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## A Legal Miscellanea: Volume 2, Number 2

Jacob Burns Law Library George Washington University Law School

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# A LEGAL MISCELLANEA

A NEWSLETTER FOR THE FRIENDS OF THE JACOB BURNS LAW LIBRARY

VOLUME 2, NUMBER 2 AUTUMN 2005

## SPECIAL COLLECTIONS FOCUS: NEW ACQUISITIONS

*The Bathsheba Spooner Documents (1778)*

The story of Bathsheba Spooner, an 18th-century New England murderess, told in a very scarce broadside and a sermon recently acquired by the Law Library, provides researchers with an early American exposition of a murder trial whose sensationalism was exceeded only by the host of legal, political, and social issues it presented. This was the first capital case in Massachusetts tried under American law after the Revolution.

The Bathsheba Spooner (1746–1778) tale exhibits the dramatic aspects of compelling fiction. The headstrong favorite child of a prosperous Massachusetts Loyalist, Bathsheba was an uncommon woman in 18th-century America. Accounts unanimously extol her beauty, elegance, and wit, yet reveal an independence and candor deemed unseemly in a female. Like her father, Bathsheba was a Loyalist, a negative in post-Revolutionary America which surely created hostility in the community. Her loveless arranged marriage to Joshua Spooner preserved her high social station, but propelled her into an impassioned liaison with an adolescent Revolutionary soldier, Ezra Ross, whom she had nursed back to health in her home in Worcester. Discovering she was pregnant, Bathsheba enlisted the aid of Ross and two vagabond British soldiers to dispatch her husband. The three men accomplished the deed, ineptly, and were apprehended while sporting Spooner's clothes and silver buckles with the initials "J.S." as they made merry at a near-

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## LAW LIBRARY, LLMC EMBARK ON DIGITIZATION PROJECT

The Jacob Burns Law Library and the Law Library Microform Consortium (LLMC) have begun a venture to digitize books from Special Collections, making them available electronically for the first time. LLMC, a non-profit library cooperative based at the University of Hawaii, and known for its microfilm projects of legal materials, recently began digitizing its microform library. The Law Library will play a key role in this project, which will preserve and make accessible electronically many of the scarce works in Special Collections, beginning with its civil and canon law collections.

In June, 2005, LLMC placed a digital scanner at the Law Library and provided training for library personnel, who now are digitizing selected books from Special Collections. The SMA 21, only recently available in the U.S., is a high quality machine developed for scanning bound books. Eventually the Library will acquire ownership of the scanner under a barter system tied to the number of digital images ("tiffs") delivered to LLMC.

The SMA 21's "thruput" is about 400 images per hour. Given the large folio size of many of the targeted materials at GW, the average for this project may prove to be lower, as scanning speed is related to the number of pixels needed to capture an image.

Due to occasional foggy images in its microform collections, LLMC elected to scan first the GW titles which already appear in its civil and canon law collections. Antiquarian books can be difficult to film due to discoloration, fragility, and inflexibility of the filming equipment. Thus, a number of LLMC's existing microforms are not suit-



The 1494 Malleus Maleficarum, the first incunabula appearing in LLMC-Digital's online collection.

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## SPECIAL COLLECTIONS ONLINE



Two Law Library firsts now are mounted on the Special Collections website: its first online exhibition and first online streaming video. *The Duel* is an online exhibition which chronicles the legal history of duelling, illustrated with images from Special Collections, and is found at [www.law.gwu.edu/Burns/rarebooks/exhibits/duel.htm](http://www.law.gwu.edu/Burns/rarebooks/exhibits/duel.htm). The video oral history recorded by Paul Dembling (JD '51), author of the National Aeronautics and Space Act of 1958, provides contemporary insight into the early NASA years, and is found in the Dembling Archives at [www.law.gwu.edu/Burns/rarebooks/archives/spcol\\_Dembling.htm](http://www.law.gwu.edu/Burns/rarebooks/archives/spcol_Dembling.htm). Please note that *A Legal Miscellanea* now is archived in pdf at the Friends of the Jacob Burns Law Library website: [www.law.gwu.edu/Burns/rarebooks/spcol\\_friends.htm](http://www.law.gwu.edu/Burns/rarebooks/spcol_friends.htm). Our Special Collections website is still very much evolving. Please visit us at [www.law.gwu.edu/Burns/rarebooks/spcol\\_home.htm](http://www.law.gwu.edu/Burns/rarebooks/spcol_home.htm).

