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## Like Sand from the Pyramids: Using Rare Books and Manuscripts to Facilitate Object-Based Learning in the Law School Classroom

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# Like Sand from the Pyramids\*: Using Rare Books and Manuscripts to Facilitate Object-Based Learning in the Law School Classroom

Melissa M. Hyland\*\*

You were like a traveler who brings a little box of  
sand  
From the wastes about the Pyramids  
And makes them real and Egypt real.  
You were a part of and related to a great past,  
And yet you were so close to many of us.<sup>1</sup>

## Introduction

Pedagogy in law schools is undergoing something of a renaissance. Gone are the days when law school classes consisted entirely of lectures, coupled with the sharp questioning of a few students while the majority listened passively and took notes.<sup>2</sup> The ABA Standards now require law schools to incorporate more forms of

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\* Adapted from lines 10-11 of the poem "Father Malloy" by Edgar Lee Masters. See Edgar Lee Masters, "Father Malloy," SPOON RIVER ANTHOLOGY (1915).

\*\* Clinical Assistant Professor of Law and Reference and Faculty Research Services Librarian, Kathrine R. Everett Law Library, University of North Carolina School of Law. I would like to thank Professor John V. Orth, who graciously opened his Legal History course to the law library's Rare Book Collection and worked with me to introduce law students to the wealth of knowledge to be gained from studying rare law books. I would also like to thank Jesse D. Griffin, Cataloging & Metadata Services Librarian, for the many times that he assisted me in tracing items in the Rare Book Collection and identified potential titles for use with our students. Finally, I would like to thank the participants of the Kathrine R. Everett Law Library Scholarship Workshop for their valuable feedback on this project.

<sup>1</sup> Excerpt from Edgar Lee Masters, "Father Malloy," SPOON RIVER ANTHOLOGY (1915). Available via Project Gutenberg at <http://www.gutenberg.org/cache/epub/1280/pg1280-images.html>.

<sup>2</sup> Rohan Havelock, *Law Studies and Active Learning: Friends Not Foes*, 47 LAW TCHR. 382, 383 (2013).

experiential learning into the curriculum, and the use of varied teaching methodologies is also strongly encouraged.<sup>3</sup> Law faculty are implementing new teaching methods designed to foster student engagement and to provide students with opportunities to learn in different ways.<sup>4</sup>

In a legal education field filled with varying strategies for training the next generation of lawyers, it is imperative that law librarians and archivists contribute to this scholarly discussion by highlighting the many educational benefits to be gained from utilizing the rich collections of rare legal books and manuscripts in law libraries. While law librarians and archivists understand the importance of rare legal books and manuscripts to the educational mission of law schools, little scholarly attention has yet been devoted to exploring the educational theories that can explain *why* classroom sessions using special collections produce such powerful learning experiences and *how* they might be used in a more intentional manner to contribute to student achievement in the classroom.<sup>5</sup>

This article advocates adding object-based learning, utilizing rare legal books and manuscripts, to the legal education toolbox. Object-based learning is an educational methodology that explains the many learning benefits resulting from student engagement with tangible objects of material culture. Studies into the use of this methodology with undergraduate and graduate students are rather

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<sup>3</sup> See AMERICAN BAR ASSOCIATION, ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2019-2020 16-18, 23 (2019); see also MICHAEL H. SCHWARTZ, SOPHIE M. SPARROW & GERALD F. HESS, TEACHING LAW BY DESIGN: ENGAGING STUDENTS FROM THE SYLLABUS TO THE FINAL EXAM 25 (Carolina Academic Press 2017).

<sup>4</sup> See, Schwartz, Sparrow & Hess, *supra* note 3, at 123 (outlining a variety of experiential methods and exercises); Gerald F. Hess, *Principle 3: Good Practice Encourages Active Learning*, 49 J. LEGAL EDUC. 401 (1999) (discussing various means for implementing the active learning methodology into the law school classroom).

<sup>5</sup> See e.g., Lois Hendrickson, *Teaching with Artifacts and Special Collections*, 90 BULL. OF THE HIST. OF MED. 136 (2016) (“Despite decades of interest in teaching with primary sources, however, pedagogical engagements with material culture are focused primarily on curriculum units for K-12.”); Ann Schmiesing & Deborah Hollis, *The Role of Special Collections Departments in Humanities Undergraduate and Graduate Teaching: A Case Study*, 2 PORTAL: LIBRARIES AND THE ACADEMY 465 (2002) (“There is little research in either pedagogical or library science journals on the role that special collections departments can play in enhancing the teaching of the humanities.”).

new, but research indicates that object-based learning produces measurable positive results across the curriculum.<sup>6</sup>

Part I of this article provides an overview of object-based learning, with subsections addressing its relationship to active learning, its incorporation of multiple learning styles, and its ability to encourage affective learning. Part II recounts my experience with object-based learning activities in both Legal History and Advanced Legal Research courses. Finally, Part III considers some of the challenges for implementing object-based learning in the law school classroom. Ultimately, it is my hope that this article launches a larger conversation amongst law librarians and archivists about how we might utilize the rare treasures in our institutions to both enrich student learning and support our law faculty in their educational mission.

### I. An Overview of Object-Based Learning

Object-based learning (“OBL”) originated in museums, where curators sought to facilitate the delivery of subject-based knowledge and foster engagement with important concepts and issues inherent in their collections.<sup>7</sup> University archives and museums in the United Kingdom were the first institutions of higher education to adapt this methodology for postsecondary education.<sup>8</sup> At University College London, Helen J. Chatterjee and her colleagues worked alongside faculty to design OBL activities that utilized archival materials and rare books as objects to introduce students to new knowledge and help them to engage with more abstract theories and ideas implied by the objects.<sup>9</sup>

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<sup>6</sup> See Leonie Hanna et al., *Object-Based Learning: A Powerful Pedagogy for Higher Education*, in MUSEUMS AND HIGHER EDUCATION WORKING TOGETHER: CHALLENGES AND OPPORTUNITIES 159, 163 (Anne Boddington, Jos Boys & Catherine Speight eds., 2013).

<sup>7</sup> Arabella Sharp et al., *The Value of Object-Based Learning Within and Between Higher Education Disciplines*, in ENGAGING THE SENSES: OBJECT-BASED LEARNING IN HIGHER EDUCATION 97 (Helen J. Chatterjee & Leonie Hannan eds., 2015).

