

## Case Study

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# The Boston Case of Charles Merrill Mount: The Archivist's Arch Enemy

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**Abstract:** The theft of valuable letters and documents by Charles Merrill Mount from the Library of Congress Manuscript Division and the National Archives and Records Administration brings to the forefront, once again, the question of collection security in our nation's archives. This study examines the Mount case and shows how the government was able to prove the charges of interstate transportation of stolen property against him. It suggests possible failures in the security systems of these two institutions and the subsequent changes they have made.

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ON 13 AUGUST 1987, Charles Merrill Mount was arrested by agents of the Federal Bureau of Investigation at Goodspeed's Book Shop in Boston, Massachusetts, as he attempted to sell 158 Civil War documents to Claire Rochefort, an expert in charge of buying and selling old and rare autographed manuscripts for Goodspeed's. Mount had previously sold Rochefort a collection of James McNeill Whistler, Henry James, and Winston Churchill letters for the sum of \$20,000. The documents Mount had in his possession at this time were stolen from the National Archives in Washington, D.C. His arrest, subsequent indictment by a federal grand jury and trial, which began on 11 April 1988 in the United States District Court in Boston, brought to a conclusion one of the largest rare document thefts in recent years, a theft of irreplaceable historical papers and letters valued at over \$100,000 and belonging to the Library of Congress Manuscript Division and the National Archives. Charles Merrill Mount was also eventually convicted on 30 March 1989, on similar charges in Washington, D.C., for the theft of additional documents from these repositories. He is currently serving an eight-year prison term.

How did the United States Government prove that the documents in Mount's possession at the time of his arrest and those previously sold to Rochefort belonged to these institutions? How was the security of the Library of Congress Manuscript Division and the National Archives breached? What changes have taken place as a result of the theft? An examination of the Boston trial of Mount provides some insights into these questions.

Neither the National Archives nor the Library of Congress Manuscript Division was initially aware that thefts had taken place. The Boston case began to develop and Mr. Mount's schemes to collapse as a result of his attempts to sell the 158 Civil War documents. Claire Rochefort assisted the FBI in the arrest of Mount after becoming sus-

picious of a theft. In previous correspondence and telephone conversations with Mount, she was able to determine from his written description of the letters that they were at one time in the collection of the National Archives—their location confirmed by Rochefort's checking of *The Collected Works of Abraham Lincoln*.<sup>1</sup> She informed Mr. George T. Goodspeed of her discovery. He in turn contacted his legal counsel and they, the FBI.

An examination of Mount's biography is germane to understanding one type of personality that tends to threaten archival security.<sup>2</sup> Sherman Suchow was born on 19 May 1928 in Brooklyn, New York. A proud and eccentric man, he would eventually change his name to Charles Merrill Mount, possibly because of an interest in the American portrait and genre painter of the nineteenth century, William Sidney Mount. Visualizing himself as a "perfectly normal Edwardian gentleman," Mount would later in life assume just such an appearance with his walking stick, British accent, and habitual three-piece suits. He accumulated many scholarly credentials: author of three books on the artists Sargent, Stuart, and Monet and of many articles on art; portrait painter (most famous for his 1978 portrait of former Mississippi senator, James O. Eastland); lecturer on art in the United States and Europe; and European agent for the Corcoran Gallery of Art. Following the publication in 1955 of his well-reviewed biography on Sargent,<sup>3</sup> Mount, then in his mid-twenties, was awarded a Guggenheim Fellowship to pursue his study of the

<sup>1</sup>Roy Basler, *The Collected Works of Abraham Lincoln*, 9 vols. (New Jersey: Rutgers University Press, 1953-1955).

<sup>2</sup>The following description of Mount's life is based on information from several sources: Mount's trial testimony, *Contemporary Authors*, and articles in the *Washington Post*, the *New York Times*, and *Newsweek*.

<sup>3</sup>Charles Merrill Mount, *John Singer Sargent: A Biography* (New York: Norton, 1955).

Impressionist Claude Monet.<sup>4</sup> He traveled to Paris in pursuit of primary documents. There he supposedly began collecting manuscripts of his own, including Sargent and Whistler letters which he claimed he was able to buy cheaply. Until 1961, Mount traveled in England, France, and Italy, supporting himself as a portrait painter and continuing to collect manuscripts.

In 1961 he moved to Ireland where he was to remain throughout most of the decade. He married Sara Long of Dublin and fathered four children. He became good friends with a local priest, Father Grogan, from whom he was to acquire a collection of old documents (presumably his Civil War papers). However, by the end of the 1960s he had separated from his wife and returned to New York City. Marital and custody problems plagued him during most of the 1970s, and he made several trips abroad in an effort to solve them.

