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A Legal Miscellanea: Volume 5, Number 1

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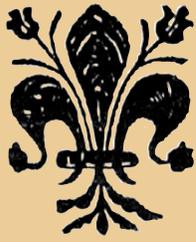
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A LEGAL MISCELLANEA

A NEWSLETTER FOR THE FRIENDS
OF THE JACOB BURNS LAW LIBRARY

VOLUME 5, NUMBER 1 SPRING 2008 :: THE GEORGE WASHINGTON UNIVERSITY LAW SCHOOL

SPECIAL COLLECTIONS FOCUS:

*The Law Library's 100th Incunabulum
Tractatus de Usuris (1490)*

The Law Library recently acquired an exceptional copy of *Tractatus de Usuris*, its 100th incunabulum (defined as a book printed before 1501 using movable metal type). The author, Florentine canon lawyer Lorenzo Ridolfi (fl. 1395–1439), completed his influential treatise in 1404, and the work circulated first in manuscript. This 1490 Pesca printing is the first separate edition of Ridolfi's important and very rare study of usury and its relation to the public debt, which previously was published in a compilation of treatises on usury. *Tractatus de Usuris* is significant not only as a distinguished contribution to the fifteenth-century debate over usury and the public debt, but also as an illustration of the potential of an incunabulum to illuminate twenty-first century affairs. For instance, the controversy surrounding today's consumer credit interest rates, recently characterized by the media as "legalized usury" and the subject of a U.S. Government Accountability Office (GAO) report, as well as a Congressional investigation, has resurrected the concept of "usury," which in recent years had dropped from visibility in America's legal lexicon; scrutiny of modern consumer

(continued on next page)

LAW LIBRARY ACQUIRES RARE FRENCH LAW BOOKS FROM THE NY CITY BAR

The Jacob Burns Law Library has acquired the important rare French law book collection of the Association of the Bar of the City of New York.

This collection of 269 titles represented in nearly 600 volumes comprises the classic legal works of France from the sixteenth through the nineteenth centuries, and augments the Law Library's noted French Collection. Customary law, civil law, royal *ordonnances*, all elucidated by the celebrated French juriconsults, are found in the New York City Bar Library's rich gathering of French legal historical works.

Known as one of the world's great legal research institutions, the Bar library once collected legal historical materials from around the globe. When its mission shifted in recent years to serve the contemporary research needs of its members, the Bar sought to place a portion of its international historical collection with institutions capable of providing both the proper physical environment for the books and an appropriate research environment to assure access to the materials, both now and in the future. The Bar concluded that GW's Law Library would offer the

(continued on next page)



Jessica McConnell

From the New York City Bar's collection:
Charles Du Moulin, *Opera quae extant omnia* (1638)

A LEGAL MISCELLANEA IS THE RECIPIENT OF AALL-WEST/THOMSON AWARD.

We are pleased to announce that *A Legal Miscellanea* has been honored with the 2008 American Association of Law Libraries – West/Thomson Excellence in Marketing Award in the Best Newsletter category. The award recognizes outstanding achievement in public relations activities by a library or other entity affiliated with AALL. Through *A Legal Miscellanea* the Law Library seeks to forge a bond with its community of Friends by providing information about its collections and activities, and to inform the legal and scholarly communities about the resources available at the Law Library. The awards ceremony is scheduled for July 14 during the association's annual meeting in Portland, Oregon.



(Rare French Law Books continued)

best new home for the French legal works it had collected over the course of many years. Other of the Bar's international historical collections have been placed at the Yale Law School Library.

As Law Library Director Scott Pagel noted, "The partnership between the Bar Association and the Burns Law Library will expand



Jessica McConnell

In the Rare Book Room: Scott Pagel, Director of the Law Library, studies a book from the New York City Bar with Director of Special Collections Jennie Meade.

to an exceptional degree the availability of resources for scholars researching the history of French and European law."

The books from the Bar now are housed in a climate-controlled area and have been cataloged with provenance notes identifying them as formerly owned by the Association of the Bar of the City of New York. All members of the Association of the Bar continue to have access to these materials.

Before restoration work on the collection begins, the library will include titles from the Bar's collection in the Law Library Microform Consortium (LLMC) digital scanning project. After scanning and restoration, the books will be available to researchers.