<sup>8</sup> *Id.* at 97.

<sup>9</sup> *Id.* Qualitative studies at University College London using student surveys also indicated that OBL sessions provided students with “a distinct sensory experience that extends beyond [the] didactic precedence of the traditional classroom or lecture theatre [sic] setting, enhancing the acquisition of knowledge and understanding.”). *Id.*

Law librarians and archivists will recognize the practical elements of object-based learning. Any classroom presentation or visit to the special collections in which law students are actively engaged with rare books and manuscripts is technically a form of object-based learning.<sup>10</sup> Moreover, librarians and archivists understand from firsthand experience how students react when handling items of historical legal importance.<sup>11</sup> The power of that tactile experience contributes to meaningful learning that remains with students long after a session ends.<sup>12</sup> The following subsections outline the essential elements of an OBL session and highlight the educational benefits of this unique teaching strategy.

### A. Component Parts of an Object-Based Learning Activity

In its simplest form, an OBL activity requires only two things: an object and a plan for using that object to support student learning. The object in OBL is broadly defined and includes any item of material culture that connects to the learning objectives set by the instructor.<sup>13</sup> Rare legal books and manuscripts, the focus of this

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<sup>10</sup> See e.g., Joel Silver, *The Role of Rare Books in Law Libraries*, 20 LEGAL REFERENCE SERVICES Q. 85, 89 (2001); Douglas W. Lind, *Legal History Learned as Legal Bibliography Well Told: The Case for Rare Book Courses in the Law School Curriculum*, 109 LAW LIBR. J. 309, 310 (2017).

<sup>11</sup> See Silver, *supra* note 10, at 90 (“[A] rare book possesses a magnetism that has the power to exert its influence on those with whom it comes into contact.”); Claire M. Germain, *Rediscovering Rare Books in an Electronic Age*, 20 LEGAL REFERENCES SERVICES Q. 93, 96 (2001).

<sup>12</sup> See Stephen Greenblatt, *Resonance and Wonder*, in EXHIBITING CULTURES: THE POETICS AND POLITICS OF MUSEUM DISPLAY 42, 42 (Ivan Karp and Steven D. Lavine eds., 1991); David G. Brown & Curtis W. Ellison, *What is Active Learning?*, in THE SEVEN PRINCIPLES IN ACTION: IMPROVING UNDERGRADUATE EDUCATION 39, 41 (Susan R. Hatfield et al. eds., 1995); Germain, *supra* note 11, at 96; Lind, *supra* note 10, at 312.

<sup>13</sup> Helen J. Chatterjee et al., *An Introduction to Object-Based Learning and Multisensory Engagement*, in *Engaging the Senses: Object-Based Learning in Higher Education* 1, 8 (Helen J. Chatterjee & Leonie Hannan eds., 2015) (“For example if a student of Shakespeare is to understand how the plays were read or received in eighteenth-century England, what better way to engage with this question than by turning the pages of a contemporary book of Shakespeare’s works, acknowledging the price paid by its owner, the value of the binding, the format of its pages, and, potentially, the marginal annotations of its first or subsequent readers.”).

article, fit neatly within this definition, as they are unique textual objects already used to introduce students to the study of historical bibliography and its focus on the book as a tangible record of its time and place.<sup>14</sup> It is those unique characteristics of the book as an object that can be utilized in OBL. In order to select the appropriate objects for an OBL session, the instructor and the librarian must clearly outline the learning objectives and select objects that represent elements of those learning objectives, whether those objectives be fundamental knowledge acquisition or higher-level engagement with concepts and ideas.<sup>15</sup>

The lesson plan for an OBL activity must be intentionally designed to support student learning throughout the session. Following an initial introduction to the objects and a tutorial on proper handling procedures, the instructor then assumes the role of facilitator as students interact with the objects and become more active participants in the learning process. At this point, students need instructional support, rather than direct instruction, to ensure that their activity progresses toward the learning objectives.<sup>16</sup> Educational scholars refer to this critical instructional support as “scaffolding,” defined as the provision of background information or questions at just the right moment to ensure that students reach the stated learning objectives.<sup>17</sup> Scaffolding provides the necessary support needed for learning environments with high levels of student activity and can be artfully used to guide students to practice new skills, critically engage with new information, or reevaluate prior knowledge.<sup>18</sup>

Instructional support in OBL is also provided by the objects themselves. The objects create the context required for learning to occur,<sup>19</sup> while the instructor provides needed background information and raises critical questions throughout the session.<sup>20</sup>

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<sup>14</sup> *Id.* at 8; Lind, *supra* note 10, at 311-12.

<sup>15</sup> Chatterjee, *supra* note 13, at 9-10.

<sup>16</sup> Cindy E. Hmelo-Silver et al., *Scaffolding and Achievement in Problem-Based and Inquiry Learning: A Response to Kirschener, Sweller and Clark*, 42 EDUCATIONAL PSYCHOLOGIST 99, 100 (2007).

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 101.

<sup>19</sup> Deborah Maranville, *Infusing Passion and Context into the Traditional Law Curriculum Through Experiential Learning*, 51 J. LEGAL EDUC. 51, 56 (2001).

<sup>20</sup> Hmelo-Silver et al., *supra* note 16, at 101 (“Teachers play a significant role in scaffolding mindful and productive engagement with the task, tools, and peers. They guide students in the learning process, pushing them to think deeply, and model the kinds of

Objects, as tangible records of history and culture, represent “a vast continuum of abstract ideas and interrelated realities,”<sup>21</sup> and they provide students with “a context from which to speak about, question, and write about the represented concepts through their interactions with the objects.”<sup>22</sup> Context is particularly important when students lack any background knowledge about a topic or are considering a conceptually challenging idea for the first time.<sup>23</sup>

### **B. Object-Based Learning is a Form of Active Learning**

OBL is a form of active learning and places student activity at the center of the learning process.<sup>24</sup> In an active learning session, students are “doing things and thinking about the things they are doing.”<sup>25</sup> Various other educational strategies also fall within the umbrella of active learning, including inquiry-based learning and experiential learning.<sup>26</sup> The types of classroom activities that constitute active learning vary widely and can be adjusted to meet the needs of a specific topic or class session. For example, during a normal lecture, pausing instruction and asking students to clarify and revise their notes with a classmate constitutes active learning in its simplest form.<sup>27</sup> Increased student activity can be achieved with the use of brief, focused practice exercises interspersed throughout a lecture.<sup>28</sup> These short bursts of student activity serve to break up the lecture and allow students to test their new knowledge or skills.<sup>29</sup> Similarly, an experiential learning activity

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questions that students need to be asking themselves, thus forming a cognitive apprenticeship.”)