In 1977 Mount and one of his sons moved to the Washington, D.C. area. By early 1980 he was living alone again, his personal problems having escalated. Then began an annual progression of moves within the Washington metropolitan area. At about this time he also donated his extensive files of photographs, notes, and other personal research materials to the Library of Congress.

In 1982, evicted from his house in Great Falls, Virginia, he stored what few belongings he had left (several steel file cabinets containing additional research materials and about three hundred oil canvases he had painted) and opened two safety deposit boxes at American Security and Riggs National Banks in Washington, D.C. where he kept some personal papers. He next went to live with a longtime friend and artist, John Manship, in Gloucester, Massachusetts.

Mount surfaced again in 1984 in Washington, D.C., anxious to produce an expanded revision of his Sargent book. At this time he requested that the Library of Congress return his papers so he could work with them daily, unhindered by the normal archival processes. Eventually, and only after the intervention of Senator Ted Kennedy, he reached an agreement with John Kominski, the Library of Congress legal advisor, and Dr. Ronald Wilkinson, manuscript historian in the Library of Congress. Under this arrangement, he left his papers in their custody, receiving in turn the use of a private locked space in the administrative offices of the Library of Congress, equipped with book shelves and file cabinets. This space was provided with the understanding that it would be withdrawn when needed, which occurred two years later.

Mount now moved over to the National Archives to continue his research. Normal procedures governing access to materials were followed when Mount appeared at the Archives in 1984, requesting State Department records that he believed held correspondence by the artist John Singer Sargent. Ronald Swerczyk, at that time assistant chief of the Diplomatic Branch, interviewed Mount to determine the nature of his study. He provided Mount with some State Department records: records from the United States Embassy in Great Britain for the years 1912 until Sargent's death in 1925.<sup>5</sup> Mr. Swerczek and several other archivists were to have direct and indirect contact with Mount over the next few years.

An examination of the transcripts of Mount's Boston trial makes it clear that a number of internal and external security measures were firmly in place at these in-

<sup>4</sup>Charles Merrill Mount, *Monet: A Biography* (New York: Simon & Schuster, 1966).

<sup>5</sup>Author's interview with Ronald Swerczek, assistant chief of the Diplomatic Branch at the National Archives, 16 March 1989.

stitutions. Such measures aided in providing credible evidence verifying the ownership of the documents. But the trial also pointed out the importance of maintaining meticulous records of accessions, deeds of gift, purchase orders, invoices, user registration and reference slips. The testimony of various staff members from both institutions, and from book dealers, microfilm editors, FBI agents, other researchers and several bank clerks provided invaluable evidence proving his guilt.

How, then, did the United States Government prove that the documents in Mount's possession at the time of his arrest, those previously sold to Rochefort, and others found in his boarding house room belonged to these two institutions and not to Mount?

Martin F. Murphy, Esq., Assistant United States Attorney, was unable to bring charges of theft against Mount since there were no actual eyewitnesses to a theft having taken place, nor could the prosecution attorneys offer evidence as to how Charles Mount removed the many documents from the two institutions in question. Instead, Mr. Mount was charged with interstate transportation of stolen property, property he knew to be stolen. "Mr. Mount was indicted by a federal grand jury in Boston on two counts of interstate transportation of stolen property. The first count of this indictment alleged that the Whistler letters had been stolen from the Library of Congress, and that the Churchill and James letters had been stolen from the National Archives. The second count covered 144 of the 158 Civil War documents seized from Mr. Mount at the time of his arrest."<sup>6</sup> The government felt that such a charge would lead to a conviction because of the great amount of circum-

stantial evidence the prosecution had accumulated. After a fourteen-day trial in which twenty-five witnesses and the defendant himself testified Mount was indeed convicted.

Evidence in Mount's Boston trial proved when he visited the Washington repositories and that he used the record series from which these documents were taken shortly before traveling to Boston to sell them. Copies of microfilm in both institutions' collections proved ownership of the documents. Many of the documents seized from Mount or sold to Goodspeed's bore a stamp or file number indicating that they had been owned by these institutions. Further, when arrested, Mount had in his possession a single razor blade that he carried in a small plastic case. This last piece of physical evidence was particularly significant since the bound volumes of Embassy records used by Mount contained missing pages. The Federal Bureau of Investigation forensic experts identified fibers and markings on the letters as matching those found in the volumes.