(Special Collections continued)

credit practices now often leads to discussion of the principles of usury, ancient principles which were analyzed rigorously and debated energetically by early writers. Similarly, the subject of public debt and its regulation is common to governments past and present. Modern readers of Ridolfi's discussions of both issues will encounter familiar territory in his *Tractatus*.

A scholar who studied law at the University of Bologna and later taught at the University of Florence, Lorenzo Ridolfi belonged to a distinguished Florentine family. His patrician lineage assured his entry into canon law practice in an era when few newcomers were successful in piercing the established aristocratic monopoly over the legal profession. Ridolfi's legal education followed the typical course of mandato-

"The work is structured as a series of questions which analyze usurious contracts and restitution; these are set forth at the beginning, and answered in the text in detail, replete with examples and hypotheticals."

ry lectures on Gratian's *Decretum*, Gregory IX's *Decretals*, and the *Liber sextus* of Boniface VIII; supplementary work included the *Constitutiones Clementinae* of Clement V. Recent scholarship confirms contemporary opinion that Ridolfi belonged to a coterie of the most influential men of the Florentine republic and was instrumental in formulating policy for the regime. Ridolfi, learned in civil as well as canon law and politically well-connected, clearly was in a position to write with authority on public debt and usury.

At the intersection of law, money, and politics was the issue of public debt in the Italian city-states. Citizens provided "loans" (often compulsory) in lieu of taxes to the government to cover costs which ordinary revenues failed to meet, generally for defense or territorial expansion. This deficit financing was highly controversial. Eventually, the *monte comune* (the communal "debt mountain"), as the Florence consolidated debt was called, was created between 1343 and 1345 in response to the financial crisis of the mid-fourteenth century. Although lawyers and theologians seldom questioned government reliance on debt, many viewed payment of interest to government creditors as a breach of the prohibition against usury, defined by medieval canon law and theology as any preset charge for a loan of money or tangibles. Vigorous debate ensued over the question of usury in the public debt, and Ridolfi cast himself as apologist for the *monte*.

In the prologue to his treatise, Ridolfi states that his work treats "the whole topic of usury," and announces that his intention was "to set forth everything connected with the abyss of usury so that, having assembled this material in the form of a *summa*, I might have recourse to it when the need arises." The work is structured as a series of questions

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MADISON'S WISH LIST

Kasia Solon, Reference Librarian



President James Madison. Oil on wood c.1821, by Gilbert Stuart. National Gallery of Art, Washington, DC

The year following the decisive 1781 French-assisted victory at Yorktown, the Congress of the Confederation appointed a committee “to report a list of books proper for the use of Congress.” Strikingly, this Congress, the immediate predecessor to the United States Congress, made the creation of a library one of its first designs, though the Revolutionary War had yet to end and negotiations for the Treaty of Paris would endure another year. James Madison of Virginia chaired the committee and, while joined by Hugh Williamson of North Carolina and Thomas Mifflin of Pennsylvania, Madison generally is considered the intellectual force behind the effort. The final list, containing over three hundred titles drawn from classic to then-contemporary works, is organized into categories weighted heavily toward law and history, with diplomacy and political science as strategically supporting subject areas. Although Congress ultimately decided that it was too heavily indebted to create a library at that juncture, the contents of the list remain revealing subjects of analysis. In essence, by creating a list of the works Congress should have at hand to inform its decision-making, Madison proposed a political canon for the revolutionary new nation.

Not surprisingly for a fledgling nation with a relatively scant publishing history, the works Madison chose mostly were of British and Continental origin. Since printed works in colonial America fell generally into the categories of government printing (mainly laws), theology, almanacs, and newspapers, with a smattering of literature, history and trade manuals, Madison perforce looked to Europe for books with the intellectual, legal, and political scope appropriate to inspire and guide the founders of the new nation.

“Law” is featured in Madison’s list as a freestanding category yet conceptually it suffuses other classes such as “Law of Nature and Nations” and “Treaties and Negotiations.” The section on “America” calls for a collection of historic charters, the “laws of each of the United States,” and “all treaties entered into with the natives of N. America.” In tribute to their once and future significance in the legal literature, editions of

many of the works on Madison’s list appear in the Law Library’s Special Collections.