<sup>21</sup> Rosalind Duhs, *Learning from University Museums and Collections in Higher Education: University College London*, 2010 UNIVERSITY MUSEUMS AND COLLECTIONS 183, 184 (2010).

<sup>22</sup> *Id.*

<sup>23</sup> Maranville, *supra* note 19, at 56-57.

<sup>24</sup> Chatterjee et al., *supra* note 13, at 1.

<sup>25</sup> C.C. Bonwell & J.A. Eison, *Active Learning: Creating Excitement in the Classroom 2* (ASHE-ERIC Higher Educ. Rpt. No. 1) (Washington, D.C.: George Washington University, School of Education and Human Development, 1991).

<sup>26</sup> Michael Prince, *Does Active Learning Work? A Review of the Research*, 93 J. of Engineering Educ. 223, 225 (2004); Hmelo-Silver et al., *supra* note 16, at 99; Duhs, *supra* note 21, at 183.

<sup>27</sup> Bonwell & Eison, *supra* note 25, at 10-11.

<sup>28</sup> Nicole Downing, *The Five-Minute Exercise: A Method for Using Modified Lectures in the Legal Research Classroom*, 38 LEGAL REFERENCE SERVICES QUARTERLY 1 (2019).

<sup>29</sup> *Id.* at 9.

asking students to draft a noncompete agreement based on a specific client scenario requires possibly the highest levels of student engagement and activity. In each of these examples, student activity and involvement contribute to increased engagement with the underlying content.

Active learning stands in contrast to passive learning, which is characterized by an overall *lack* of student activity.<sup>30</sup> In the passive learning environment, a professor lectures and students listen.<sup>31</sup> There is little participation by students, and learning depends largely on students' abilities to maintain attention and absorb new information.<sup>32</sup> Students learn from both passive and active teaching strategies, and both methods are necessary to law school instruction.<sup>33</sup> However, research indicates that active learning strategies are better-suited to instructional objectives requiring higher-level thinking, including discussion of abstract concepts, application of knowledge to new situations, and the development of problem-solving skills.<sup>34</sup> Students involved in active learning sessions actually participate in their learning, a process which aids in drawing connections between their own background knowledge and new concepts.<sup>35</sup> In the law school classroom, active learning sessions help students "understand legal concepts and theory, improve critical thinking, and develop professional skills and values."<sup>36</sup>

OBL fits neatly within the active learning pedagogy umbrella because it provides students with the opportunity to actively engage with physical objects as a part of the learning process. Students are holding rare books in their hands, turning brittle pages, and scanning their eyes over marginalia and ownership marks from centuries past. Hands-on activities involving rare books and manuscripts require students "to 'think' as well as to physically 'do,'" which engages them in the learning process and draws them into new knowledge in ways that cannot be as easily achieved in the

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<sup>30</sup> *Id.* at 3-4.

<sup>31</sup> Hess, *supra* note 4, at 401.

<sup>32</sup> Bonwell & Eison, *supra* note 25, at 8; Prince, *supra* note 26, at 225-26.

<sup>33</sup> Hess, *supra* note 4, at 401; Downing, *supra* note 28, at 2.

<sup>34</sup> Bonwell & Eison, *supra* note 25, at 21; Havelock, *supra* note 2, at 382; Brown & Ellison, *supra* note 12, at 41; Prince, *supra* note 26, at 225.

<sup>35</sup> Hanna, *supra* note 6, at 161.

<sup>36</sup> Hess, *supra* note 4, at 402.

Socratic classroom.<sup>37</sup> OBL thus hinges on the activity and involvement of students in the session, and much of its effectiveness derives from that intimate connection between students and the objects of the past.

While OBL is certainly a form of active learning, it is also distinctly different from other instructional strategies within the active learning pedagogy. The physical act of handling the rare objects involves learning styles not often utilized in the modern classroom. As discussed more in the next subsections, OBL is inherently multisensory, requiring students to take in information through multiple senses to fully grasp an object's meaning. Moreover, OBL also has the unique ability to appeal to students' emotions and interests, thus creating an affective learning environment that encourages them to make deep and lasting connections with the knowledge gleaned from the objects.

### **C. Object-Based Learning is a Multisensory Learning Experience**

For many years, educational scholarship focused on the idea of learning styles.<sup>38</sup> Educational scholars believed that people learned best when information was presented to them via their preferred learning style, whether that be visual, auditory, tactile, or kinesthetic.<sup>39</sup> More recent research found that learning is a more fluid process, and people benefit from using a variety of learning styles.<sup>40</sup> Students retain content for longer periods of time when new information is presented in multiple forms.<sup>41</sup> A comprehensive law

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<sup>37</sup> See Chatterjee, *supra* note 13, at 3.

<sup>38</sup> Harold Pashler et al., *Learning Styles: Concepts and Evidence*, 9 PSYCHOLOGICAL SCIENCE IN THE PUBLIC INTEREST 105, 107 (2008).

<sup>39</sup> *Id.* at 107-08 (discussing how learning styles taxonomies became prevalent in educational literature).

<sup>40</sup> *Id.* at 108 (noting that an individual's preference for a certain learning style had "little, if any, relationship to an individual's objectively measured specific-aptitude profile"); PETER C. BROWN ET AL., *MAKE IT STICK: THE SCIENCE OF SUCCESSFUL LEARNING* 4 (Harvard Univ. Press, 2014) ("People do have multiple forms of intelligence to bring to bear on learning, and you learn better when you 'go wide,' drawing on all of your aptitudes and resourcefulness, than when you limit instruction or experience to the style you find most amenable.").

<sup>41</sup> Brown et al., *supra* note 40, at 4; Chatterjee, *supra* note 13, at 8 ("While it is likely that individuals will have a preference for one or more learning styles, the value of object-based learning is that it

school curriculum strives to incorporate a variety of learning styles, so that students have the opportunity to encounter knowledge and ideas multiple times and in different ways.

