful, but we’re not interested in building a trophy case. These books are tools, and they’re here for people to use.”

Today the Lillian Goldman Law Library boasts a rare book collection that is among the best in the world. Much of the collection was acquired in the early twentieth century by Law School librarians whom Widener calls “visionary.” Thanks to that collecting foresight, and to financial and in-kind donations, the collection numbers roughly 22,000 volumes, with some manuscripts dating back as early as the eleventh century. In addition to a strong collection of early Anglo-American court reports, digests, statutes, monographs and trials, the library has early books from most European countries, and strong holdings in international law. And then there is the Blackstone collection, which is the foremost collection of books by and about Sir William Blackstone, the eighteenth-century English jurist whose *Commentaries on the Laws of England* served as a reference for the framers of the United States Constitution.

Matching the breadth and depth of its rare book collection are the Law Library’s resources for housing, preserving, and providing access to its rare books. That, though, was not always the case.

“In the past, this library—even though it was central to the institution—wasn’t very secure,” says Law Librarian Blair Kauffman. “A lot of extremely valuable books sat on open shelves, and some of them did disappear.”

The library lacked the temperature and humidity control so important to the preservation of books until Librarian Morris Cohen (now Professor Emeritus of Law and



This fifteenth-century manuscript is a compilation of English statutes and the rules of conducting Parliament. A unique copy, the manuscript was presented by King Henry VI to his bride, Margaret of Anjou. The book bears annotations and was updated through 1477, the year Margaret was exiled to France. The book is written in law French and Latin on vellum (392 leaves in all) with gold leaf and vibrantly painted miniatures.

Professorial Lecturer in Law) arrived at the Law School in 1981. Under Cohen’s leadership, the library gained specially designed stacks and a rare book cataloguer devoted to organizing the collection. In the late 1990s, the Paskus-Danziger Rare Book Room was added as a permanent home for the growing collection.

Lying below the stained glass windows and iron filigrees of the Library’s main reading room are the newest additions to the rare book collection—1,641 Roman and canon law books recently acquired from the Association of the Bar of the City of New York.

Giant vellum-bound volumes line the metal bookcases, many of them with ridged spines, some of them with soft, finger-worn covers. The volumes include medieval and Renaissance commentaries, teaching texts, early court decisions, and much of the nineteenth-century scholarship



CURIAE & AVALON

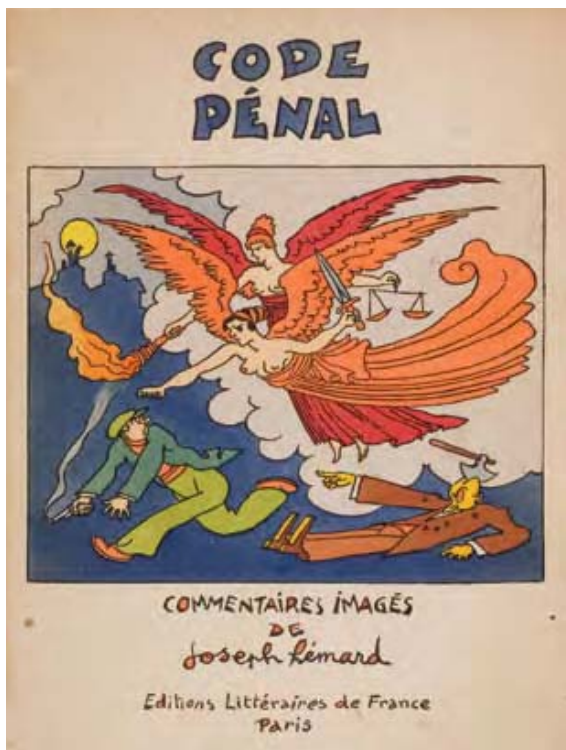
In addition to serving as a home for rare books, the Law School hosts two projects devoted to digitizing historic documents.

The Avalon Project at Yale Law School (<http://www.yale.edu/lawweb/avalon/avalon.htm>) creates and hosts digital documents relevant to the fields of law, history, economics, politics, diplomacy, and government. Created by the Law School's own William Fray (Deputy Director of Information Technology Services and Manager of Network Services), Avalon's postings span from a document on agrarian law written in 111 B.C. to the 9/11 Commission Report.