For instance, two classic legal treatises on Madison’s list which appear in Special Collections are Edward Coke’s *Institutes of the Laws of England*, and William Blackstone’s *Commentaries on the Laws of England*. Since the rebellious colonies had operated under the British legal system, it was natural for Madison to turn to British law. He chose both the traditional – the well-established *Institutes*, which dated from the early seventeenth century – and the more recent – the *Commentaries* – which in 1782 had been around only for about fifteen years. Blackstone’s eloquent rendition

“...Madison’s book choices reveal a determination not to be bound, necessarily, by the common law without exploring other legal systems...”

of the common law, accessible to the lay person, ensured the success of the *Commentaries* as a legal source in America, where law books were hard to come by.

However, Madison extended his search well beyond England in scouting books for Congress’s “dream library.” Although the American colonists had been British subjects, Madison’s book choices reveal a determination not to be bound, necessarily, by the common law without exploring other legal systems, which included Roman law, and the civil law as restated by Continental legal scholars. Thus, prominently featured in the “Law” category are Justinian’s *Institutes* and Domat’s *Civil Law in its Natural Order*. Madison also cast his intellectual net over areas of legal theory and international law, choices which reflect the role of Congress under the Articles of Confederation: its domain at that time comprised primarily defense and foreign relations, with the states largely having guarded their autonomy. In particular, Madison foresaw territorial disputes with Europe. Anticipating such eventualities, the “Law of Nature and Nations” section names such works as Hugo Grotius’s *Mare Liberum*, stating that the seas were free to all nations, counterbalanced

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(Madison's Wish List continued)

by others such as John Selden's *Mare Clausum*, contending that oceans could appropriate the seas.

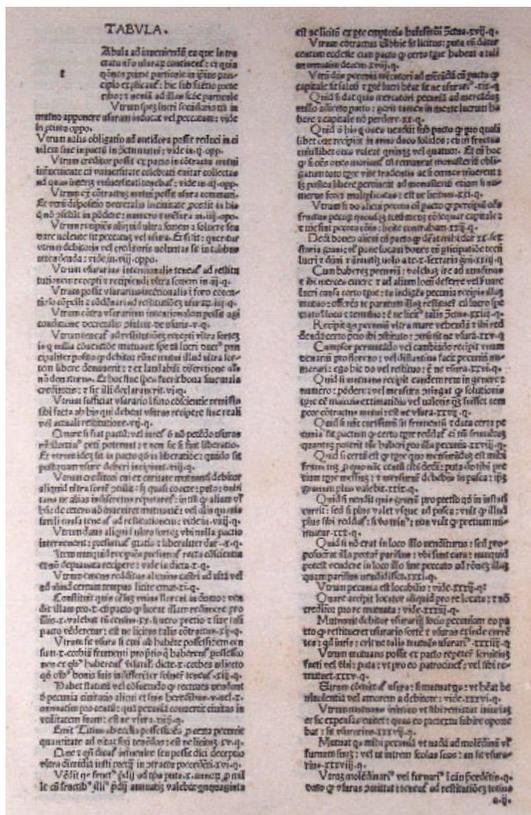
Intriguing juxtapositions of entries appear in the "Politics" section. The works of political philosophers whose ideas are considered to have influenced the U.S. Constitution: Montesquieu, Locke, Hobbes, and Beccaria, appear cheek-by-jowl with those of Machiavelli and Richelieu.

Considering the obstacles to assembling the books on Madison's list, it is not surprising that Congress tabled the project. Expense aside, acquiring all of these works would have been a formidable logistical undertaking, since there was no alternative but to procure

these books overseas. It was a complex task for which the new government was unprepared in 1782. Later, when Congress finally revisited the matter of books in 1800, it engaged the services of a London bookseller to acquire the books it sought.

One imagines the enthusiasm with which Madison composed his wide-ranging list of "books proper for the use of Congress," and the joy of anticipating the acquisition of such a library. For a window on the legal landscape as surveyed by Madison and his founding brethren, see *Journals of the Continental Congress* 1774–1789, vol. XXIV, 1783, January 1–August 30 (Washington: Government Printing Office, 1922).