**EVENTS...** The Emeritus Law Faculty Reception, sponsored by the Friends of the Jacob Burns Law Library, will be held in the Tasher Great Room on Saturday, October 22, 2005, from 4:00 to 5:30 pm during Alumni Weekend... Our Spring Friends reception for Law Faculty Authors, held last April at the Law Library, was a popular event enjoyed by many Friends, alumni, and of course, our faculty authors.

(Digitization project continued)

able for digitization, and the Law Library in some instances can provide improved images for scanning. Later, the Library will augment LLMC's civil and canon law collections by scanning titles not in microform.

Digital scanning technology yields new enhancement capabilities, and cosmetic improvements can increase the readability of the text without changing its actual "look" or content. Impossible in the fiche era, color is now an option. This is a pleasing enhancement for scanning some of the oldest books, whose exquisite rubrication adds drama to the meaning of the text. However, color will be used only where it is an intrinsic part of the book's message, since color technology requires considerable storage capacity and slows system performance.

Locating this venture at the Law Library permits other Washington libraries with important legal materials to participate in this project. Neighboring libraries with materials too valuable or fragile for transport to LLMC in Hawaii have expressed interest in sending their books to GW to be scanned. It is expected that books from noteworthy local collections will be brought to GW for scanning over the next several years.

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**“Digital scanning technology... can increase the readability of the text without changing its actual ‘look’ or content.”**

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A venture of this stature deserves to be launched with a book to match. The first book to be scanned at GW is a 1494 copy of the *Malleus Maleficarum* (“The Witch Hammer”), an important incunabulum on criminal law and procedure, used as a manual during the Inquisition to identify, prosecute, and kill witches. As the cornerstone of this project, it also will be the first incunabulum available in the holdings of LLMC-Digital's collection online.

(Spooner documents continued)

by tavern. They implicated Bathsheba, who was indicted with them for the murder of her husband.

Trial and sentencing were swift and brutal, even by the primitive standards of 1778. After the March 1st murder, the 16-hour trial ran without adjournment on April 24th. Upon the jury's guilty verdict, execution for all was scheduled for June 4th. After Bathsheba's confession of her pregnancy to her advisor Reverend Thaddeus Maccarty, the execution was postponed until July 2nd pending confirmation of the pregnancy by a panel of two male “midwives” and twelve matrons.

Although the finding of the panel after Bathsheba's first physical examination was that she was “not quick with child,” the second examination, urged by Maccarty, was divided, but the majority found that she was “now quick with child.” Little it mattered to the court; Bathsheba, who had petitioned for postponement of the execution until after the child was born, was hanged with the others five days later.

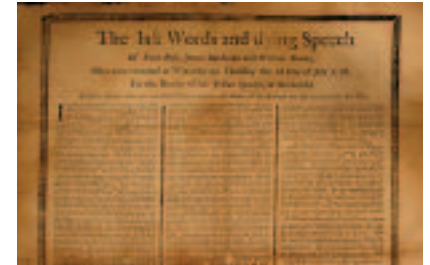
Bathsheba's request for a postmortem examination to confirm her pregnancy was honored the day after the execution. Her body was opened to reveal a perfectly-formed, five-month old male fetus. The Government and People of Massachusetts Bay had executed not four, but five persons, one entirely innocent.

The documents relating to the Bathsheba Spooner affair acquired by the Law Library are a broadside, *The Last Words and Dying Speech of Ezra Ross, James Buchanan and William Brooks*, a document of true rarity known only in one other copy, and a sermon by the Reverend Maccarty preached on execution day, *The Guilt of Innocent Blood Put Away*, also quite rare. Both are key sources in this case. The *Last Words* broadside, intended as a final confessional statement by the three men, was an expression of penitence typically urged by clergymen of that era, but its substance apparently was introduced as evidence at trial, improperly, and was the basis for conviction. It relates the sequence of events leading to the murder of Joshua Spooner and their account of the murder itself. Several nearly identical versions of this document were issued, the first published in Worcester by the eminent American patriot publisher Isaiah Thomas (1749–1831).

