



Fall 10-1-2008

A Legal Miscellanea: Volume 5, Number 2

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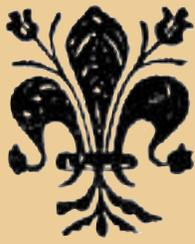


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Recommended Citation

George Washington University Law School, Jacob Burns Law Library, "A Legal Miscellanea: Volume 5, Number 2" (2008). *A Legal Miscellanea: Archives (Print)*. 10.
https://scholarship.law.gwu.edu/legal_miscellanea/10

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A LEGAL MISCELLANEA

A NEWSLETTER FOR THE FRIENDS OF THE JACOB BURNS LAW LIBRARY

VOLUME 5, NUMBER 2 AUTUMN 2008 :: THE GEORGE WASHINGTON UNIVERSITY LAW SCHOOL

SPECIAL COLLECTIONS FOCUS:

Processus Contra Templarios. Archivio Segreto Vaticano [Vatican Secret Archives], (2007)

Kasia Solon, Rare Books Librarian

One of the Law Library’s recent acquisitions manages to be both old and new at the same time. How? It is a newly-issued reproduction by the Vatican Secret Archives, the *Processus Contra Templarios*, containing facsimile manuscripts and scholarly commentary relating to the 1308 heresy trial of the Knights Templar. This is a limited edition, the Vatican having permitted production of a mere 800 copies of the previously unavailable original source material. Pope Benedict XVI reportedly received the first set of the work; the Law Library has copy no. 389 of the 799 that remained for sale.

If the *Processus* were mass-produced, its jacket blurb might read something like: “If you read and enjoyed *The Da Vinci Code*, you are sure to love the *Trial Against the Templars*.” Indeed, consistent with their secretive past which conjures thoughts of conspiracy plots, the Knights Templar populate such novels as *The Da Vinci Code*. But a plainspoken history of the order provides more than enough drama without resort to fiction. From their station as one of Europe’s most powerful institutions, the Templars

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Cy Pres Club charter, dated May 5, 1932.

Jessica McConnell

THE CY PRES CLUB: A Pioneer Women’s Organization at National University Law School

Kasia Solon, Rare Books Librarian

Advocates for hiring female faculty at the law school. Hosts to First Lady Eleanor Roosevelt. Vedettes of *The Washington Post*’s local coverage. These successes—just a few among many—are emblematic of the activities of the Cy Pres Club, the pioneer women’s organization at the National University Law School. National University, noted for its especially strong law school, was founded in 1869 and merged with The George Washington University Law School in 1954. Though National grudgingly had permitted a handful of women to attend

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WELCOME TO OUR NEW RARE BOOKS LIBRARIAN, KASIA SOLON!

Kasia assumed her new duties July 1, moving over to Special Collections from the Reference Department. You may recognize Kasia as one of *A Legal Miscellanea*’s regular contributors, and two of her articles appear in this issue. Kasia may be reached at (202) 994-2687 or ksolon@law.gwu.edu.



(The Cy Press Club continued from page 1)

classes in the 1870s, notably the feminist Belva Lockwood (who obtained her diploma only after petitioning the ex-officio university president, U.S. President Ulysses S. Grant), the school officially did not become coeducational until 1918. Shortly thereafter until the early 1950s, the Cy Pres Club constituted the law school’s largest and most active women’s organization. But for Kathleen Prewitt’s recent generous gift of law school papers from the estate of her great-aunt, federal government attorney and Maryland horsewoman Marie Thais Spencer (Law ’35), the existence of the landmark Cy Pres Club, which had faded from contemporary memory, may never have been brought to light.

The Cy Pres Club’s purpose as stated in its constitution was to help “its members advance in the study of law, and to promote good fellowship in the student body.” By 1933, the Club was incorporated and granted a charter in the City of Washington, D.C. Although other women’s law student organizations entered the arena, namely chapters of the national legal sororities Kappa Beta Pi, Phi Delta Delta, and Iota Tau Tau, the Cy Pres Club remained the law school’s only homegrown organization and the one that its female law students joined almost without exception.

