IN THIS ISSUE:

FROM THE DIRECTOR AND THE ASSOCIATE DIRECTOR FOR COLLECTION DEVELOPMENT, PAGE 2

LAW LIBRARY DISTINGUISHED LECTURER SERIES, PAGE 3

ESSAY: "TO FULFILL THESE RIGHTS:"
African Americans and the Quest for Equality, PAGE 4

FEATURE: "THESE ARE THE TIMES THAT TRY MEN'S SOULS:"
Early American Documents in the Arthur C. Pulling Rare Books Collection, PAGE 6

RECENT ACQUISITIONS, PAGE 9

SPOTLIGHT ON ARCHIVES, PAGE 11

SAVE THE DATE:

On October 22, 2004, the University of Minnesota Law Library will celebrate the acquisition of its millionth volume with a symposium, Law, Information and Freedom of Expression, followed at 4:00 p.m. by a reception and the unveiling of the Law Library's millionth volume.

Please save the date! Formal invitations will follow.
This fall the University of Minnesota Law Library will celebrate the addition of our one-millionth volume to the library's collection. Achieving this milestone places the library in the company of only seven other academic law libraries in the United States. While one million is clearly an impressive number in and of itself, the celebration is truly in recognition of what that number represents. We celebrate this milestone in honor of the history, depth, and excellence of our research collection.

This moment provides the opportunity for the Law School to acknowledge that our Law Library's collection stands among the strongest legal research collections in the country. This moment allows us to reflect upon the many years of careful selection and planning that have built our library's holdings into the world-class research collection that it is today. This moment allows us to reflect upon how we will continue to build upon the excellence of our collection and maintain its excellence into the future. Finally, this moment allows us to reflect upon the exceptional support of the Law School administration, faculty, students and alumni, which has enabled the library to achieve this milestone.

On October 22, 2004, legal scholars from the University of Minnesota, the University of California, Berkeley, the University of Virginia, Harvard, Duke and Yale will gather at the Law School to present papers at a symposium entitled Law, Information and Freedom of Expression. Following the symposium, President Robert H. Bruininks, Dean Alex M. Johnson, Jr., and Associate Dean Joan S. Howland will unveil the one millionth volume. We hope that each of you will be able to join us.

In anticipation of this important occasion, the Law Library hosted several festivities this semester for students and faculty. A "Love the Library Ice Cream Social" was held on Valentine's Day and featured Dean Johnson and the faculty serving ice cream to students! The Library also hosted a party for the opening of the Twins' season—with hot dogs, popcorn and live music by Butch Thompson. We look forward to celebrating our millionth volume with you, our alumni and friends, this fall.

Joan S. Howland
Roger F. Noreen Professor of Law and
Associate Dean for Information and Technology

Connie Lenz
Associate Director for Collection Development

Professor John Matheson and Dean Alex Johnson take a break from teaching and administrative duties to serve ice cream to students in the Law Library lobby.
The University of Minnesota Law Library Distinguished Lecturer Series

On April 15, 2004, Taunya Lovell Banks, the Jacob A. France Professor of Equality Jurisprudence at the University of Maryland School of Law, delivered the second annual lecture of the University of Minnesota Law Library Distinguished Lecturer Series. Professor Banks' lecture, "Dangerous Women: Elizabeth Key's Freedom Suit and other True Stories," focused on the 1655 freedom suit in the colony of Virginia by a mixed race woman named Elizabeth Key.

The scenario, uncovered by Professor Banks while conducting research in the archives of Virginia, is as follows: Elizabeth Key was born around 1630 to Thomas Key, a white settler, and a black woman servant. She eventually became part of the household of John Mottrom, of Northumberland County, Virginia, who died in 1655. Mottrom's will listed two types of human chattel, "servants and negroes." Elizabeth and her son were recorded as "negroes." The language of the will made it clear that, unlike the servants, Elizabeth and her son were considered permanent chattel—slaves. That year Elizabeth successfully sued for her freedom in a county court in Virginia. Her argument was based on English common law which held that a child inherits the condition of the father. The case was appealed to the General Court in Jamestown, where the decision of the county court was reversed. Elizabeth petitioned the General Assembly, the colony's legislative body and highest appellate court, which concluded that Elizabeth, the child of a freeman, was free—a law which the Assembly changed in 1662.