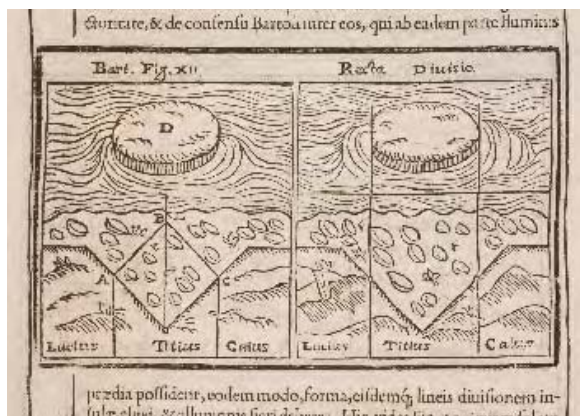
Researchers interested in U.S. Supreme Court documents can visit the Law Library's Curiae Project website (<http://curiae.law.yale.edu/>). Curiae's homepage features direct links to information about the most commonly cited Supreme Court cases, while its advanced search features allow researchers free access to Supreme Court records and briefs.

The majority of the books recently acquired from the Association of the Bar of the City of New York (pictured here in the Law School stacks) came to Yale with their original bindings. "There's a lot you can tell about the history of a book from having its early cover intact," Widener says. Some early works were bound with extra manuscript pages from other books. These bindings are sometimes the only proof historians have of otherwise non-existent books.

“Ensuring access is paramount for future generations of researchers and for the intellectual life of the School,” says Kauffman.



The French penal code is humorously illustrated by Joseph Hémard in this 1920s Paris edition. Only two copies of this book exist in American libraries today.



De alluvionum jure universo (published in Bologna in 1580) illustrates the hydrodynamics involved in changing waterways, as part of a discussion of water law.

written by German legal historians. The oldest of the books dates to 1500 A.D., with many of the books originally belonging to German or Austrian law libraries. A quick scan of the shelves shows spines marked with titles such as *Deficiones Rot: Roman Pamphilio* and *Thesaurus–Juris Roma*. A thirty-volume set of the decisions of the Roman Rota sits in close proximity to a book on Roman water law, which illustrates the hydrodynamics of rivers and streams.

As one of the greatest legal research institutions in the world, the Association of the Bar of the City of New York once collected materials from across the world, amassing an extensive collection of materials on Roman and canon law. By the end of the twentieth century though, the Bar’s library had become a practitioners’ library and no longer focused on its rare book collection.

Yale Law School Librarian Blair Kauffman was appointed to the Association of the Bar’s advisory board in the 1990s and saw that the Bar’s rare book collection was being stored in what he calls “less than optimal conditions.” The books were not catalogued, and temperature and humidity control were relatively non-existent. Kauffman began a conversation with the Bar, offering to house the books in the Law School’s library while preserving access for all Bar members.

“Books are never as powerful individually as they are as a collection. They have synergy, they work as a collection. We wanted to help ensure that they remain together,” Kauffman says.

In late summer 2006, following a full six years of talks about a possible transfer, the books were packed by experts in rare book transport and moved directly to Yale’s Beinecke Rare Book and Manuscript Library. There they were placed in a special freezer and stored at minus seventy degrees Fahrenheit for four days in order to kill any insects. (A look inside a few of the larger volumes shows evidence of worm holes—perfectly circular, tiny tunnels cutting from cover to cover in some places.)

Over the next year, the books will be catalogued, and then made available to researchers. “We really want to make it possible for people to access the collection,” says Kauffman. “Ensuring access is paramount for future generations of researchers and for the intellectual life of the School.”

In addition to being used by individual researchers, volumes from the rare book collection sometimes make their way into course curricula. Sterling Professor of Law and Legal History John H. Langbein is among the most frequent patrons of the rare book collection, and encourages his students to use the collection as well.

In the middle of the fall term, Professor Langbein's "History of The Common Law" class used three of the rare book collection's legal "Year Books" during a lesson on chancery law. Year Books (which began in the reign of Edward I and were kept through the reign of Henry VIII) record the arguments of attorneys and judges for cases in the royal courts at Westminster. Having used modern English translations of Year Book cases, Professor Langbein's class had a chance to examine early books with accounts of those same cases. The oldest of the books was a medieval manuscript—a Year Book of cases dating from the reign of Edward III and Henry IV. The class also examined an early printed version from the sixteenth century and a compilation of Year Book cases dating to 1679.