Reverend Maccarty's execution day sermon, *The Guilt of Innocent Blood Put Away*, was printed by Isaiah Thomas. This sermon contains the only record of the discovery of Bathsheba's male fetus at her postmortem examination. This finding was suppressed, coming to light only some sixty-five years later in Peleg Chandler's *American Criminal Trials* (1844). Ironically, Isaiah Thomas' widely-circulated publication of the day, the *Massachusetts Spy*, neglected to report this news in its coverage of the Spooner trial and its sequelae.

The *Massachusetts Spy*'s omission of this vital information can be interpreted in view of its patriot orientation vis-a-vis Bathsheba Spooner's plainspoken Loyalist sympathies. Legally, however, Bathsheba should have had options. She was represented at trial by Levi Lincoln, later appointed Attorney General in Thomas Jefferson's administration. Though talented, he was hardly past youth in 1778. It has been suggested that he was overfaced by the task of representing four murder defendants so early in his career, especially since his opponent was the formidable attorney general Robert Treat Paine, a signer of the Declaration of Independence and well-established in his profession. Historians have noted that Lincoln was pure patriot with a robust aversion to Tories, which could have hindered the vigor of his representation. Lincoln presented a pro forma insanity defense on behalf of Bathsheba, but made no use of the second finding of the panel of midwives that Bathsheba was pregnant. Certainly a case could have been made for sparing the life of the unborn child.

The official refusal to acknowledge either Bathsheba's pregnancy or the postmortem discovery of her unborn child enabled the court and the town to destroy, then erase from memory, Bathsheba's threatening presence: a probable adulteress and murderess, a Loyalist, a bold female who cared little about public opinion. Sixty-five years passed before the revelation that Massachusetts was guilty of the very act it had intended to punish: a murder.



Confessional broadside of Joshua Spooner's murderers (1778). Bathsheba Spooner did not make a statement.

*The Bathsheba Spooner documents are on display in the Rare Book Room through the fall semester 2005.*

# ELECTRONIC ACQUISITIONS

Nicole Evans, *Electronic Resources Librarian*

The Law Library is pleased to announce the acquisition of several new electronic resources which significantly expand student and faculty research capabilities at the Law School.

Two related online databases, *Index to Legal Periodicals Full Text* and *Index to Legal Periodicals Retrospective: 1918–1981*, have expedited law review research by providing an alternative to searching dozens of print annuals. *Index to Legal Periodicals Full Text* allows researchers to search each annual index online from 1981 to the present. Coverage includes indexing from 1981, abstracting from 1990, and select full text from 1994. Using the new full text version, researchers can retrieve the full text of over 200 select periodicals from 1994 to the present.

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**“The Law Library also now subscribes to *Treaties and International Agreements Online*, which provides access to the full text of more than 13,000 current treaties and international agreements.”**

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*Index to Legal Periodicals Retrospective* is an index to over 750 publications which allows searching of more than 60 years of legal content in one online search medium. This database includes law journals, annual surveys of the laws of various jurisdictions, annual surveys of federal courts, yearbooks, and annual reviews of the writings produced in focused areas of law. Additionally, the WilsonLink SFX linking feature enables researchers to click from a citation to its full text publication located in other online data-

bases to which the library subscribes, including *HeinOnline*, an evolving image-based collection of databases noted for its exact page images of law review articles. Practical enhancements include content notes identifying individual articles and authors for special issues and symposia, and updated subject headings which use modern terms to aid today's readers while retaining traditional subject headings.

The *U.S. Serial Set Digital Collection* is another newcomer to the Law Library's electronic research portfolio. Accessible through the *LexisNexis Congressional Universe* database, this database allows the researcher to retrieve the full text of the *U.S. Congressional Serial Set* and *American State Papers* from 1789–1969. Documents are located using print serial set volume numbers, document numbers, legislative numbers, or by a guided search form. Providing this full text content is an ongoing project with completion targeted for December, 2005. When complete, this database will total more than 325,000 titles and nearly 10 million pages.

The Law Library also now subscribes to *Treaties and International Agreements Online*, which provides access to the full text of more than 13,000 current treaties and international agreements. Updated monthly, this database includes all treaties and agreements ratified by the United States, all tax treaties (whether or not the U.S. is a party), and major treaties in the process of ratification. Bundled with this database is access to *NAFTA Online*, which provides the full text of NAFTA decisions. This database is the online version of *North American Free Trade Agreements* compiled and edited by James R. Holbein and Donald J. Musch.