Elizabeth's story sheds a powerful light on the legal and social aspects of slavery in 17th century Virginia. Professor Banks used Elizabeth's story to explore the extent to which black women acted as lay advocates in colonial courts. While recognizing that lawsuits in the 17th century by people of African descent were rare, Professor Banks challenged the general assumption among historians that slaves, especially female slaves, were not active litigants who secured legal counsel and ultimately exerted influence on the law. Professor Banks also used Elizabeth's story to discuss the evolving status of blacks in Virginia in the decades between 1619, the first recorded arrival of Africans in the colony, and the period between 1660 and 1680 when slave laws became formalized. "Implicit in the Mottrom estate inventory," declared Professor Banks, "is that by 1655, thirty six years after the first recorded arrival of Africans, blacks or negroes were presumptively life servants—slaves!"

Professor Banks' research uncovered an extraordinary woman. Not only did Elizabeth display remarkable courage in her suit against one of the most prominent families in Virginia, she later married a white man, William Grinstead—one of the few documented marriages in the 17th century between a white man and a free woman of African descent. The Grinsteds remained a Northumberland County name for several generations. Professor Banks noted as a postscript that a John Grinstead, very likely an heir of Elizabeth, was a local leader in the effort in the early 19th century to encourage persons of African descent to establish colonies in Africa. It is apparent that Grinstead was either unaware of his African ancestry or chose to hide the fact. "Were it not for Elizabeth's freedom suit," stated Professor Banks, "it is quite likely that John Grinstead would have been a slave."

Katherine Hedin
Curator of Rare Books and Special Collections

"Although there are a few earlier references to black men contesting their servitude, Elizabeth's lawsuit may be one of the earliest recorded freedom suits filed in the American colonies by a woman of African descent. In addition, Elizabeth's case is one of the first recorded freedom suits in the Virginia colony where a court directly contrasts indenture with slavery. More importantly, in Elizabeth's case the colonial court is being asked whether a person of English-African ancestry is a negro, and thus presumptively unfree."

—Taunya Lovell Banks
This spring the Riesenfeld Rare Books Research Center was pleased to partner with the Archie Givens Collection of African American Literature in curating an exhibition in honor of the fiftieth anniversary of Brown v. Board of Education. The Givens Collection, located in the Elmer L. Andersen Library at the University of Minnesota, is one of the country’s premier repositories of African American literature.

"To Fulfill These Rights: "African Americans and the Quest for Equality traces critical developments in the early history of African Americans. The exhibit traces two overlapping aspects of this history: the treatment of African Americans by the legal system, and the cultural and spiritual heritage of African Americans as seen through literature.

The exhibition opens with documents which trace the development of laws related to slavery in England and which formed the basis for the law of the colonies and the United States in its formative period. Primary materials documenting the major judgments concerning slavery in England include Smith v. Brown and Cooper (1705) in which Lord Chief Justice John Holt held that “as soon as an [African] comes into England, he becomes free;” and Somerset v. Stewart (1772) which was widely understood as freeing slaves in Great Britain, thus fanning the flames of the growing abolitionist movement. Also included is the first edition of Sir William Blackstone’s Commentaries on the Laws of England (1765-1769), in which Blackstone declares that “The law of

**Shown above:** Frontispiece. From Phyllis Wheatley's Poems, 1773. The famous portrait of Wheatley was drawn by Scipio Moorhead, a Boston slave, artist and poet.
England abhors and will not endure the existence of slavery within this nation.” Blackstone also acknowledges, however, that the common law of England does not necessarily extend to the colonies.