OBL is a multisensory learning experience that incorporates both students' visual and tactile senses.<sup>42</sup> Cognitive scientists and education scholars alike recognize that memory and the ability to retrieve information is sharpened when multiple senses are engaged in the learning process.<sup>43</sup> When a student engages with new information in a multisensory learning activity, larger networks of the brain are activated and that multisensory exposure results in superior memory capacity.<sup>44</sup>

OBL studies in museums also support the research on multisensory learning – finding that tactile engagement with objects aids in the development of “richer” memories when compared with learning activities that rely on visual or auditory delivery alone.<sup>45</sup> OBL is unique amongst educational methods because it engages students' tactile sense, requiring them to physically handle and manipulate objects as a part of the learning process. Thus, at any given moment in an OBL session, students are actively using their visual, tactile, and perhaps even auditory, senses to take in new information. As Shams and Seitz noted in their study on the benefits of multisensory learning, our world is a multisensory world, and the human mind “has evolved to learn and operate in natural environments in which behavior is guided by information across multiple sensory modalities.”<sup>46</sup> Providing law students with the opportunity to learn through their sense of touch not only provides

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affords the learner opportunities to engage with knowledge in multiple ways, using multiple modalities and thus accommodating a range of different styles and individual preferences.”).

<sup>42</sup> Anne Tiballi, *Engaging the Past: Haptics and Object-Based Learning in Multiple Dimensions*, in *ENGAGING THE SENSES: OBJECT-BASED LEARNING IN HIGHER EDUCATION* 57, 61 (Helen J. Chatterjee & Leonie Hannah eds., 2015).

<sup>43</sup> See e.g., MARIA MONTESSORI, *THE ABSORBENT MIND* (Holt, Rinehart and Winston, 1967); Antonia Thelen et al., *Multisensory Context Portends Object Memory*, 24 *CURRENT BIOLOGY* 734, 734 (2014); Ladan Shams & Aaron R. Seitz, *Benefits of Multisensory Learning*, 12 *TRENDS IN COGNITIVE SCIENCE* 411, 415 (2008).

<sup>44</sup> Shams & Seitz, *supra* note 42, at 414.

<sup>45</sup> Sharp et al., *supra* note 7, at 113; Alberto Gallace & Charles Spence, *A Memory for Touch: The Cognitive Psychology of Tactile Memory*, in *TOUCH IN MUSEUMS: POLICY AND PRACTICE IN OBJECT HANDLING* 163, 174 (Helen J. Chatterjee ed., 2008).

<sup>46</sup> Shams & Seitz, *supra* note 43, at 411.

them with another means for understanding new information, but it creates a more natural learning environment in which they use multiple senses to grapple with new concepts and ideas.

#### **D. OBL Engages Students in Affective Learning, Leading to Increased Student Motivation and Attention**

In addition to providing students with a multisensory learning experience, OBL is also a unique opportunity for affective learning in the law school classroom. Affective learning generally refers to those educational activities that engage students' emotion and interest, usually with the result of producing increased motivation and attention.<sup>47</sup> These types of learning activities connect with and appeal to students' memory and emotions in ways that a classic lecture usually cannot and positively impact memory retrieval, decision-making, and creativity.<sup>48</sup> Meaning-making, and indeed the learning process, is richer when students naturally feel invested in or intrigued by the subject matter. Emotion is "what will connect people to a topic, humanizing the issues involved, showing them why they should concern themselves, and forging within them a stake in the knowledge communicated."<sup>49</sup> Affective learning tends to naturally occur whenever students are presented with objects rich in history or culture.<sup>50</sup>

Cognitive scientists have also found that emotional state impacts how individuals think.<sup>51</sup> For instance, when a student in an OBL session encounters an object that elicits specific emotions, whether it be happiness or anger or something in between, those emotions actually cause the brain to switch between different ways of thinking.<sup>52</sup> Moreover, despite what might be the obvious conclusion that a positive affect is ideal for learning, early research into affective learning suggests that the various human emotions all contribute to learning and memory development.<sup>53</sup> Thus, teaching strategies

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<sup>47</sup> R.W. Picard et al., *Affective Learning – A Manifesto*, 22 *BT Technology J.* 253, 253 (2004).

<sup>48</sup> *Id.*

<sup>49</sup> Lainie Schultz, *Object-Based Learning, or Learning from Objects in the Anthropology Museum*, 40 *REVIEW OF EDUCATION, PEDAGOGY, AND CULTURAL STUDIES* 282, 291 (2018).

<sup>50</sup> Gallace & Spence, *supra* note 45, at 165; Greenblatt, *supra* note 12, at 43.

<sup>51</sup> Picard et al., *supra* note 47, at 254.

<sup>52</sup> *Id.* (citing MARVIN MINSKY, *THE EMOTION MACHINE: COMMONSENSE THINKING, ARTIFICIAL INTELLIGENCE, AND THE FUTURE OF THE HUMAN MIND* (Simon & Schuster, 2007)).

<sup>53</sup> *Id.*

should encourage students to make meaningful connections with new information on both cognitive and affective levels.

OBL is uniquely suited to fostering an affective learning environment. In discussing the power of the displayed object in a museum, Stephen Greenblatt observed that such an object can “reach out beyond its formal boundaries to a larger world, to evoke in the viewer the complex, dynamic cultural forces from which it has emerged and for which it may be taken by a viewer to stand.”<sup>54</sup> Objects of historical and cultural importance have an innate ability to cause wonder, essentially “stop[ping] the viewer in his or her tracks, to convey an arresting sense of uniqueness, to evoke an exalted attention.”<sup>55</sup> The result of an OBL session is an active, multisensory learning experience that naturally appeals to students’ interest, thereby producing a stronger retention of learning objectives.<sup>56</sup>

### **E. The Potential Benefits of Object-Based Learning for Law Students**

Law students often begin their legal studies with little background knowledge of legal doctrine, and it takes time to develop both the doctrinal knowledge and the analytical skills necessary for legal practice.<sup>57</sup> In such unfamiliar terrain, it can be immensely helpful to provide students with a context for their learning – a baseline in the acquisition of new knowledge that can be equally accessed by learners with different backgrounds and unique life experiences.<sup>58</sup> Rare books and manuscripts can serve as that initial anchor for students, providing them with a concrete example from which to approach interpretation and analysis.<sup>59</sup>

Ultimately, OBL is not an educational methodology that can replace traditional methods of legal instruction. The scheduling of periodic OBL sessions into a law course schedule can provide both a refreshing break from periods of intense passive learning and also create a more relaxed learning environment in which students are

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<sup>54</sup> Greenblatt, *supra* note 12, at 42.