The Cy Pres Club acquired its distinctive name when the school’s four female law students banded together after a lecture on the equitable doctrine and “agreed that a name more marked in substance and individuality . . . could not be found.” In seeking inspiration from the law of equity, these women were not alone. Equity is a system of legal principles that historically allowed for more flexibility and fairness than the common law. It has been said that “equity is the savior of woman,” a point not lost when the nation’s first organization of women lawyers, the Equity Club, was founded by female law students at the University of Michigan in the late nineteenth century. This club ultimately proved short-lived and it is unlikely that, decades later, the founders of the Cy Pres Club heard tell of it. Nevertheless, the resemblance between

these two groups’ names reflects a shared feminist spirit linking the organizations across time. Women, simply by entering the legal profession, were daring the law to be more flexible and fair.

Regarding Club activities, patterns varied over the years. Generally, the Club met monthly if not bi-monthly, sponsored talks by prominent national and international women lawyers, and hosted social events throughout the academic year. Events such as these made the Cy Pres Club a fixture of the Washington scene. Indeed, the Cy Pres Club turned headliner at times. “National U to Pick Officers Tuesday for Cy Pres Club” trum-

“The Cy Pres Club acquired its distinctive name when the school’s four female law students banded together after a lecture on the equitable doctrine and ‘agreed that a name more marked in substance and individuality . . . could not be found.’”

peted *The Washington Post* in an October, 1926, article, which went on to report that the Club expected to be more active than ever before, because “the enrollment of women students is greater than at any time in the past.” Increasing female enrollment and resulting membership spikes would be a recurring storyline—the Club grew apace as the number of women entering law school increased. The numbers in 1934 proved especially striking: in that year alone, thirty-eight women enrolled and all of them joined the Club, bumping the group’s total to just over sixty. The law school yearbook, *The Docket*, explained the sudden increase in numbers this way: “the New Deal bestowed its blessings upon the Club.”

The social highlight of each year was a banquet held at a Washington hotel on February 22, George Washington’s birthday, to which the Club invited everyone—members, fellow students, faculty, alumnae, and notable lawyers in the area, both men and women. *The Docket* of 1935 describes that year’s banquet in detail, providing a sense of the playful feminist spirit that characterized the Club’s affairs. With its numbers once again stronger than ever before, the Club “seized the opportunity to improve the conduct” of the faculty by holding a so-called “Court of Unlimited Jurisdiction.” Court officers that evening included the President of the Women’s Bar Association of the District of Columbia as Presiding Judge and



Jessica McConnell

members of the Club as prosecutors. Some faculty served as defense attorneys for fellow faculty defendants, who were charged and “sentenced.” One dean “successfully defended against a charge of false pretenses” while other faculty “were probationed on promises to restore to us our constitutional rights.” Still another faculty member “was enjoined from departing bachelorhood” while his colleague “was given immunity by complying with the Court’s order to recite poetry.” While this 1935 account is typical, the banquet of 1942 in particular stands out, for that was the year First Lady Eleanor Roosevelt attended as the Club’s guest of honor. Needless to say, this made for “an unforgettable occasion.”

Further perusal of *The Docket* yearbooks discloses telling details of the women who joined the Cy Pres Club, revealed in the sometimes elaborate captions appearing beneath the individual photos of students in the graduating class. In early years, it is evident that the suffragist movement had touched a noticeable number of women. For Catherine M. Butler, class of 1924, *The Docket* remarks that she “is always ready to expound ‘the cause.’” Some belonged to the National Women’s Party (NWP), a political party that emerged during the suffragist era of the early twentieth century. One Club member, Martha Goebel, class of 1924, is recorded as being “Chairman of the first Inez Millholland Memorial Chapter of the National Woman’s Party to be instituted in any University in the United States . . . and is a founder member” of that party.

Though references to the NWP fade by the 1930s, the Cy Pres Club as a body continued to undertake the advancement of women, directing its primary efforts toward the law school. One goal was to encourage the school to hire a woman faculty member; the Club petitioned for a female appointment in 1930 and again in 1936. In 1939, when the proportion of women in the law school reached a new high of ten percent, the Club accordingly expanded its appeal to include the appointment of a Dean of Women. Among the Spencer materials recently donated to Special Collections are the minutes of the Club’s meetings. Those from 1938 and succeeding years detail the efforts of the Club to realize their feminist objectives. While no decanal position resulted from the Club’s efforts, the 1940 yearbook includes a photograph of the first female law professor, a monument to the Club’s achievement of its cherished goal of placing a woman on the faculty.



Jessica McConnell

Club members pose in a wintry Capitol landscape, ca. 1924.