The legal origins of slavery in the American colonies are documented in session laws and statutes dating from as early as 1641 in the Arthur C. Pulling Rare Books Collection. Included in the exhibit is an early printing of Virginia’s law of 1662 stating that children of slave mothers are slaves, regardless of the status of the father; Maryland’s 1671 law stipulating that Christian baptism will not result in freedom; and the first comprehensive slave code, the 1696 South Carolina code. Also included are examples of early anti-slavery laws, such as Article 91 of the Massachusetts Body of Liberties (1641), which stated that “There shall never be any bond slaverie...amongst us,” but actually left the door open for slavery in its statement that “strangers” sold to settlers could be slaves. The exhibit traces slavery laws to the Revolutionary period, by which time each of the colonies had laws dealing with slavery or race, with nine maintaining markedly comprehensive slave codes.

In addition to early statutory law, the exhibit features abolitionist literature, including early editions of the writings of Anthony Benezet and John Woolman, the two great leaders of the pre-Revolutionary antislavery crusade. Also featured are the writings of later abolitionists, such as Jonathan Edwards, Theodore Parker, and Theodore Dwight; first editions of case reports, such as the notable Amistad and Dred Scott decisions; contemporary accounts of major fugitive slave law cases; and a very early printing of the Emancipation Proclamation.

The pursuit of justice and equality in the legal arena is reflected in the poetry, novels, essays, and autobiographies of African Americans from Phillis Wheatley to Langston Hughes to Alice Walker. This cultural and spiritual heritage is central to the Givens Collection of African American Literature. The exhibit showcases premier pieces from the Givens Collection, including Phillis Wheatley’s Poems, printed in 1773, the first book published by an African-American. Also featured is a first edition of Uncle Tom’s Cabin, one of the most controversial and popular books ever printed in the United States.

In this year which marks the fiftieth anniversary of Brown v. Board of Education, the landmark Supreme Court decision that first affirmed equal treatment for African Americans nationwide under the Constitution, it seems fitting to revisit the earlier endeavors that made the modern movement for equality possible. It is hoped that the exhibit will provide insight into the formidable legal barriers faced by the early abolitionist and civil right crusaders, as well as showcase the rich cultural heritage of African Americans born out of the struggle for equality.

Katherine Hedin
Curator of Rare Books and Special Collections

Susan Gainen, James Rustad ('67)

Associate Director Suzanne Thorpe ('89), Barbara Bearmon, Lee Bearmon ('56)
"These are the Times that Try Men's Souls:"

Early American Documents in the Arthur C. Pulling Rare Books Collection

The Riesenfeld Rare Books Research Center houses several precious documents related to the founding of the United States. I was pleased when the Curator of the Riesenfeld Center asked me to examine and comment on some of these documents for readers of The Colophon. As a third year student at the Law School, this was a unique opportunity to research the law in a traditional setting using original documents.

In the field of constitutional law, historical research and analysis can make or break one's case. It was a misguided analysis of history, for instance, which supported Justice Roger Taney's controversial thesis in the Dred Scott decision that blacks had never been considered citizens, and it was historical research that justified Brown v. Board of Education's finding that public education is essential to a democratic society.

The first document I studied was a rare copy of the Journal of the Proceedings of the first Continental Congress of 1774, printed in 1775 in London. The journal contains resolutions of the Congress, petitions to King George, and resolutions of particular localities. Suffolk County's resolution, in response to the blockading of Massachusetts Bay, indignantly opens with the complaint that "the power but not the justice, the vengeance but not the wisdom of Great Britain, which of old persecuted, scourged, and excited our fugitive parents from their native shores, now pursues us their guiltless children with unrelenting severity." These do not sound like loyal subjects of Great Britain, but rather citizens of an already autonomous community who object to the violation of their rights by a distant and hostile power. The Congress of 1774, however, still holds out the possibility for peace. The delegates ask the inhabitants of Massachusetts Bay to stay rebellion until the King responds to their grievances. In their petition to the King, the delegates "ask but for peace, liberty, and safety." At the same time, they seem to lay the groundwork for impending war by articulating their position and by mustering allies. One of the major documents authored at the Convention was an appeal to the inhabitants of Quebec: "We do not ask you, by this address, to commence acts of hostility against the government of our common Sovereign. We only invite you ... to unite with us in one social compact, formed on the generous principles of equal liberty."