<sup>55</sup> *Id.*

<sup>56</sup> Duhs, *supra* note 21, at 184.

<sup>57</sup> Havelock, *supra* note 2, at 382, 401-02.

<sup>58</sup> Lydia Morgan, *Understanding Dworkin Through Art: Object-Based Learning and Law*, 52 *The Law Teacher* 53, 65.

<sup>59</sup> *Id.* at 62 (“OBL becomes a means to overcome that first conceptual hurdle by approaching interpretation not theoretically but practically.”).

encouraged to ask questions, interact with the objects, and consider legal issues raised by those objects. For law students, OBL provides an opportunity to approach new knowledge and ideas from a distinctly different angle. Rather than gleaning the information from reading cases and listening to lectures, OBL allows students to interact with objects that quite literally personify the knowledge they are charged with mastering.

A balanced law school curriculum incorporates multiple teaching methodologies to ensure that students are learning the fundamental legal principles *and* are provided with ample opportunity to practice and sharpen their growing legal skills. OBL is one such teaching strategy that can simultaneously foster active student engagement, appeal to multiple learning styles, and pique students' emotions and curiosity using rare objects.

## **II. Examples of Object-Based Learning in the Law School Classroom**

The following are two examples of OBL sessions designed to introduce law students to information that was either entirely new to them or to encourage students to discuss the concepts and issues raised by the objects themselves. The first example of OBL is drawn from my work as an embedded librarian in a legal history course, and the second example is taken from my work as an instructor of a legal research class.

For the past two years, I had the opportunity to serve as an embedded librarian in the Legal History course taught by Professor John V. Orth at the UNC School of Law.<sup>60</sup> Professor Orth structured this course so that it alternated between lecture days and discussion days. On lecture days, he introduced students to the important individuals, events, and trends in the development of the American legal system. On discussion days, he led students in discussions of the concepts and ideas underpinning the development of the common law tradition, seeking to enrich their understanding of American, and more specifically, North Carolina, legal history.

As the embedded librarian, I brought selected books to each class session, and I came prepared with an understanding of the provenance, unique features, and relevance of each item to the class

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<sup>60</sup> Professor John V. Orth serves as the William Rand Kenan, Jr. Professor of Law at Carolina Law. He teaches first-year Property, Trusts & Estates, and Legal History. His professional biography can be viewed at <https://law.unc.edu/people/john-v-orth/>.

topic.<sup>61</sup> Rare books both supplemented the historical information conveyed via lecture and served as enrichment tools on discussion days. A typical class session involved the use of 2-3 items from the rare book collection,<sup>62</sup> and they were introduced to the students at the beginning of each session. During this general introduction of the rare books, Professor Orth and I provided students with important background information on the objects and their places within the larger topic or discussion of the class period. Because Professor Orth wanted to draw a connection to North Carolina legal history, I intentionally highlighted any connections that the objects had to North Carolina attorneys or important moments in North Carolina legal history.

A series of three classes of lecture and discussion on William Blackstone provides a clear example of the potential of OBL in the law school classroom. During the first lecture in the module, Professor Orth introduced students to William Blackstone and his major works. We supplemented this lecture with a folio of Blackstone's *The Great Charter and the Charter of the Forest with Other Authentic Instruments* (1759) and a two-volume set of *Law Tracts* (1762). These editions were used during lecture to help the students understand the gradual progression from Blackstone's original lectures at Oxford University to his development of the *Commentaries on the Laws of England*.

The UNC Law Library copy of *Law Tracts* is of special importance to North Carolinians because it was originally owned by William Hooper, North Carolina's representative to the Continental Congress and a signer of the Declaration of Independence. His bookplate and signature are found within both volumes, and students are always fascinated to learn that they are holding the same books that this important figure used in his legal practice. Thus, even though we spent the class period largely thinking about the development of the English common law, Professor Orth was able to use

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<sup>61</sup> Appendix A is an outline of the rare books selected for use during the first half of the Spring 2020 semester. I used this chart to track titles that Professor Orth and I selected for use with the students, and I included special notes about the objects that I wanted to share with the students. Classes 3-5 from Appendix A are specifically discussed here.

<sup>62</sup> The rare book collection at the Kathrine R. Everett Law Library includes over 2,000 volumes that trace the development of law and legal practice in North Carolina after 1783 and provide an overview of Anglo-American legal literature after 1500.

this specific copy of Blackstone's *Law Tracts* to highlight for students how important Blackstone was to the development of North Carolina's legal tradition.

The second class in this series was a discussion day focusing on Blackstone's *Commentaries*. Students read portions of the *Commentaries* before class and had a general idea of how they were organized and structured. At the beginning of the session, Professor Orth read aloud from a late 18<sup>th</sup> century letter written by a young North Carolina attorney to his father in England. In that letter, the young man asked his father to purchase and send him his own set of Blackstone's *Commentaries*, as it was critical to his study of the law. I brought two editions of the *Commentaries* for students to explore – a 1796 edition printed in Dublin and an earlier 1771 edition printed in Philadelphia. Both editions came from the libraries of prominent North Carolina attorneys, but the Philadelphia printing of the *Commentaries* was of special relevance to the discussion. That edition contains a complete list of subscribers, including names like John Adams and several important figures from North Carolina history. Even though the class focused on developments in the English legal tradition, this volume impressed upon students how influential Blackstone was to the development of America's legal system.

During the last session on Blackstone, which closed off the series and reiterated the importance of Blackstone for the development of America's legal tradition, I brought in two law school textbooks – one used for many years at UNC School of Law (1899) and another used during the earliest years of the law program at Trinity College (1895), later Duke Law School. These textbooks, used to train North Carolina attorneys during the early 20<sup>th</sup> century, were commentaries authored by John Manning, Jr.<sup>63</sup> and Samuel Mordecai<sup>64</sup> on Blackstone's *Commentaries*. Both copies contain student

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<sup>63</sup> John Manning, Jr. was appointed as professor of law at the University of North Carolina in 1881, filling the role previously held by the law program's founder, William H. Battle. Manning also served North Carolina as a practicing attorney, representative to Congress, and member of the North Carolina General Assembly. See Elizabeth W. Manning, *John Manning, Jr.*, NCPEDIA (Jan. 1, 1991, <https://www.ncpedia.org/biography/manning-john-jr>).

