

## A Checkered Past: The Impact of Theft and Forgery on Treatment Decisions

### ABSTRACT

A collection of Texana given to the Center for American History at the University of Texas at Austin contains several famous forgeries, as well as material believed to have been stolen from archives around Texas in the 1970s. Documents from the collection are used by students in the School of Information and the Kilgarlin Center for Preservation of the Cultural Record to study the processes of authentication and conservation. The examination and treatment of these documents raises questions inherent to the intersection of forgery and conservation, such as: When does forgery or theft become part of provenance? How does the knowledge or suspicion of forgery or theft affect conservation treatment decisions? And, given their unique place in Texas history, are some of the forgeries themselves worth preserving as a kind of Texana? These questions and the corresponding dialogue between conservator and curator are discussed in the context of case studies from the collection.

### INTRODUCTION

On April 21, 1836, General Sam Houston led the Texas Army in the Battle of San Jacinto, which lasted eighteen minutes and resulted in Texas winning its independence from Mexico. For the next ten years, Texas was its own country. This fact fundamentally shapes the way Texans regard their history and culture. Texas's self-reliant, do-or-die past is a source of deep pride for many of its residents. In some, this pride manifests itself as an insatiable passion for studying, collecting, and selling Texas memorabilia, also called Texana. In a few, this passion takes a sinister turn. Unscrupulous dealers have been known to augment

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the supply of rare Texas documents through theft, forgery, and even fabrication of completely new-old Texana. In their wake, these thieves and forgers leave a trail of wounded books and documents: broadsides torn, abraded, and cut apart to remove identifying ownership marks, and antiquarian books robbed of their flyleaves. Conservators and curators are left with the difficult task of striking a balance between stabilizing these damaged documents and preserving evidence of their troubled pasts. To understand the complexity of these conflicts, however, it is first necessary to review the history behind the documents.

### HISTORY

The story of Texas's most famous forgeries begins at some point in the late 1960s or the early 1970s, depending on who is telling the tale. The first confirmed forgery appeared in 1973, with the unprecedented sale of a broadside printing of Alamo hero William Barrett Travis's "Victory or Death" letter. The broadside sold for \$5000, which was considered a reasonable price by the buyer for a document that had never before been available on the open market. Over the next thirteen years, however, ten more copies of the broadside were sold at auction (Taylor 1991). Sometime in the mid-1980s, one such copy was offered to H. Ross Perot who, among other claims to fame, is a collector of Texas Republic documents. Perot brought the broadside to Don Etherington, then head of conservation at the University of Texas Harry Ransom Humanities Research Center in Austin. In January of 1986, Etherington took Perot's questioned copy of the broadside to Yale, to compare it with a copy of known provenance. On comparison, it was determined that the Perot copy was a forgery. The letter "a" in the word "flag" was oddly deformed, and appeared to have been rather

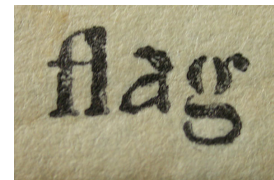


Fig. 1. Distorted "a" due to retouching.

sloppily retouched (fig. 1). Perot returned the document to the Arkansas dealer who had offered it to him. The dealer then returned the document to the person who had sold it to him, John Jenkins, a rare books and documents dealer from Austin (Taylor 1991).

By the late 1980s, suspect copies of the 1836 Texas Declaration of Independence began to turn up. These forgeries were identifiable by their comparatively fuzzy printing and their type area—roughly two to four percent smaller than that of the genuine Declaration. These defects were hallmarks of the process by which the forgeries were created: a photographic negative of a genuine Declaration was enlarged, retouched, reduced, and then copied to a zinc plate for the manufacture of the forgeries. Any slight miscalibration of the camera used in the process leads to a type area that is smaller or larger than that of the original. Once identified, these characteristics were found on many more historic Texas broadsides. Someone had been manufacturing bogus copies of Texas's most famous printed documents.

W. Thomas Taylor, an up-and-coming Austin bookseller who had sold three copies of the Texas Declaration in the early 1980s, became aware of the fake Declarations in 1987 and decided to investigate. He began by examining the copies he had sold; of the three, two turned out to be forgeries and the third, genuine. To his credit, Taylor refunded the purchase prices of the two forged Declarations. Through letter-by-letter comparison, Taylor determined that the genuine copy he had sold was, in fact, the very one that had been photographed in order to create the forgeries. An area that was creased in the original was visibly retouched in the forged copies (fig. 2). He traced the genuine Declaration back to C. Dorman David, a dealer in Houston, Texas, who had sold it in 1973.