The Journal illustrates the pervasiveness of the natural law and natural rights dialogue at the time of the Revolution. The delegates base their complaint upon violation of "English liberties," but suggest that those principles underlie the foundation of every government and society.

The second document I examined, Poor Richard's Almanac, printed in 1765, really excited me. This almanac by Richard Saunders (a.k.a. Benjamin Franklin) first summarizes for readers the government tariffs introduced by the Stamp Act. It then offers practical information such as moon phases for each month of the year, interspersed with poetry and unique advice, such as
which zodiac signs govern which parts of the body (my sign, Capricorn, apparently governs the knees; I was always a good runner). The Almanac offered particularly useful advice for farmers, such as the seven-page article entitled “The method of raising hemp in Pennsylvania.” No doubt even in modern times such information would be most coveted, although it might raise the alarm of today’s government censors.

I was surprised to discover that the Almanac is just a tiny pamphlet, only about ten pages in length. This cheap publication was readily accessible and appealed to the masses. As Franklin wrote in his autobiography, “I endeavor’d to make it both entertaining and useful, and it accordingly came to be in such demand, that I reap’d considerable profit from it, vending annually near ten thousand.”

Next on my list: a 1791 edition of Thomas Paine’s pamphlet Common Sense, published in Albany, New York, fifteen years after the original printing. Common Sense is a seminal document for scholars of international human rights law, one which scholars frequently cite as an exemplary 18th century practical application of the natural law theory advanced by philosophers such as Locke and Rousseau. For example, Louis Henkin, in his 1978 book, The Rights of Man Today, dedicates an entire chapter as a “Homage to Mr. Paine.”

Paine’s prose speaks of the American ideal of rugged individualism and iconoclastic politics. In addition to natural law principles, Paine uses historical examples—and his own audacity—to persuade the colonists to revolt. He writes of William the Conqueror, the father of the English monarchy, that a “French bastard landing with an armed banditti, and establishing himself king of England against the consent of the natives, is in plain terms a very paltry rascally original.—It certainly hath no divinity in it.”

Paine certainly reduced the debate on principles of liberty and natural rights to the most visceral level, a kind of rough and ready philosophy: “Volumes have been written on the subject of the struggle between England and America. Men of all ranks have embarked in the controversy, from different motives, and with various designs; but all have been ineffectual, and the period of debate is closed. Arms, as the last resource, decide the contest; the appeal was the choice of the king, and the continent hath accepted the challenge.”

No wonder Paine appealed to the common man. He must have given the authority of the printed word to the passions the colonists already felt in the wake of repressive British measures.

The list of documents at the Riesenfeld Center goes on and on. Were I not limited by space, I could discuss a rare copy of the Acts of 1789, passed by the first Congress of the United States, which includes an early printing of the Constitution. The Center also houses the proceedings and debates of the second Continental Congress and the Constitutional Convention, a first edition of Blackstone’s Commentaries on the Laws of England, and legal treaties of the Revolutionary period.

The Riesenfeld Center complements the Law Library’s more recent material, providing a distinct advantage to students and faculty researchers at Minnesota. The collection offers students the opportunity to research the law in a more traditional setting than Westlaw or Lexis, and to inject historical perspective into their legal research topics. It is my hope that the Arthur C. Pulling Rare Books Collection continues to grow and that students are encouraged by its riches to broaden the scope of their legal scholarship.