(Special Collections continued)



100th incunabulum: Lorenzo Ridolfi's Tractatus de Usuris (1490)

which analyze usurious contracts and restitution; these are set forth at the beginning, and answered in the text in detail, replete with examples and hypotheticals. Ridolfi's legal justification of the public debt is accompanied by the notion that interest should be considered a just reward for contributing to the public good, and not as usury; he maintains that citizens inspired by the government to lend generously demonstrated great virtue by supporting their homeland.

As one scholar argues convincingly, Ridolfi's apology for the *monte* should not be interpreted as "an abstract theoretical exercise, but rather as part of an elite strategy to generate consent to its political programme at a moment of instability and crisis" (Lawrin Armstrong, *Usury and Public Debt in Early Renaissance Florence: Lorenzo Ridolfi on the Monte Comune*. Pontifical Institute of Mediaeval Studies, 2003, at 5; other quotations and background information for this article also drawn from Armstrong). Circumstances testify that Ridolfi designed his arguments to serve his political goals.

Ridolfi's *Tractatus* eventually attained a status as the virtually unassailable authority on the question of the Florence debt, and maintained its position with later writers on the subject.

Tractatus de Usuris will be digitized for inclusion in the Law Library Microform Consortium's online database.



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LAW LIBRARY EXHIBITIONS

Rare Books at ASIL/ESIL Reception

On January 12, 2008, at the closing reception held in the Tasher Great Room for the Joint Leadership Retreat of the American Society for International Law and the European Society for International Law, the Law Library mounted an exhibition featuring a selection of works from Special Collections. Books were displayed “in the open” on a long table which allowed attendees to examine the works closely and at their leisure. Included in the exhibition were works such as the *Coutumes d’Anjou et du Maine* (1486), the *Malleus Maleficarum* (1494), first editions of Napoleon’s *Code Civil* (1804), Beccaria’s *Dei Delitti e Delle Pene* (1764), and Hugo Grotius’s *De Jure Belli Ac Pacis* (1625), as well as representative works from the French Revolution.



ASIL/ESIL guests mingle with rare books and librarians in the Law Library’s Tasher Great Room.

Susan Karamanian

How to Try a King: The Trial of Louis XVI

Last summer’s Special Collections exhibit on the trial of Louis XVI ran from mid-June to September in the main lobby of the Law Library. Included in the exhibit were representative works from the French Collection pertaining to the 1792 trial of the King, among them:

- Raymond de Sèze, *Défense de Louis XVI prononcé à la barre de la Convention nationale* (1792). De Sèze was Louis XVI’s lead counsel in his trial for treason.
- *Second Discours de Maximilien Robespierre sur le jugement de Louis Capet* (1793). Deputy Robespierre’s speech on the floor of the revolutionary National Convention was aimed at convincing his colleagues of the necessity of executing the King.
- Jacques Necker’s *Réflexions présentés à la nation française* (1792). Louis XVI’s former minister of finance presented an eloquent defense of the King.

The text of the exhibit discussed the legal issues faced by the French National Convention while conducting the trial of the King of France. Brochures of this exhibit will be available upon request.



(top left) Robespierre’s oration in the National Convention appears as No. 4 in a volume of 54 revolutionary pamphlets [1792].

(top right) This model guillotine is similar to the apparatus used for the 1793 execution of Louis XVI at the Place de la Révolution (now Place de la Concorde), Paris.

Jessica McConnell

ELECTRONIC ACQUISITIONS UPDATE

Nicole Harris, Head of Electronic Services

Congressional, American Law Institute, and *English Reports* databases are among the newly-acquired resources of the Law Library’s internet collection.

Two new digital collections offered by LexisNexis have expanded the electronic universe of available congressional materials. Authorized users now have access to both the *Congressional Research Digital Collection* (CRDC) and the *Congressional Hearings Digital Collection* (CHDC) through the LexisNexis Congressional interface. CRDC includes *Congressional Research Service Reports* (1916–present) and *Congressional Committee Prints* (1830–present). CHDC includes published and unpublished congressional hearings (1824–present), with posting of retrospective materials expected by December 2008.