David's name, along with that of Jenkins, had been tied to suspect transactions since at least the late 1960s. In 1967, they were named as the source of at least forty-two documents sold at auction that had been stolen from a variety of Texan repositories. In 1971, David himself sold seventy-seven items at auction, seventeen of which had been published in well-known sources as belonging to public collections (Taylor 1991). No one knows who actually removed these documents from public repositories, but the evidence suggests that Dorman David and John Jenkins had a hand in widening the pool of available Texana through a combination of theft and forgery.

As of November 1990, Tom Taylor had identified fifteen different documents that had been forged or, in some cases, completely fabricated. David has maintained that, while he did make copies of early Texas documents, they were only ever intended as facsimiles, never as forgeries. He believes that other, less-ethical dealers represented his handiwork as genuine. When David went out of business

in 1973, his remaining stock was sold through William Simpson, an auctioneer from Houston.

Many collectors purchased documents from Simpson, and at least one relied on him as the source for nearly all of his Texana. After this collector's death, his collection was turned over to Christie's to be sold at auction. When notified by Taylor that some of the documents were of questionable authenticity, Christie's recommended that the entire collection be donated to the Center for American History at the University of Texas, a creative and ethical solution to the problem. The collection, which contains just over two-hundred items, has been left in the condition and housings in which it was received, complete with polyvinyl chloride (PVC) sleeves and graphite markings from the William Simpson Gallery, in order to preserve all available evidence of its provenance.

Since the collection has been in the Center's possession, Dr. David B. Gracy II, the Governor Bill Daniel Professor in Archival Enterprise in the University of Texas School of Information, has built a graduate-level seminar around the investigation of its questioned documents. Teams of students in the class are given the opportunity to examine two documents at length, and to present their findings and recommendations to the Center in a formal report. Students will soon complete the work of examining the collection, and the Center faces difficult questions about how to care for these dubious documents: Should evidence of theft or forgery be considered provenance and therefore be preserved? Should damage designed to obscure provenance be repaired, or retained as evidence of theft? Should forged and fabricated documents be preserved at all? And if they

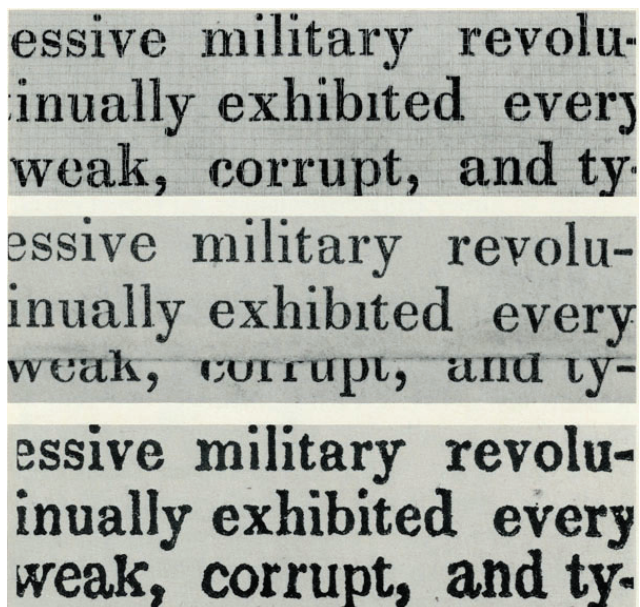


Fig. 2. Comparison of a genuine Declaration (top), the Declaration used in creating the forgery (middle), and the forgery (bottom). From *Texfake*. Image used with permission.

are preserved, how should they be stored and exhibited? In the course of outlining the decision-making process for a few particularly interesting case studies from the Center's collection, insights will be offered that might be of use to other institutions with similarly challenging collections.

#### MENDS AND PROVENANCE

Many documents in the collection have been crudely mended in a variety of ways. The mends are sometimes disfiguring, but their removal could mean the loss of key information about the document's history. At least one document has been abraded aggressively and then mended from the back in order to conceal the embossed ownership seal that identifies it as belonging to the Texas State Archives (figs. 3–4). Another has a rather suspicious loss, which has been filled with paper bearing what appears to be a photocopy of an original (fig. 5). Whether an ownership marking was simply cut out of the document cannot be known, but the mend certainly raises that question. According to the Texas State Archives, some opaque paper mends are applied simply to conceal cataloging information. In cases such as these, the document's mends and fills, however disfiguring, are crucial evidence of its past; to remove them would constitute a lie by omission.