Christopher Chinn, Class of 2004

Christopher Chinn received his B.A. from Yale University in 1999 and his J.D. from the University of Minnesota Law School in 2004. He was a Research Assistant in the Riesenfeld Center during the year 2003-04.

[Note: “These are the times that try men’s soul” is a quotation from Thomas Paine’s The Crisis.]

Notes:
1 Journal of the Proceedings of the Congress held at Philadelphia, September 5, 1774 (London: Almon, 1775). Bound with: Extracts from the Votes and Proceedings of the American Continental Congress… (London: Almon, 1774). These are the original London reprints which followed the printing of both books in Philadelphia. They contain the first complete account of the first American Continental Congress.
2 Journal, 25.
3 Ibid., 63.
4 Extract, 80.
6 Thomas Paine, Common Sense (Albany: Webster, 1791), 17.
7 Ibid., 21.
Looking back on new additions to the Arthur C. Pulling Rare Books Collection during the past six months, a curator (at least this one) cannot help but feel a great sense of pride. While we continued our practice of adding significant works of early English and American law to the collection, we also purchased some very exciting works that strengthen the collection and represent areas in which we do not usually collect. We acquired two twentieth century works, both first editions in mint condition with dust jackets. We ventured into new terrain with the purchase of a mid-nineteenth century political cartoon satirizing the Fugitive Slave Law. In addition, we purchased a group of original documents in vellum and paper recording the freedom, marriage and naturalization of a mid-18th century Jamaican slave.

The following is a sampling of some of our new acquisitions:

John Woolman. Considerations on Keeping Negroes. Philadelphia: Benjamin Franklin and David Hall, 1762.

The first edition of a famous essay by one of the great Quaker leaders of the pre-Revolutionary antislavery crusade. Woolman, a tailor, became an abolitionist when his employer asked him to draw up a bill of sale for a slave woman. He wrote in his journal, "I was so afflicted in my mind that I said before my master, and thy friend, that I believed slavekeeping to be a practice, inconsistent with the Christian Religion." 1

A lovely piece, in original paper wrappers and stitching, printed by Benjamin Franklin.


The first edition of Burke's historic speech before Parliament in which he urges the repeal of the English tea duty. Delivered four months after the Boston Tea Party, Burke passionately calls on Parliament "to revert to your old principles—seek peace and ensure it—leave America ... to tax herself ... When you drive him hard, the boar will surely turn upon the hunters ... No body will be argued into slavery." (p. 52-53)

[The vicissitudes of a mid-18th century female Jamaica slave: from slavery to freedom, to marriage with a white Englishman and ownership of a plantation.] London, 1756-1769.

Eleven manuscript documents, on paper and vellum, recording the life of Anna Woodart, a slave and the daughter of a Jamaican plantation owner. Original documents record her freedom and inheritance of the plantation, her naturalization in England granting her and her issue "the same rights and privileges with English subjects born of white parents," and her marriage to a white Englishman.

Document, dated November 1763, from the Jamaican manuscript collection.
These documents offer a unique perspective on the legal and social aspects of slavery—and womanhood—in the British Empire. In addition, they provide an uncommon look at one plantation owner who in his will left property to one slave, and at the same time declared that he had branded forty of his slaves with his initials.

All documents are in excellent condition, many stamped with red wax seals, engraved royal seals, and revenue stamps.

The Fugitive Slave Law [1851], a political cartoon by Edward Williams Clay, etcher, engraver and caricaturist. The cartoon expresses Northern outrage of the law that permitted owners to seize an alleged fugitive without due process of law.


With orange and blue art deco pattern dust jacket. First edition, uncommon in dust jacket.

The autobiography of one of the most memorable attorneys of the 20th century, the man U.S. Supreme Court Justice Hugo Black described as one who, like Lord Erskine, James Otis, and others, "dared to speak in defense of causes and clients without regard to personal danger to themselves."^2


Autobiography of a black labor activist. First edition, first printing. With original dust jacket. Author's presentation copy to Tom Mooney.