<sup>64</sup> Samuel Mordecai was appointed as senior professor and dean of Trinity College School of Law in 1904. Prior to serving at Trinity College, he practiced law in Raleigh and lectured as an assistant professor of law at Wake Forest College. See Mark C. Stauter, *Samuel Fox Mordecai II*, NCPEDIA (Jan. 1, 1991, <https://www.ncpedia.org/biography/mordecai-samuel-fox-ii>).

marginalia, and students were impressed to see the direct connection between Blackstone and legal education in North Carolina. The books served as a physical connection to past generations of law students, and there could be no clearer way to underscore the importance of Blackstone to North Carolina law than through this physical record.

The development of the common law, the influence of English legal scholars on early American attorneys, and the role that early English law books played in shaping North Carolina legal practice are all concepts that might have been communicated to students via lecture. Instead, students in Professor Orth's Legal History course were introduced to the actual texts that physically manifested those concepts. They saw the ownership marks, read the notes in the margins, and felt the weight of the books held in the hands of attorneys who shaped North Carolina's legal future. Students also used these objects as a springboard for discussion and reflection on these concepts. Professor Orth gradually led students to a deeper understanding of these issues through student interaction with the objects and instructor questioning designed to get them thinking about the larger themes implied by the physical objects. These OBL sessions provided students with not only an understanding of *who* Blackstone was but also insight into *how* an English legal scholar played such an important role in the development of a legal system for a new country similar to, and yet different from, the birthplace of the common law. The learning in those OBL sessions was deep and meaningful.<sup>65</sup>

OBL can also be utilized effectively in single sessions targeting a very specific learning objective. In an Advanced Legal Research course at UNC School of Law, I used an OBL session to introduce students to the history and development of the case reporting system in North Carolina. To support an introductory lecture on case reporting in the common law tradition, I selected a series of reporters that highlighted for students how the system changed over time. Early editions of nominative reporters were chosen for their content, so that students could see how these early reports were written by observers and often contained more than just a reporting of a case holding. These were juxtaposed against more modern reporters that carried the more familiar judicial opinions.

Following an introductory lecture on the development of the case reporter system, students divided into groups of three and received a set of case reporters to review. Students then discussed with their group members the noticeable similarities and differences between

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<sup>65</sup> Sharp et al., *supra* note 7, at 113.

the reporters, and groups shared with the class their impressions of those early reporters and considered how third-party records of events might be considered unreliable for determining judicial precedent. Students left that OBL session with a clearer understanding of the development of the common law case reporter system and understood from their own personal interaction with nominative reporters *why* it is so helpful that the modern reporting system now relies on judges to draft their own opinions. Again, this OBL session helped the students to both learn new content knowledge and understand the importance of judicial precedent from a different angle – as seen through older nominative case reporters.

OBL activities supplement and enrich the law school curriculum. They spark students' interest and provide a means for their active participation in their own learning. OBL adds a multisensory element to otherwise lecture-heavy courses and provides a useful context for students engaging for the first time with more conceptually challenging ideas. In the two examples included in this article, students encountered new information and ideas, and they used the rare books as tools to aid them in considering that new content from a variety of different angles. The rare books, teeming with historical significance, provided students with a direct connection to the past and inevitably produced that sense of awe that one experiences when handling objects of rarity and importance.<sup>66</sup> They also allowed students to look and think beyond the classroom setting, challenging them to consider the ramifications of our history for the development of the future. Throughout the semesters in which I incorporated rare law books into the law school classroom, I repeatedly had students visit my office to tell me how much the books enriched their experiences and piqued their interest in the law library's collection. My experiences with students at the UNC School of Law bears out what Chatterjee and her colleagues found with university undergraduates – OBL truly does enhance student learning.

### **III. Implementation: Further Opportunities and Challenges**

The introduction of increased student activity into the classroom naturally necessitates a higher level of preparation by the instructor. As OBL incorporates not just increased student activity, but also the introduction of additional objects into the classroom, no discussion of OBL would be complete without a recognition of some of the unique challenges inherent in successfully implementing this type of learning activity.

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<sup>66</sup> Greenblatt, *supra* note 12, at 42.

### **A Training Students in the Handling of Rare Materials**

Chief among these challenges is the simple fact that students will be handling rare legal books and manuscripts – items that often-times cannot be replaced and are of special value to law schools and libraries. Nothing lasts forever, and that is never truer than in the case of rare legal books and manuscripts. Any interaction with these materials will inevitably contribute, even in smallest of ways, to the degradation of the books over time. However, rare books and manuscripts serve an important educational function and should be accessible to faculty and students for teaching and learning.<sup>67</sup> Most collections are not meant to be hidden away in climate-controlled rooms, totally shielded from view.<sup>68</sup>

Proper training in the handling of rare materials can do much to alleviate many of the concerns associated with bringing rare materials into the classroom.<sup>69</sup> When using rare materials in the Legal History course, for example, students were initially instructed on the proper procedures for handling rare books and manuscripts. A brief lecture on how to handle rare books and manuscripts took only a few minutes and was done on the first day of the semester. Students also practiced proper handling techniques with sturdier items from the collection, including how to hold books in their hands, carefully turn brittle pages, and use book cradles and other tools to allow books to safely rest open for closer examination.

One other strategy that can effectively reduce aimless perusing in rare books is to mark relevant sections ahead of time. For instance, when I wanted to draw students' attention to a specific section of marginalia in a text, I inserted a place-marker into the book and explained to students that relevant sections for that day's class had been marked. The instructional support required for any OBL session is also an opportunity for a librarian to monitor the use of the rare objects throughout the session, both to answer student questions and to ensure that students continue to safely handle the objects.

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<sup>67</sup> See *e.g.*, Germain, *supra* note 11, at 93 (“Books should be treated not as museum pieces but as usable objects, accessible to all.”).

<sup>68</sup> Meredith E. Torre, *Why Should Not They Benefit from Rare Books?: Special Collections and Shaping the Learning Experience in Higher Education*, 57 LIBRARY REVIEW 35, 38 (2008) (“A rare book, no matter how intrinsically valuable or monetarily priceless, signifies little until a human engages with it.”).