Three recently-released W.S. Hein digital collections now are available via *HeinOnline*. The U.S. Congressional *Documents Collection* provides complete online access to the *Congressional Record* and its predecessors, as well as the American State Papers and *Journals of the Continental*

Congress. This collection is slated for completion in 2008. Through a partnership with the American Law Institute (ALI), Hein’s *American Law Institute Collection* provides online access to projects and documents affecting modern law. Access is provided to *ALI Reports and Proceedings*, as well as to publications such as the *Model Penal Code* and *Uniform Commercial Code*.

Hein’s digital English Reports, *Full Reprint Collection* (1220–1865) allows researchers to search or browse all 178 volumes of the *English Reports, Full Reprint*, including index volumes. *English Reports* includes decisions of English courts prior to the publication of the *Law Reports* in 1865 with over 100,000 cases printed verbatim, representing reprints of 275 separate series of reports arranged by court from 1220–1865. *HeinOnline* provides both ‘Case Locator’ and ‘Advanced Search’ functions, plus star pagination to the original text for reprints, and parallel citations for reports of cases appearing in other series.



LEGAL CLASSIFICATION: THE ODYSSEY OF DR. JOLANDE GOLDBERG



Dr. Jolande Goldberg

Eminent scholar, lawyer, and librarian Jolande Goldberg is widely acknowledged as one of the creators of the Library of Congress (LC) law classification schedule. This is the system by which LC organizes its extensive research collections, and has been adopted by

academic and research libraries across America and by many institutions throughout the world. LC records constitute the backbone of most online library catalogs, providing organic structure and the means by which library patrons may locate research materials. Until the last half-century, legal materials were largely classified in Classes A-Z, particularly in classes for social and political sciences and history; a separate system of law classification did not exist. The creation of national and international legal classification systems is a monumental intellectual effort that took shape in the 1950s and 1960s, and has continued ever since – an effort in which Dr. Goldberg has played a principal role. In Germany, the country of her birth, she attended the University of Heidelberg, ultimately earning the *doctor iuris utriusque* (PhD in law). After immigrating to the United States in 1967, Dr. Goldberg became a cataloger and law specialist at LC, and now is Senior Cataloging Policy Specialist/Law Classification. Among her many publications is the sumptuous book *The Library of Congress Law Library: An Illustrated Guide* (with Natalie Gawdiak, 2005), and the definitive story of *Development of a Universal Law Classification: A Retrospective on Library of Congress Class K* (2003). The dynamic Dr. Goldberg also is a gifted and widely-

exhibited sculptor, with a studio at the Torpedo Factory in Alexandria, Virginia, where she creates graceful works which lend beauty to garden and landscape settings, often incorporating water as an integral feature of her art.

Senior Cataloging Librarian Gordon Van Pielt spoke with Dr. Goldberg about her adventures in law classification during her recent visit to the Burns Law Library.

Gordon Van Pielt: *What led to your involvement in the construction of the legal classification systems?*

Jolande Goldberg: This is a very personal voyage which led me eventually to immigrate to the United States and take a position with the Library of Congress. As a child, I was educated in a humanist gymnasium, which meant nine years of Latin and six years of classical Greek, two modern languages, plus the rest of the usual high school subjects. Later, at the university, law was for me “the thing:” it was Roman law, legal history of any variety, comparative law, international law. These were my primary interests in law school. But it was my entire education that gave me the background for what I tackled later in developing the classification. The intellectual training was there.

In Germany, my experience as legal editor of the *Deutsche Rechtswörterbuch* – the premier dictionary of historic legal terminology – familiarized me with an enormous range of sources. I trained in auxiliary sciences, lexicography, linguistics, gained archival skills – everything contributed to the recognition of “blueprints” underlying the structures of classification. I talk a lot about blueprinting in classification – that is, creating rubrics of knowledge that are in configurations and terminology pre-determined by a given field of learning.

I first came to LC in 1964 on a fellowship to study transplantation of continental law and government structures into the original thirteen American colonies. I felt then the almost physical impact of such an imposing corpus of knowledge. The majesty of LC collections! And all that knowledge harnessed by classification (except law!). The law classification debate was at its height then, and the prospect of working on the systematic organization of collections of such size and

scope heightened my “explorer excitement.” Time, place, and skills were right: I was hooked!

Given the complicated architecture of legal systems – especially religious and ancient law – what kinds of scholars were you able to enlist in your support?