During Mount's trial the government called several witnesses to testify regarding the theft of nineteen Whistler letters from the Library of Congress and four Churchill and James letters from the National Archives. Testimony was given by Charles Kelly, senior manuscript reference librarian specializing in art history, who had worked closely with the Pennell-Whistler collection and eventually with Mount. Entered as evidence during Kelly's testimony were many LC call slips showing Mount's use of these papers on many occasions beginning as early as 1983 and continuing until 5 June 1987. Kelly also testified that portions of this collection had previously been microfilmed for various institutions and, as was the custom, duplicate copies were added to the Library of Congress's own collection. This microfilm included five of the stolen Whistler letters and estab-

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<sup>6</sup>Christopher Runkel, "Legal Issues Associated With The Theft of Documents" (Paper presented to annual meeting of the Society of American Archivists, 2 October 1988, Atlanta, Georgia), 3.

lished the Library of Congress's ownership of the Whistler letters that Mount sold to Goodspeed's.<sup>7</sup>

Janice Ruth, senior reference librarian in the Library of Congress Manuscript Division, provided additional incriminating evidence with the introduction of purchase and accession records for nine other Library of Congress Whistler letters. Introduced into evidence were memoranda recommending the purchase of three of the Whistler letters and the accession records prepared when the items were received (Day 4:56-58). Kenneth Rendell, manuscript dealer, corroborated Ruth's evidence by providing invoices showing that he had sold several Whistler letters, including these three, to the Library of Congress (Day 13:73).

Another witness was Randolph Boehm, a microfilm editor for University Publications of America. Boehm does research at both the National Archives and the Library of Congress looking for potential commercial microfilm collections. Boehm had his first contact with Mount at the Library of Congress in the spring of 1986. University Publications was just beginning to explore the possibility of doing a microfilm series in art history; since Boehm knew Mount to be an art historian, they began what they might have thought would be a mutually beneficial friendship. Mount clearly hoped the relationship would lead to some research contracts for himself. Over a period of time Mount shared with Boehm information from and about documents with which he was working, including the Pennell-Whistler collection. Both Boehm and Mount thought the collection would be interesting material for a microfilm project. At one point, Boehm testified, Mount read

him a letter that the artist Whistler had written to his patron Frederick Leyland regarding the painting of the famous Peacock Room for the Leylands. This was one of the nineteen Whistler letters that Mount would later sell to Goodspeed's.

Because of well-maintained internal record-keeping procedures, the government proved the ownership of the National Archives documents (two letters by Henry James, a list by Alice James, and one letter by Churchill) also referred to in Count One of the indictment. Ronald Swerczek, acting chief of the Diplomatic Branch at the National Archives, introduced a large number of bound volumes from the Diplomatic Records of the Department of State. In 1984 and 1987 Mount had been interested in seeing records relating to artist John Singer Sargent (Day 5:47). Since Sargent traveled abroad, particularly in England, Swerczek provided Mount with the records from the United States Embassy in Great Britain. The National Archives reference service slips showed that Mount used these volumes on fourteen occasions in July and early August 1987, and that pages had been cut from these bound volumes (Day 5:50). Swerczek testified that the letters of James and Churchill belonged in these volumes, basing his information on the content of the documents surrounding the missing pages. These stolen letters also showed traces of marks and discoloration in one corner indicating that an attempt had been made to eradicate the file number that had been given to them. Later testimony pointed out the discovery of other documents in Mount's living quarters showing a similar attempt to erase markings. The razor blade found on Mount at the time of his arrest supplied additional circumstantial evidence.

Charles Perotta, a special agent of the FBI, and an expert in forensic science, provided interesting testimony describing his use of photography, ultraviolet fluorescence, side lighting, and magnification to examine the obliterations on these docu-

<sup>7</sup>*United States v. Charles M. Mount*, Transcript of Trial, United States District Court, District of Massachusetts, 22 March 1988—11 April 1988. (Day 4:2-14) Subsequent citations to this trial will be given in the text, designated within parentheses by the day and page of the transcript.



ments. Using ultraviolet fluorescent lighting, he was able to bring out the obliterated file numbers on the documents, markings that even a practiced rare documents dealer would not have been able to see. Using sophisticated forensic photography and magnification, he was able to verify the obliterations and traces of the numbers that were on the documents at one time including an "American Embassy, London" stamp. Using a technique called "side lighting," he was able to show fiber disturbances on the bound volumes by matching up bits of fibers from the documents with those in the bound volumes. He also showed that faint pencil marks on the pages matched marks in the books (Day 8:104-106). Such expert testimony was a major factor in Mount's ultimate conviction.

The second count of the federal indictment charged Mount with transporting 144 stolen Civil War documents across state lines from Washington, D.C., to Boston on 13 August 1987. One of the government's star witnesses in this part of the indictment was Michael Paul Musick, a Civil War specialist, who has worked in the National Archives for eighteen years, chiefly in the Military Reference Branch. Musick introduced as evidence microfilm copies of thirty-eight of the stolen documents, microfilm that was made at the National Archives in 1970 during the course of a National Historical Publications and Records Commission (NHPRC) project to microfilm the Ulysses S. Grant papers from 1861 to 1864 (Day 6:80). Establishing the National Archives' ownership of this large number of documents in Mount's possession was crucial to the government's case. Although Musick testified that Mount's interest in the Civil War was a superficial one, Mount insisted on and was given original Civil War documents. Musick's extensive communication with Mount led to discussions about some of the actual documents Mount examined in July and August of 1987 (Day 6:59). His recollection of these conversa-

tions with Mount about specific letters, along with the Archives' use of letter registers to show the contents of storage boxes and Mount's reference slips verifying his use of those boxes, confirmed the Archives' ownership of a number of letters Mount tried to sell.