That first female professor was Judge Ellen K. Raedy of the D.C. Municipal Court, one of the first female judges appointed by President Franklin Roosevelt. Raedy was a graduate of the law school and had been active in the Club as a student in the 1920s. One of her first orders of business as professor was to ban women’s hats (as well as men’s overcoats) in the classroom as a sign of respect, “no difference how fashionable they are.” The appointment of a woman jurist of the stature of Judge Raedy to the law school faculty is a testament to the persistence and energy of the members of the Cy Pres Club. Their early efforts laid the groundwork for the rise in numbers of women on the faculty at GW Law, where today women comprise roughly thirty-five percent of the full-time faculty.

The Cy Pres Club materials form an invaluable chronicle of the goals of aspiring professional women from a time when far fewer female role models were in place to provide inspiration. Marie Thais Spencer herself furnishes an example of a female pioneer in the American legal profession. She fashioned a federal government career with the General Accounting Office which extended from the late 1930s into the early 1970s, a time when men were more likely to receive promotions over women, and when their pay customarily outstripped that of women performing the same job, sometimes “justified” on the basis that “men had families to support.” Spencer and other women of Cy Pres continued to pursue the law despite such odds. It is with admiration both for their independent spirit and sense of good humor that we read their journey into uncharted territory in the papers of the Cy Pres Club.

After processing, the Cy Pres Club Archive will be available to researchers.

plummeted to nullity virtually overnight. Their final moments are illuminated vividly in the documents of the decidedly non-fiction *Processus*, which bring to life the trial of the Templars for heresy seven hundred years ago. The trial led to dissolution of the order in 1312. The facsimile documents include the record of the trial and the recently-recovered “Parchment of Chinon” issued by Pope Clement V containing his absolution of the leading members of the Knights Templar. Also included is scholarly commentary in both English and Italian treating the historical background of the trial.

The Knights Templar were an order of crusading warrior-monks founded in 1118. Formally named the Poor Fellow-Soldiers of Christ and the Temple of Solomon, they became known as “Templars” for their role in protecting the temple in Jerusalem and pilgrims on the way to the Holy Land. With the donations they received to carry out their work, the Templars became so rich they eventually turned to banking. One of their biggest debtors was King Philip IV of France (also known as Philip the Fair) and, not coincidentally, it was Philip who initiated actions against the order for heresy. Conveniently, Pope Clement was French and, having removed the papacy from Rome to the French town of Poitiers, was under Philip’s sway. It was against this backdrop that the trial against the Templars opened in 1308.

Given the king’s influence over the papacy, it is not surprising that Clement ultimately dissolved the order. But the rediscovered Parchment of Chinon has surprised modern scholars by revealing that the pope in fact initially absolved the Templars of heresy, and sought simply to reform the order. He subsequently reversed his absolution decision under pressure from Philip. When Clement finally dissolved the order, Philip not only was freed from his debts, but the royal coffers of France were enriched to a certain degree with the confiscated assets of the order. This sequence of events played a key role in the beginnings of Gallicanism, a French movement advocating limited papal authority, and laid the groundwork for the legal separation of church and state.

With its lavish accoutrements, the *Processus* is a delight for bibliophiles. It arrives housed in a cloth bag, which protects a capacious decorated leather case. Carefully situated inside the case is a portfolio containing meticulous reproductions of the original documents in Latin, faithful down to the parchment and the replicas

of wax seals used by the fourteenth-century papal inquisitors. The accompanying scholarly commentary is printed on 100% cotton handmade paper with specially-designed watermarks by Cartiera Amatruda of Amalfi, one of the oldest paper mills in Italy. Fittingly, the mill today is run by descendants of the Amatruda papermaking dynasty whose origins trace approximately to 1400.

Given these costly materials and attention to detail, it is easy to forget that the *Processus* is a reproduction. Regardless, collectors and researchers customarily seek the original. So why a library intentionally would buy a reproduction or reprint, or indeed might prefer it to the original, is a legitimate question.

There is an assortment of reasons. A library may offer patrons the option of working with reprints to preserve the rare books in its collection from wear and tear. In the case of certain books, especially those of the later nineteenth century, the paper used for printing contains acid which causes brittleness; using reprints of books from that era can be especially helpful in preventing degradation of the originals, as well as provide a preservation medium where books have disintegrated beyond repair. Reprints may be the only choice where the original is unavailable, either for purchase or to locate for research. Reprints also provide accessibility to a text for those unable to afford the original. Technically a reprint is not the same as a reproduction; a reproduction goes beyond merely reprinting the text to simulate the appearance of the original publication. By means of faithful duplication, a reproduction allows researchers to glean further information about how the document was made, which can be significant in understanding its historical context.