I had a network of scholars, both here and abroad, which grew steadily over the years. Specialized committees and institutions were significant. For instance, the Robbins Collection at Berkeley was important as a comparative source study in canon law, for reviewing its collection against LC collections. Harvard Law School/Islamic Legal Studies Program was important for Islamic law, and NYU Law School Library and the Hebrew National University in Jerusalem for Jewish law. The Vatican Library was a critical resource for canon law and rare sources such as the early Council manuscripts.

Has your vision been realized for the development of these law schedules?

The journey is not over yet. I am studying new applications, for instance, classification as a systematic access tool for web resources. This now is being pioneered with schedule KIA-KIX, the *Law of Indigenous Peoples in the Americas*. I’m exploring with other specialists a “visual front end” to the LC classification, which consists of maps and diagrams for approaching the LC online classification schedule through links to information in the schedule by clicking on a map, since most information relates to a geographic location. For instance, in the Indigenous Peoples classification schedule, about a thousand website links are incorporated. The user clicks on the desired geographic location and will be linked to the website where current statutes and information on government and constitutional organs of a tribe can be retrieved.

Reclassification across major institutions is a testimony of its own. The first reclassification of a major law collection, at Yale, had a domino effect on research libraries across the country. Now Los Angeles County Law Library, the oldest adversary of LC law classification, announced last summer a major reclassification to

LC Class K of approximately 1.5 million titles. In that sense, my vision has been realized.

The Library of Congress owns thousands of law-related incunables and manuscripts. Why do libraries maintain these kinds of collections?

For a European jurist, this is well understood. Law has deep roots in the history and sociology of societies. These pools of legal historical sources are the manifest of legal science and traditions, our “legal heritage,” which we need to preserve for future generations. Sources also facilitate comparative research: they are useful for legal pattern searches where the statutory law has *lacunae*. In these cases, European Supreme Courts frequently resort to principles of natural law (*ius naturae*) and to local configurations or constructs of Roman law.

So there is a real reason. And, since LC is still the pre-eminent agency for users of such specialized information, these resources are considered an essential part of the collections.

In a period of constrained budgets, will the mission of the Library of Congress continue to encompass the leadership role it has played so well for the last century?

Leadership roles can redefine themselves as an institution’s focus shifts to new objectives. LC’s leadership role is tied historically to providing a number of specific services to the library community. Major commitments include development and maintenance of the principal tools provided by LC (LC Classification, LC Subject Headings, other authority files) and standards (MARC, AACR2, now RDA). Participation in the national and international dialogue also is a commitment.

I feel very strongly that LC should be a leader in forming consortia for digitization, creating access to full content, because LC is so rich in its collections. This would be totally different from our past role. Roles change, and flexibility is necessary. It would be sad to be mired in just one particular mode.

(continued on back page)

FOR INFORMATION

on the topics covered in this newsletter, Special Collections, or the Friends, please contact the editor, Jennie C. Meade, Director of Special Collections, at jmeade@law.gwu.edu or (202) 994-6857.

(Backstory continued)

It has been said that only 5% of all the world's information is online and that largely this is western materials. The implication is that we're just scratching the surface. Can you address that?

I can only respond with LC's statistics. LC has a total of 11.1 million digital objects available, with 1.5 million catalog records pointing to these digital objects (compared with a total of 134.5 million items in the collections). LC's figure, then, may be closer to something over 8% of total items digitized.

LC's digital projects include *American Memory* (written/spoken word, sound recordings, images documenting the American experience), Global Gateway (history and culture around the world), *Library of Congress Presents* (music, theater and dance), and *Prints and Photographs Online Catalog*, inter alia.

What is the role of the traditional library today?

For LC, an important role is to make materials much more accessible than in the past, especially through digitization. It is vital to increase digital activities to enhance content for a varied remote usership: Congress, the general American public, scholars in every imaginable field of study, foreign institutions and individuals searching for materials no longer available in their home countries (China, for instance), diplomatic and consular services.

The visual access provided by digitization is so important. Young people respond very strongly to the visual, and it would be a positive development if visual access through digitization were incorporated routinely into the classroom.

To view Jolande Goldberg's entire video interview at the Friends of the Jacob Burns Law Library website, please go to: <http://www.law.gwu.edu/burns/friends>.

The Law Library of Congress home page may be found at www.loc.gov/law.

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