Herndon was arrested on July 11, 1932 for leading a demonstration of some one thousand unemployed men and women in Atlanta. He was charged with violating a 1869 Georgia slave insurrection statute and was sentenced to twenty years of hard labor. His case ultimately was heard by the U.S. Supreme Court, which ruled in April 1937 that Herndon's conviction was in violation of the 14th amendment. Along with the Scottsboro case, Herndon's case was one of the most celebrated of the time.

The Law Library's copy bears the following inscription: "To Tom Mooney, with deepest proletarian greetings, Angelo Herndon, Mar. 16, 1937, New York City." Mooney, a socialist labor organizer, was sentenced to life imprisonment in connection with a bomb explosion in San Francisco in 1916; he was pardoned in 1939. Herndon's visit with Mooney at San Quentin Prison in 1936 is touchingly recounted in Let Me Live.

Katherine Hedin
Curator of Rare Books and Special Collections

Notes:
The Law Library welcomes papers, memorabilia and photographs from alumni to add to the Law School Archives. Several gifts have been made to the Archives during the past months:

University of Minnesota 1942 *Gopher*  
Gift of Barbara Ruud, Class of 1944

The papers of Matthias Nordberg Orfield  
Orfield (1884-1953) received a LL.B from the University of Minnesota Law School in 1912 and a Ph.D. in Political Science from the University of Minnesota in 1913. During the course of his career he was a practicing attorney, a lecturer in Political Science at the University of Minnesota, Deputy Attorney General for the State of Minnesota, and Special Assistant to the Attorney General of the United States. His papers include student notebooks, drafts of speeches, correspondence, and copies of his published works. In addition, Orfield’s papers contain several valuable photographs, including a picture of the Class of 1912, and several Law School commencement bulletins.

Documents from 1956-1957 regarding the formation of the Law School’s Legal Aid Clinic  
The Law School established one of the nation’s first clinical programs in 1913. However, in the fifty years subsequent to its founding it did not experience significant growth and development. As a result, in 1956 the Law School Council appointed a committee to study the possibility of establishing a Legal Aid Clinic. The Final Report of the Law School Council Committee on Establishing a Legal Aid Clinic is a valuable addition to the Archives. It is a crucial document in the history of the Law School’s clinical program, which today includes 17 clinics and involves 60 percent of the second and third year student body.

*Lights and Shadows*, by Miriam Fletcher Bennett  
Gift of Professor Daniel A. Farber.  
*Lights and Shadows* is a compelling autobiography of Miriam Fletcher Bennett, the daughter of Henry J. Fletcher, Professor of Law at the University of Minnesota Law School from 1895-1929 and founder of the *Minnesota Law Review*. In addition to containing information about Professor Fletcher, *Lights and Shadows* covers the early life of David T. Bennett, son of Miriam Bennett. David Bennett was a member of the Class of 1967, and, until his death in 1999, a partner with Gray, Plant, Mooty, Mooty, and Bennett. The Fletcher and Bennett families have been strong supporters of the Law School and the University of Minnesota. The Henry J. Fletcher Professorship of Law, held by Daniel A. Farber from 1987 to 2004, was established by Miriam Bennett in memory of her father. Her nephew, Russell M. Bennett, Class of 1952 and a partner with Gray, Plant, Mooty, Mooty, and Bennett, most recently served as Chair of the University of Minnesota’s “Campaign Minnesota,” which raised over $1.6 billion between 1996 and 2003. The Russell M. and Elizabeth M. Bennett Chair in Excellence at the University of Minnesota was established in 2004 in honor of the Bennetts’ service to the University.

The newest addition to our t-shirt collection!  
“The Fighting Mondales,” designed by the Law School Council.  
Presented to Walter F. Mondale (’56) at his cameo appearance in “Law Wars,” performed by T.O.R.T. (Theatre of the Relatively Talented), March 2004