In the course of examining documents in the collection that are known to be forgeries, mends were found that bear striking similarities to those designed to hide ownership markings, yet apparently conceal nothing (fig. 6). Given the fact that the theft of these kinds of documents was something of an open secret among collectors of Texana in the 1970s, it is possible that these forgeries have been made to look stolen. It is even possible that some collectors considered evidence of theft to be evidence of authenticity. Issues like these illustrate the importance of preserving the documents in the state in which they arrived at the

Center for American History. What might normally be nothing more than an unattractive and clumsy repair can be, under certain circumstances, an insight into the mind of a forger.

#### SILKING AS A MEANS OF CONCEALING FORGERY

The second question faced by the Center is how to treat the collection's many silked documents. If silking is at once physically damaging and a clue to possible forgery, its removal becomes an ethical problem. Among the many purported treasures found in the collection was an apparent second copy of a broadside previously believed to be unique. The silked document was examined by students in Dr. Gracy's seminar and determined to be an indisputable fake.

As part of the examination of items from this collection, students routinely view each document under

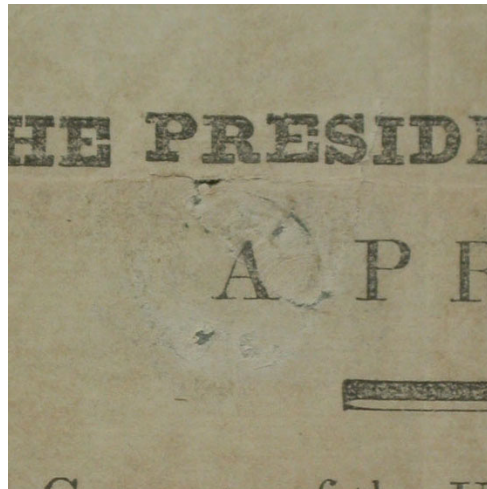


Fig. 3. Front view of an embossed seal that has been abraded to impair identification.



Fig. 4. Back view of the same embossed seal.



Fig. 5. Unusual fill in a document that may have been stolen.



Fig. 6. A mend on a known forgery that resembles mends designed to conceal cataloging information.

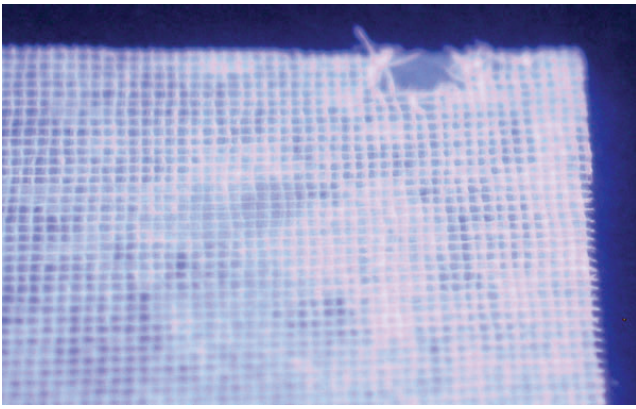


Fig. 7. Silking on a suspected forgery, viewed under ultraviolet light.

ultraviolet (UV) light. In this case, the examiners found that the paper fluoresced under UV, and concluded that it contained optical brighteners and was therefore modern. However, when the document was examined for this presentation, it was found that the paper did not, in fact, contain optical brighteners. Although the document did fluoresce overall, when a small area of the silking was removed, the paper below did not fluoresce, suggesting that the silking itself was the cause (fig. 7).

In spite of this finding, the document is almost certainly a forgery. The dimensions of the questioned document's printing columns are slightly larger than those of the known exemplar, probably resulting from a small miscalibration of the camera used to produce a zinc plate from the original. The silking was likely intended to impair close examination of the printing, and to obscure and distract from the noticeable blurriness of the copy, when compared with originals. Ironically, though it was intended to strengthen the appearance of genuineness, the strong fluorescence of the silking led examiners to conclude that the document was a fake.

While the determination of this particular document as a forgery was relatively cut and dried, questions remain about the treatment of silked documents. Graphite notations have often been made on top of the silk (fig. 8), and would be lost or greatly diminished with its removal. Identifying a document as a forgery is certainly simpler without the visual and physical obstruction created by silking, but if the silk itself is part of the deception, then its removal is a loss of evidence. In this case, the artifact to be preserved is the forgery, which includes all aspects of the document, not just its textual content. Other questioned documents in the collection were also silked, raising the question of whether a document can truly be authenticated if its surface is obscured by silking, lamination, or encapsulation.