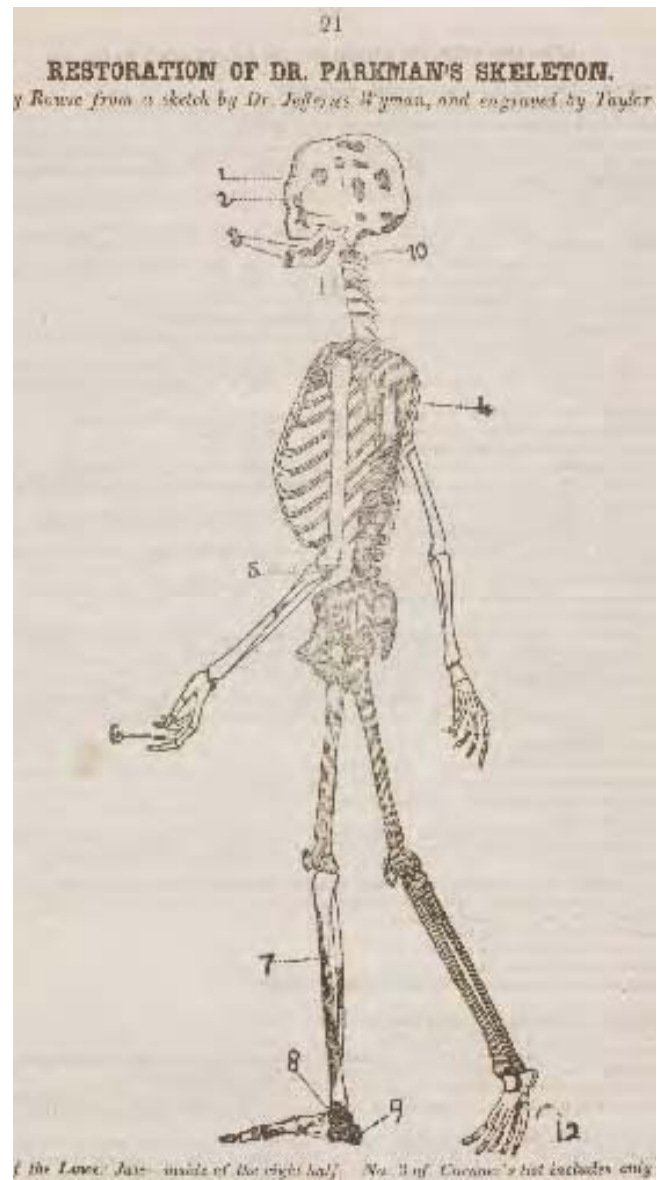
Now, in the age of digitized books, many primary sources can be found with the click of a mouse. But seeing historical documents on a computer screen can be a very different experience from handling them. The very feel of a book—its size, its heft, the three dimensional nature of the lettering—can make a difference in how one reads its pages.

"To see how doctors worked 200 or 300 years ago, you can look at the instruments they used," Widener says. "With lawyers, what do you have to examine? You have the one thing they came in contact with. You have their books. The books they used, the books they wrote in, the books they read until the bindings fell apart. A book is the one place a law student can come in contact with lawyers of the past."

Second-year student Gustav Eyler has recently been spending time in the Paskus-Danziger Rare Book Room in hopes of just that type of contact with history. Eyler is writing a paper on the Northwest Ordinance of 1787 for "Reading the Constitution," a course taught by Southmayd Professor of Law Akhil Amar '84. Eyler's research involves the question of why southern states agreed to abolish slavery in the Northwest Territory—a question that Eyler believes has not been adequately answered by historians.

Among the sources that Eyler has found most helpful is a historical account of the Northwest Ordinance written on the fiftieth anniversary of its passage.

"There is something exciting and truly interesting," Eyler says, "in being able to review the primary source—to see and hold a document and make your own interpretation." ✦



Popular reading for the late nineteenth century included books such as this one, which detailed the notorious trial of a Harvard Medical School professor, accused of killing his colleague and disposing of the dismembered body in the medical lab's privy. The victim's dentist testified on behalf of the prosecution in what was one of the first uses of forensics in a trial.

To see more images of rare books from the Law School's collection, visit www.law.yale.edu/ylr.