The Law Library’s acquisition of the *Processus* reproduction is a case in point. The original is indeed, in practical terms, unavailable. It is a certainty that the Vatican has no plans to sell the Parchment of Chinon or its accompanying documents, nor could many institutions afford them; plus, researching at the Vatican Secret Archives is a privilege available to a relative few, and a practical impossibility for many of those. Owning a reproduction solves those problems, and not only enables patrons to read the text, but also to feel the parchment, observe the handwriting, and draw their own conclusions about the document as a whole.

Reproductions now may be made virtually using the internet. The Vatican Secret Archives are not so secret anymore; one may view a scan of the Parchment of Chinon on their website: <http://asv.vatican.va/en/visit/doc/zoom03.html>.

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REMEMBERING ROY MERSKY: Michael Widener Discusses the Legendary Law Library Director's Contributions to Rare Law Book Librarianship



www.rickpatrickphotography.com

Professor Roy M. Mersky

Shortly before his unexpected death on May 6 of this year, Roy Mersky agreed to be the Backstory interview subject for this issue of *A Legal Miscellanea*. Only days later, as I was drafting the interview questions, news of Roy's illness followed by his sudden passing left the law library and academic realms in a state of disbelief. An acknowledged giant in the profession, Roy for over forty years was Director of the Tarlton Law Library at the University of Texas, and held the Harry M. Reasoner Regents Chair in Law and the Hyder Centennial Faculty Fellowship in Law. His countless contributions to law librarianship and his other professional and personal accomplishments seemingly exceeded what one person could achieve in a lifetime. I suspect Roy was one of the few in any profession whose resumé was prefaced by a table of contents.

Roy had agreed to speak with us about rare books and special collections at Tarlton. He had a keen interest in legal history and collecting rare law books, as well as an instinctive understanding of the intellectual and cultural value of special collections to academic law libraries and their patrons.

Two options for proceeding with the interview remained: either invite someone else and pursue a different topic, or keep Roy as the interview subject, once removed. Happily, the willingness of Michael Widener (who worked closely with Roy as head of Tarlton's special collections from 1991 to 2006, and is now Rare Book Librarian at Yale Law Library) to step in for Roy enabled the latter path. Roy undoubtedly would have preferred to hold center stage despite his departure.

Roy held Mike Widener in the highest regard, and expressed great pride at his selection for the rare books position at Yale. Mike's thorough and absorbing interview furnishes singular insight into Roy's approach to special collections. I feel certain Roy would have approved the

process and result: the interview describes a serious bookman at work and it keeps him alive for us. So that the entire interview may be printed, it will run in two parts: part two will appear in the spring issue.

—Jennie Meade

A Legal Miscellanea: *Special collections at the Tarlton Law Library are many and diverse. Would you please orient us to them?*

Michael Widener: Tarlton's Special Collections include nearly 8,000 rare books and a large body of archives, both institutional and personal.

The rare book collection has a number of strengths. Its collection of Texas law is one of the most comprehensive in existence, including virtually complete sets of session laws and legislative journals. Its historic Texas constitutions and constitutional convention journals are available online in the Texas Constitutions Digitization Project, <http://tarlton.law.utexas.edu/constitutions/>. An adjunct to the Texas materials is an impressive collection of Spanish and Mexican law, which governed Texas before the arrival of Anglo settlers, and continues to be cited in cases involving water rights and land titles.

The Law Dictionary Collection is outstanding, and contains hundreds of titles from the U.S., Great Britain, Europe, Latin America, and Asia, including the library's oldest printed book, a 1476 edition of the *Vocabularius Utriusque Iuris*. The collection of works by the seventeenth-century English lawyer and scholar John Selden is among the best in the world, and there are strong holdings on the Inns of Court and the sensational 1870s trials of the Tichborne Claimant. Tarlton also has good collections of Scottish law and legal biography, and in English law, it boasts an excellent set of nominative reporters, a first edition of Bracton, and the abridgments of Fitzherbert, Brooke, Rolle, Bacon, and Viner. In my last years at Tarlton we purchased a large private collection of state constitutional convention journals.