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## RECENT GIFTS



*The Pablo F. Lavin Collection*

*Leslie Lee, Assistant Director for Administration*

The Law Library recently acquired a fine collection of Spanish-language materials from the library of the late Professor Pablo F. Lavin (1905–1992), donated by his niece, Mrs. R. Elena Santaballa. A native of Havana, Professor Lavin had a distinguished academic and legal career. From 1927–1960 he was professor of political science at the University of Havana, and also served there as dean of the faculty of social science and public law. Professor Lavin's legal career included the post of Attorney General of Cuba. He gave a series of lectures at several universities in the United States, including the George Washington University. From 1962 until his retirement in 1972 he was the editor of the magazine *La Educacion* for the Organization of American States (OAS). Professor Lavin also was an expert on the eminent Argentinian political theorist and diplomat, Juan Bautista Alberdi. His collection comprises a noteworthy selection of works primarily relating to law, philosophy, and history, as well as a group of books by and about Alberdi.

The collection currently is being processed, and is receiving binding/restoration treatment.

## OLD FRIENDS ROGER AND ALEXANDRIA CRUMP PRACTICE THE ART AND CRAFT OF BOOKBINDING

Roger and Alexandria Crump are bibliopegists: that is, practitioners of the fine art of bookbinding. Together, this husband and wife team practices the art professionally as *Old Friends*, performing binding and restoration work for libraries, including the Jacob Burns Law Library and other large academic and special libraries, as well as booksellers and book collectors along the East Coast. Roger and Alex specialize in treating antiquarian materials, and emphasize their role as restorers rather than simply “binders.” In fact, they generally decline work on new materials to focus their talents on repairing and creating historically appropriate bindings for older materials whose coverings have deteriorated. Their artistry and gift have transformed many antiquarian books from shabby to sound, preserving them as viable sources for scholarly research.

The Crumps have spent years perfecting their craft. From a specialty in sporting book sales, they gravitated toward bookbinding, doing some restoration work along the way. Their epiphany was set in motion when Roger acquired a complete 15-volume set of Thomas Hardy in limp leather binding, missing many of its boards. The set languished in the closet for five years. By and by, Alex checked out a library book on basic binding, thinking “it didn’t look that hard,” and bound the Hardy set with faux leather from the fabric store. The epiphany was complete. The Crumps departed for England to study with John Mitchell, bookbinder to the Queen and England’s finest gold



*Book restorer Roger Crump at work in his studio.*

finisher. They remained in England for a year, while Roger taught and dedicated his remaining time to study with John Mitchell.

Commencement of their study of bookbinding in England to full-time practice took about ten years. Progressively Roger and Alex developed a system of analysis and triage which they apply to each book brought to them for treatment. First, they confer, and “take the book apart verbally,” exchanging myriad “should we or shouldn’t we” questions regarding considerations of repair, replacement, boxing, and other issues. Their instinct and practice is to preserve the book in its original condition to the extent possible, making only those repairs necessary to maintain the integrity of the book. New treatments are designed to be sympathetic to the antiquarian nature of the book, and befitting its era. Many of the materials they use, including various leathers, as well as their bookbinding tools, are bought in England. Marbled papers, often copyrighted, come from Italy, France, and England. Alex herself makes many of the handsome marbled papers.



*Books restored for the Law Library by Old Friends.*

Triage comes into play after initial decisions are made. A book deemed too fragile for binding treatment goes to Alex, who crafts an elegant snugly-fit box with a period-style label to protect the book. She also does the initial resewing and page repairs for books to be rebound. The book then returns to Roger for completion of the binding. Roger follows the cardinal rule of book repair: don’t do anything which cannot be undone.

Roger and Alex admit that they “bond” with the books they treat, and find it difficult to say goodbye to their temporary charges when treatment is complete. Their affection and respect for the books is apparent from their graceful and meticulous work. Although Roger says he always feels that a book could have been done “just a little bit better,” it’s hard to imagine how.

*Roger and Alex Crump may be contacted at [oldfriends@wiredog.com](mailto:oldfriends@wiredog.com).*

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## A LEGAL MISCELLANEA

For information on the topics covered in this newsletter or about Special Collections, please contact the editor, Jennie C. Meade, Rare Books Librarian, at [jmeade@law.gwu.edu](mailto:jmeade@law.gwu.edu) or (202) 994-6857.

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