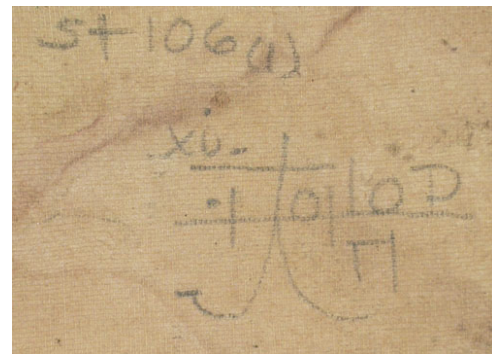


Fig. 8. A graphite mark associated with Dorman David, over silking on a document believed to be genuine.

#### DAMAGE AS PROVENANCE

Another question that must be considered is whether to repair damage to a document that provides key evidence of its provenance. One particularly interesting case involves a broadside identified as number 143 in Thomas Streeter's definitive work, *A Bibliography of Texas, 1796–1845*. Streeter's description of the document he examined mentions a manuscript note at the bottom of the recto. While the copy housed in the Center for American History lacks this notation, the lower portion of the page has been torn away, raising the possibility that it may have been removed to prevent identification. Streeter's document measured 23 cm wide and 49.4 cm long. The Center's copy has the same width, but is only 37.5 cm long. The document described by Streeter was housed in the Texas State Archives, yet today no such document can be located. What the Archives does retain is a photostatic image of the missing document. The photostat shows several small tears in the original and significant sinking of an iron-gall ink notation on the verso. These features, when compared with the questioned document, strongly suggest that the broadside once held by the Texas State Archives is now missing 12 cm from its bottom margin and is residing at the Center for American History (fig. 9–12).

Given that these tears are evidence of the document's previous life in the State Archives, repairing the document with invisible mends would raise ethical concerns. These circumstances require that the document be mended for handling but not aesthetic integration, preventing extension of the tears without compromising the evidence they provide.

#### INVISIBLE PROVENANCE

While much of the physical evidence described up to this point has been potentially damaging to the document, none of it is in itself terribly unstable. Some documents, believed to be genuine, do contain evidence that is at risk of vanishing

altogether. They have been marked in laundry marker, which is invisible in normal light but fluoresces under UV. These marks, either handwritten or stamped, identify the documents as belonging to Dorman David and seem to be intended for his own reference (fig. 13). Some contain notes such as “Not for Sale.”

A study by Sonja Reid, a recent graduate of the conservation program at the University of Texas, demonstrated that the optical brighteners in these laundry marker inks are highly fugitive and become quenched after only a few hours in bright light. Exhibition, examination, and use are all likely to speed the disappearance of these important markings. These circumstances force conservators and curators to weigh the responsibility of providing access to patrons against the preservation of evidence.

#### THE FORGERIES

Perhaps the most problematic documents in the collection are the known forgeries. In their zeal to make documents that looked old, the forgers did significant damage to their creations. Several people say they witnessed Dorman David baking paper in the oven, a technique that intentionally causes darkening and embrittlement. Many of the forged documents are severely torn and soiled, making them very difficult to handle. Indeed, this may have been the forger’s intent—a collector is probably less likely to carefully examine a document that he is afraid to touch.

One notable forgery in the collection is a broadside inviting immigrants to Texas. Identified as a forgery by its type area, which is smaller than the original’s, the broadside shows considerable damage. Old mends to the document are large and ineffective. One mend is also used as a fill, with graphite inpainting (fig. 14). These mends

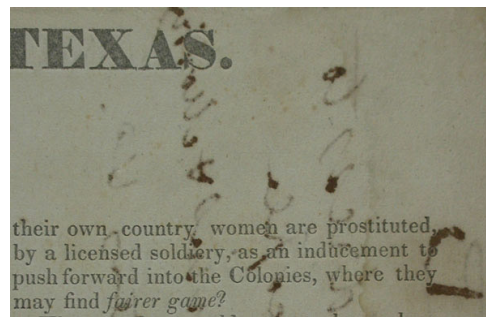


Fig. 9. Sinking iron-gall ink on a broadside from the collection.

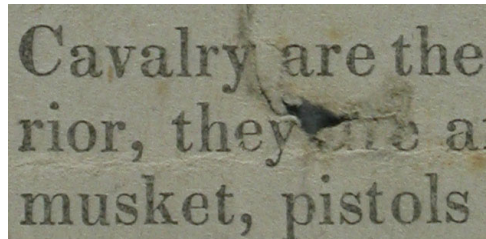


Fig. 11. A tear in the same broadside.

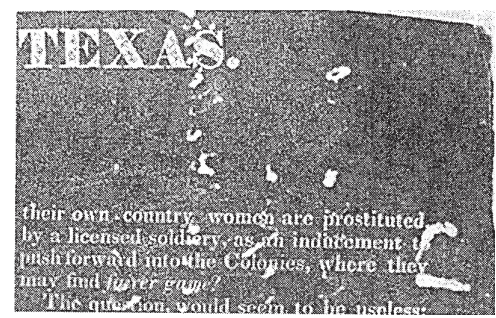


Fig. 10. Sinking iron-gall ink visible in a photostat of a missing broadside.