Unique to the Tarlton Law Library is the Law-Related Fine Press Collection. It was inspired by a donor, but it also dovetailed with my own interests in book design and typography. I took the idea and ran with it, and built the collection to almost 300 titles by the time I left.

As for the archives, the crown jewel is the Papers of U.S. Supreme Court Justice Tom C. Clark, who participated in many of the Court's momentous decisions of the twentieth century, such as *Brown v. Board of Education*, the school prayer cases, and many more. The holdings on the history of the University of Texas School of Law are among the most thorough and rich for any U.S. law school, and include the papers of such outstanding legal scholars as Leon Green, Page Keeton, and Charles Alan Wright.

When Roy Mersky described the Tarlton Law Library to newcomers and visitors, he always said that the library's true strength was its staff. This is certainly true for the professionals he hired after I left in 2006. Elizabeth Haluska-Rausch, the new rare book librarian, formerly was a curator at Southern Methodist University's Bridwell Library. The archivist, Jennifer Cummings, is a product of the outstanding archives program at the University of Texas School of Information.

How did you come to work for Roy Mersky?

I received my Master's in Library & Information Science from the University of Texas in May, 1991, specializing in archives. That summer I had a temporary job as a reference librarian at Austin Community College when the Tarlton Law Library posted an opening for an archivist/rare book librarian. Two people were key in my getting the job. The first was my library director, Julie Todaro, who had worked for Roy (Roy's legendary tentacles extended even into Austin Community College). When he called Julie for a reference, she began waving her arms at me to come into her office, where I listened to her give me a glowing recommendation. The other was my wife, Emma. Some in the school of library science told me I would be a fool to work for Roy, that he paid miserably and was hard to get along with. Emma herself was a librarian and an experienced library administrator. She argued that Roy was a true leader who ran a class operation, and she advised me to ignore his detractors and take the job. I'm glad I did.



Courtesy of Tarlton Law Library

Roy Mersky (l) congratulates Mike Widener at Mike's farewell reception before departing for Yale (2006).

Why did Roy Mersky believe rare law books are important?

First, Roy was committed to making the Tarlton Law Library a great library, not merely a very good law library. He believed that a great academic law library must first provide its users with comprehensive collections of both current and historical sources. But beyond that, he conceived of the Tarlton Law Library as a research library, serving not only the law school's faculty and students but the university as a whole, as well as scholars and legal professionals around the world. He promoted interdisciplinary research before it became fashionable. For all these communities, a well-formed and growing rare law book collection was an essential part of the mix.

Second, I think Roy wanted to broaden the horizons of both students and faculty by demonstrating the historical role of law and the cultural links between law and society. A collection of rare law books can help a library expand the horizons of its users.

Finally, Roy was a book lover and a man of great cultural scope. Aside from understanding the research value of rare books, he simply liked and appreciated them. He had a wonderful personal library, probably close to 5,000 volumes in the bookshelves that lined his offices. He instinctively followed the cardinal rule of book collecting:

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collect what you know and love. Both his work and his passions were on display in his library. His collection on the U.S. Supreme Court, particularly biographies, was outstanding, especially for Justices Black, Brandeis, Douglas, Frankfurter, and Holmes. Not surprisingly, his library was strong in legal research, legal bibliography, and legal writing, but you could also find Israeli history, civil rights, legal humor, and a fine group of Arthur Train's "Mr. Tutt" legal thrillers. His bookshelves also gave you an idea of whom he admired: Louis Brandeis, Bryan Garner, Fred Rodell, and Charles Alan Wright, among others. Many of his books were inscribed to him by their authors.

If you want evidence for Roy's belief in the importance of rare law books, look at the library building he constructed at Texas. It included a rare book reading room and stacks for the first time, and the conference that inaugurated the new building in 1981 was dedicated to "Collecting and Managing Rare Law Books."¹

Of which collections was Roy most fond, and in which was he most involved? Did he have cherished favorite individual works? Which collection(s) did Roy build "from scratch" and from where did he draw the impulse to collect in certain areas?



Tarlton's Millionth Volume: Rastell's Expositions of the Termes of the Laws of England (ca. 1525/1530)

Roy was especially proud of the Law Dictionary Collection. It was easier for me to convince him to pay four-figure (or higher) prices for law dictionaries than for any other type of book. The impetus for the dictionary collection arose from his commitment to supporting faculty research.