<sup>69</sup> *Id.*

Finally, certain objects can be kept in reserve at the front of the room for students to view with the direct supervision of the librarian. These include any books of exceeding rarity, objects that are particularly fragile, or books that are so large that they do not easily lend themselves to handling by students. Folios are a good example of this kind of object because they are so large and impressive that students *want* to see them, but they also cannot be expected to carefully lift or move the items on their own. In the Legal History course, we introduced students to those texts along with any other items brought for student use, but students waited until the end of session to view those larger items. Students often asked deep and thoughtful questions about these items because they already had the benefit of hearing the lecture and interacting with other selected materials during earlier parts of the class.

### **B. Advanced Preparation and Coordination**

Another unique challenge for OBL is the preparation and coordination that is required in advance to ensure that (1) the selected objects support the stated learning objectives and (2) students are provided enough background information to ensure they meet the goals for the session.

Professor Orth and I met to review the course syllabus and discuss authors, titles, and topics to be supported by the law library's rare book collection. Following this initial meeting to arrange the general schedule for the rare books, I spent time in the rare book collection tracing our various copies of the desired texts and ensuring that I had a thorough understanding of their provenance and any unique features.

Following that initial planning session, the rare books chosen for use in class tended to evolve on a class-to-class basis, guided largely by student interest and the discussions that took place. In support of a lecture on Roger Taney, we planned to use a contemporaneous reporter containing the *Dred Scott* decision, so that students could view the opinion in the same form that attorneys at the time used. After looking through our rare book collection, I discovered that we had a special printing of the *Dred Scott* case published in 1857 by Benjamin C. Howard, the fifth reporter of decisions from the U.S. Supreme Court. In his introduction to this small volume, Howard explained to his readers that a special printing of *Dred Scott* was made due to high levels of public interest. Professor Orth was able to use this book to press home the importance of this judicial opinion in the years preceding the Civil War, and the fact that it showed up in the collection of a North Carolina attorney from that period strongly suggested that legal practitioners in the

state were well aware of this fact. One might have simply told students that *Dred Scott* was a critical flashpoint in the road to civil war, but placing physical proof of its historical importance into students' hands left a stronger impression.

As the "expert" on the rare legal books, the law librarian or archivist also needs to ensure they are comfortable discussing the objects, including their ownership history, construction, illustrations, and marginalia. In addition to the questions that students asked about the rare books related to the learning objectives of the class, students also asked quite a few questions related to historical bibliography. Law students will inevitably surprise you by asking these unexpected questions – a pleasant surprise, but still a turn of events that can and should be considered in advance. For example, students are often fascinated by the overall good condition of folios in our collection and their sharp illustrations. When examining folios for the first time, I commonly hear, "This book is so big and beautiful. How was this used back then? It's too big to carry into the courtroom." That question opens the door to an interesting discussion on printing practices and access to books, particularly legal books, during various points in history.

All of this is to stress that OBL is an *intentional* teaching methodology – it is not something that can be implemented on a minute's notice and without adequate preparation. Not only must the objects be selected with attention to the learning objectives, but the preparation of information and questions to guide student learning also must be considered in advance. Librarians participating in classroom sessions also need to be familiar with the rare books, so that student questions related to the objects themselves can be adequately answered.

### **Conclusion**

It is my hope that this piece encourages further consideration of how law librarians and archivists, those with privileged access to the rare legal treasures in their home institutions, might utilize those priceless resources toward the mission of every law school to train the next generation of attorneys. While this article focused on the uses for these materials in legal history and research courses, the potential for OBL in the law school class using rare books and manuscripts extends far beyond those courses. Indeed, *any* course that explores the development of law practice can benefit from the use of these rare objects to enrich student learning.

Students in a contract drafting course may benefit from studying older contracts to trace the development of contract clauses and

language over time. They can critique the contract language, consider options for improvement, and identify areas of weakness in which newer clauses might serve to better protect the clients' interests. Similarly, students in civil procedure and trial advocacy courses can benefit from interacting with earlier texts on practice and procedure, tracing the development of certain procedural rules or practices over time.

The ultimate purpose of OBL is to ensure that our students and faculty are taking full advantage of the learning opportunities inherent in the objects of rich cultural heritage, history, and meaning found in many law library collections. OBL engages students on an emotional level via a multisensory experience, producing deeper connections with information that lead to enhanced memory retention. This type of learning activity also engages students in active exploration, discussion, and reflection, often using the objects as context for considering new information or abstract ideas. A truly engaging law school curriculum can and should take full advantage of the knowledge and learning to be gained from OBL and rare books and manuscripts.

**Appendix A**  
**Rare Books Support for Legal History (Spring 2020)**

Class Theme	Date & Rare Books Used	Notes
<b>Class 1: Lecture on The Genius of the Common Law</b>		
<b>Class 2: Discussion of the Case of the Prohibitions (Coke)</b>	<i>The Twelfth Part of the Reports of Sir Edward Coke</i> (4 <sup>th</sup> ed., London, 1738) (Vol. 12) (KD200 1572.C6 A2 1738).	Printed by E. and R. Nutt. Elizabeth Nutt was one of the first female printers of legal texts in England.
<b>Class 3: Lecture on Sir William Blackstone</b>	<i>The Great Charter and Charter of the Forest with Other Authentic Instruments</i> by Blackstone (Oxford, 1759) (FOLIO RBR JN145.B52 1759).  <i>Law Tracts</i> by Blackstone (1762) (Vols. 1& 2) (RBR KD572.B53 1762).	1759 Edition is dedicated by Blackstone to the Earl of Westmoreland. First edition.  The 1762 set owned by William Hooper, North Carolina's representative to the Continental Congress and a signer of the Declaration of Independence.
<b>Class 4: Discussion of Blackstone's Commentaries</b>	<i>Commentaries on the Laws of England</i> by Blackstone (Dublin, 1796) (Vol. 3) (RBR KD660.B53 1796).  <i>Commentaries on the Laws of England</i> by Blackstone	The Philadelphia printing of Vol. 4 contains a list of subscribers at the beginning, which includes John Adams.