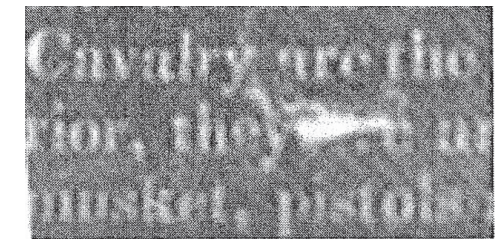


Fig. 12. An image of a tear in the same position from the photostat.

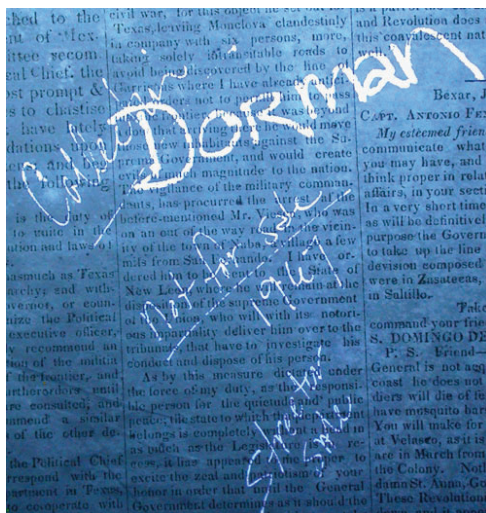


Fig. 13. Laundry marker annotations on a broadside, viewed under ultraviolet light.



Fig. 14. A fill with graphite inpainting on a known forgery.

are evidence and should be retained; whether new mends should be added is less obvious.

The question of if and how to preserve these forgeries is not a simple one. While cultural repositories like the Center for American History are not in the business of discarding documents, they have an important responsibility to provide scholars with the best possible access to accurate and untainted information. The documents known as forgeries are currently stored among genuine documents. If they were separated from their damaging housings, a part of the evidence of their past could be lost. If the institutional memory of these forgeries faded over

time, such material losses could lead to a loss of the knowledge that they are, in fact, forged.

Conversely, the removal of the forged documents from the collection would represent a substantive loss to the documentary history of Texas. The educational benefit to students in Dr. Gracy's seminar is undeniable. Without this collection, students at the University of Texas would miss out on the unique and valuable opportunity to examine and authenticate questioned documents. But upon reflection it becomes clear that the value of these curious forgeries is more universal. They document a specific moment in Texas history—not the political revolution of 1836 but the oil-fueled cultural and financial revolution of the 1970s.

#### CURATORIAL POINT OF VIEW

Descriptions of the case studies for this paper, along with a list of possible treatments and their implications, were presented to Stephanie Malmros, Head of Archives at the Center for American History. She provided several important insights into the ethics of conservation treatment for stolen and forged documents.

The Center is taking steps to preserve the collection without eradicating its history. The documents, housings, and student papers are stored together, and the collection is well documented in the Center's administrative files. Eventually each suspected fake or forgery will be further documented by a memo in its folder.

In terms of treatment, the Center favors a policy of minimal intervention for the fakes and forgeries in this collection. The first line of defense for all of the Center's collections is to provide a stable physical environment via housings and controlled environmental conditions.

In keeping with this philosophy, the primary approach to preservation of these documents will be to rehouse them, most frequently in Mylar folders. Rehousing will facilitate handling and prevent further damage from the original PVC housings, which will be retained and stored with the documents, with a barrier layer in between, in order to provide a clear picture of how they came to the Center. This approach has the benefit of preserving all physical evidence, even when it may not appear to have any significance at present.

Annotations by Dorman David and other evidence of previous ownership will be preserved whenever possible. However, in the case of the laundry marker notes, providing access to the documents takes precedence over preservation. This policy is in keeping with the Center's mission to "facilitate, sponsor, and support teaching, research, and public education in U.S. history" (Center for American History 2007). The folders containing documents with laundry marker annotations will be marked to indicate that they should not be exhibited. If necessary,

preservation photocopies of the documents will be used.

#### CONCLUSION

Although many documents in the collection could be treated, most of them are stable. Storage in archival housings, in a climate-controlled and secure building, may be the best solution. Whether or not treatment is eventually undertaken, the process of identifying the challenges posed by these documents has been beneficial as an abstract ethical problem and, more importantly, as a service to the Center for American History, which will now have a clearer idea of the unique challenges and benefits of owning some of Texas's most unusual documents.

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