In the early 1980s, the Oxford Law Dictionary Project was established at

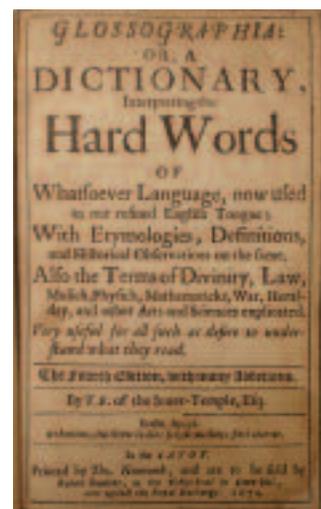
the U.T. School of Law, led by Bryan A. Garner (who has since become the world's leading legal lexicographer). Roy

supported the project by purchasing early law dictionaries. Probably his favorite rare book of all was the Law Library's Millionth Volume, a composite volume containing the title leaf from the first printing of the first English law dictionary, John Rastell's *Exposicions of the Termes of the Laws of England* (ca. 1525), with the rest of the volume from the third printing (ca. 1530).

The Inns of Court Collection was Roy's creation. He was an Anglophile, and I think he was fascinated by the Inns' long tradition, and by their roles in the history of legal education and in English cultural life. The collection included reminiscences, historical works, rolls of the members, studies of their architecture, editions of their archival records, and catalogues of their libraries, portraits, and even silverware. I actually purchased few Inns of Court items during my time at Tarlton, because almost all of the titles I saw in dealers' catalogues were titles we already owned. Roy also had a nice collection of framed prints of the Inns of Court in his offices.

The Tichborne Collection was another creation of Roy's, and a favorite of his. It includes books, trial records, broadsides, song sheets, and fictionalized accounts of the notorious 1870s trials of the Tichborne Claimant, who attempted to pass himself off as the long-lost heir to an English fortune. Like all great trials, these were as much theatre as legal proceedings, with the class divisions of Victorian England as a subplot. The collection was a facet of his fascination with law & popular culture. Roy told me several times he wanted to produce a coffee-table book on the Tichborne trials.

Next in the Spring issue: Roy Mersky's approach to building special collections, and his support of legal history initiatives at Tarlton.



Barrister Thomas Blount's *Glossographia* (1674) describes the origins of ancient law customs.

¹ See *Collecting and Managing Rare Law Books: Papers Presented at a Conference Celebrating the Dedication of the New Tarlton Law Library, the University of Texas at Austin School of Law, January 7 & 8, 1981* (Roy M. Mersky, Stanley Ferguson & Daniel Martin, eds.; Dobbs Ferry, N.Y.: Glanville Publishers, 1981).

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.

(Special Collections continued from page 4)

Release of the *Processus* by the Vatican provides an unprecedented opportunity for scholars to work with the original documents of the trial of the Templars. Clearly the *Processus* is a significant complement to the Law Library's holdings. The work bestrides two major components of Special Collections: the French Collection and the canon law/church-state holdings. Further, the Law Library's extensive collection of trials includes manuscript records from a 1649 trial against the Knights of Malta; with the acquisition of the *Processus*, opportunity for a comparative study of the trials now exists. Because so few copies of the *Processus* reproduction exist worldwide, creating a full catalog record was assigned top priority. With full cataloging completed, the record for the Law Library's copy of the *Processus* may be found not only in its own catalog, JACOB (which contains at minimum a brief record for every book in the collection), but also in WorldCat, a major global network of library holdings upon which researchers worldwide depend for locating materials.

Notwithstanding Shakespeare's assurance that "the truth will out," documents are mute until someone reads them, and a good cataloger can be the indispensable actor in saving a document from oblivion. The trial against the Templars took place in 1308. But a funny thing happened on the way to the archives. Sometime in 1628, someone created so cryptic and vague a catalog entry for the Parchment of Chinon that its significance remained a secret. Only in 2001 after becoming intrigued by the archival record did a scholar in the Vatican Secret Archives locate the document and realize that it was not of secondary importance as previously thought. The result of this bibliographic sleuthing is the magnificent reproduction of the *Processus Contra Templarios*, issued seven hundred years after the arrest of the Templars in 1307. The elegant and detailed catalog record created by Senior Cataloging Librarian Gordon Van Pielt ensures that this reproduction will not sink into oblivion as did the original Parchment of Chinon. You can find all the details at: <http://128.164.132.10/record=b1332186>.

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