	(Philadelphia, 1771) (Vols. 3 & 4). (RBR KD660.B53 1771).	
<b>Class 5: Lecture on Blackstone's Commentaries and Connection to America</b>	<p><i>Commentaries on the First Book of Blackstone</i> by John Manning (1899) (RBR KD660.B533 1899).</p> <p>Manuscript - <i>Commentaries on the First Book of Blackstone</i> by John Manning (1895) (RBR KFN 7491.A1 M362 1895).</p> <p><i>Law Lectures: A Treatise from a North Carolina Standpoint, on Those Portions of the First and Second Books of the Commentaries of Sir William Blackstone</i> by Samuel Mordecai (1907) (Vols. 1 &amp; 2) (RBR KFN7480.M67 1907).</p>	<p>Manning book is printed by UNC Press and was a required textbook for law students at UNC. Manning was a professor of law at UNC. The 1899 edition contains lots of student marginalia.</p> <p>The Mordecai <i>Law Lectures</i> textbook was used by students at Duke University, then known as Trinity College. Mordecai was the dean of the law school.</p>
<b>Class 6: Lecture on Lord Mansfield</b>	<i>Burrow's Reports of Cases in the Court of King's Bench during the Time of Lord Mansfield's Presiding on</i>	This reporter series contains Lord Mansfield's cases and was printed by Burrow, a man who

	<p><i>the Court</i> (1790) (Vol. 2, 3, 4) (RBR KD200.1756 B8.A2 1790) (brought three volumes)</p> <p><i>State Trials and Proceedings for High Treason</i> (1775) (Vol. 11) (FOLIO RBR KD371.P6.C65 1775)</p> <p><i>Hargrave's Law Tracts</i> (1787) (RBR KD532.H32 1787)</p>	<p>worked with Mansfield to control and shape the printing of judicial decisions.</p> <p><i>State Trials</i> contains the Somerset case on slavery. Also includes a forward by Francis Hargrave, the attorney who represented Somerset.</p> <p><i>Hargrave's Law Tracts</i> was authored by the attorney who represented Somerset in his case.</p>
<p><b>Class 7: Lecture on Jeremy Bentham, John Austin, Albert Venn Dicey</b></p>	<p>John Austin, <i>The Province of Jurisprudence Determined</i> (London: John Murray, 1832). (RBR K230.A86 P76 1832)</p> <p>Jeremy Bentham, <i>Rational of Judicial Evidence Specially Applied to English Practice</i> (London: Hunt &amp; Clarke, 1827). (KD 7499.B46 1827) (multi-volume set)</p>	

	<p>Jeremy Bentham, <i>Leading Principles of a Constitutional Code for Any State</i> (RBR 3165.Z9 B46 1823) (pamphlet)</p> <p><i>Bentham's Theory of Legislation</i> (K 334.B4513 1871).</p>	
<p><b>Class 8: Discussion of Declaration of Independence &amp; NC Constitution</b></p>	<p><i>Revised Statutes of North Carolina</i> (1837) (Vol. 1) (RBR KFN7430.A32 1837) (brought copies 1 and 3) (contains Mecklenburg Declaration of Independence)</p> <p>RBR KFN7430.A22 1804 (Martin) (contains NC state constitution)</p> <p>RBR KFN7445.A19 1797 (copy of original Martin reports, which became vol. 1 of NC Reports) (owned by the creator of the Connor Act)</p>	<p>The <i>Revised Statutes</i> contain the first version of the North Carolina Constitution. The 1837 edition contains the Mecklenburg Declaration of Independence.</p>

<b>Class 9: Lecture on John Marshall</b>	<i>The Life of George Washington</i> (5 vols.) is in the Library Service Center.	
<b>Class 11: Kent, Story, Shaw</b>	<p><i>Story's Commentaries on:</i></p> <ul style="list-style-type: none"> <li>• <i>Bills of Exchange</i> (KF958.S76 1847) (2d ed.)</li> <li>• <i>Promissory Notes</i> (KF957.S76 1847) (2d ed.)</li> <li>• <i>Agency</i> (RBR KF1345.S76 1839)</li> </ul> <p>William W. Story, <i>A Treatise on the Law of Contracts Not Under Seal</i> (KF801.S76 1847) (2d ed.)</p>	
<b>Class 13: Lecture on Roger Taney</b>	Benjamin C. Howard, <i>A Report of the Decision of the Supreme Court of the United States in the Case of Dred Scott v. John F. A. Sandford</i> (New York, 1856) (KF4545.S5 U54 1857r)	A special printing of the <i>Dred Scott</i> case, decided by Chief Justice Roger Taney. Includes the entire opinion and all supporting/dissenting opinions.

<b>Class 14: Discussion on slavery and N.C. Chief Justice Thomas Ruffin</b>	<p>Benjamin C. Howard, <i>A Report of the Decision of the Supreme Court of the United States in the Case of Dred Scott v. John F. A. Sandford</i> (New York, 1856) (RBR KF4545.S5 U54 1857r)</p> <p>N.C. Reports (Devereux Vol. 2) (1833) (RBR KFN 7445.A19 1833) (c.1)</p> <p>N.C. Reports (Hawks Vol. 1) (1823) (RBR KFN7445.A19 1823) (c.1)</p>	<p>The NC Reports from 1833 contained the State v. Thomas Mann case, in which Ruffin handled a slavery question.</p> <p>The NC Reports from 1823 contains cases from the period when Ruffin was the official court reporter. Used as an example of the nominative reporter system. Also explains why some NC Reports volumes are larger than others – because arguments of counsel were removed from later editions.</p>
<b>Class 16: Discussion on Crime and Punishment</b>	<p>Cesare Bonesana Beccaria, <i>An Essay on Crimes and Punishments</i> (RBR HV8661.B3 1777).</p>	
<b>Class 18: Lecture on Legal Education</b>	<p>Tapping Reeve, <i>The Law of Baron and Femme; of Parent and Child; of Guardian and Ward; of Master and Servant; and of the Powers of Courts of Chancery</i> (New Haven:</p>	<p><i>The Law of Baron and Femme</i> contains Thomas Ruffin's signature.</p>

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Printed by Oliver  
Steele, 1816).  
(RBR KF505.R4  
1816).

Tapping Reeve, *A  
Treatise on the Law  
of Descents in the  
Several United  
States of America*  
(New York: Collins  
& Hannay, 1825).

*Obituaries, Fu-  
neral, and Proceed-  
ings of the Bar in  
Memory of the Late  
Hon. Wm. H. Battle*  
(Raleigh: Uzzell &  
Wiley, 1879) (2  
copies) (RBR  
CT275.B526 O2  
1879).

C.C. Langdell, *A  
Summary of the  
Law of Contracts*  
(Boston: Little,  
Brown & Com-  
pany, 2d ed., 1880).

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