During the course of his testimony, Musick also recalled that in his eighteen years at the Archives only two people had consulted this group of original records, and these two people were the defendant, Charles Mount, and Colonel Arthur Grant, a scholar doing research in 1973 on Generals Grant and Meade and their communication from 1863-64. Colonel Arthur Grant testified and identified photocopies of documents he had used at the Archives that were exact copies of those in evidence at the trial.

Another witness, John Simon of the University of Illinois and director of the Grant Project, corroborated Musick's testimony and supplied additional evidence of the Archives' ownership of certain documents. He submitted microfilm copies of eight of the stolen items that he had purchased from the Archives.

Testimony by Daniel Reilly, special agent in the Washington Field Office of the FBI, revealed that some of the Civil War documents in evidence had been altered the same way as the Whistler and James letters, and that they once bore a stamp used by the government office to which they belonged. Reilly was the agent who searched Mount's room shortly after his arrest and found in a book fourteen loose manuscripts pressed between blotter paper showing the obliteration of identifying marks. Examination by Charles Perotta, the forensic expert, proved the federal government's ownership of these documents (Day 8:10). The government then rested its case.

In the face of all this evidence, Mount's defense was limited and weak. There were only three witnesses for the defense: Barbara Thompson, John Manship, and Mount himself. Visiting Ireland in 1961, Ms.

Thompson had met Mount and had supposedly seen his collection of documents. However, she could not say specifically that the ones in evidence were the ones she saw. Nor did the brief testimony of Mount's friend, John Manship, prove helpful to the defendant. The three days of testimony from the defendant himself proved to be more damaging than helpful. His many outbursts in court led eventually to contempt of court charges. His misstatements and contradictions reinforced the government's case.

Mount's court-appointed attorney, Charles P. McGinty, used two lines of defense: that the repositories had no detailed description or item indexes of their holdings; that Mount had been collecting the documents in question since 1955, first as a scholar in France and later when he moved to London and New York. The Civil War documents were supposedly given to Mount by his Irish friend, Father Grogan.

In closing remarks the government's attorney, Martin F. Murphy, pointed out the defendant's lack of credibility. Mr. Murphy reminded the jurors of the lies, exaggerations, deceptions, and embellishments Mount exhibited during cross-examination. He pointed out specific examples, such as Mount's statement that he had received in the mail an unsolicited package containing a group of Sargent letters from a man he did not know, a manuscript dealer by the name of Rendell (Day 11:94). In cross-examination it was revealed that he had been corresponding with Mr. Rendell since 1963. A copy of one of his letters to Rendell was entered as evidence.

Another deception concerned a photograph Mount had taken of himself alongside some documents. In testifying, he claimed the picture was taken in his study in Ireland, showing him with the Civil War documents given to him by Father Grogan. It was revealed that the photograph was actually one of Mount alongside a display of Monet letters at the Marmottan Museum in Paris. Mount's own book on Monet would

document this fact in a footnote concerning the identical picture<sup>8</sup> (Day 12:132-134). Mount's previous conviction on false statements made to the Passport Office in Washington, D.C., was further negative evidence as to his character.

Security is a major problem for institutions that collect and preserve valuable historical documents. The sheer volume of material held by some of the larger institutions is daunting. For example, the Library of Congress Manuscript Division has 10,000 manuscript collections containing forty million items, while the National Archives and Records Administration contains three billion items in its collection, stored in 195 different stack areas.<sup>9</sup> Repositories may or may not produce detailed inventories of their holdings. As archivist Frank Burke has noted, "Modern manuscript collections running to the thousands or tens of thousands of documents preclude such a detailed treatment... This is not atypical since many archives have been established in only the past forty years and are faced with accessioning and processing records accumulated over the past 100 years or more."<sup>10</sup> The sheer volume of these materials precludes an item-by-item cataloging or even the simple marking of each document as part of a permanent collection.

Because of the extensive holdings within these institutions and the varying degrees of description given to each collection, documents may not be missed until they are requested by a researcher. Charles McGinty claimed that the Library of Congress and the National Archives did not know what they had in their collections much

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<sup>8</sup>Mount, *Monet: A Biography*, 418.

<sup>9</sup>Karlyn Barker, "Rare Documents' Vulnerability Comes to Life," *Washington Post*, 20 August 1987, Sec. D, p. 1.

<sup>10</sup>Frank G. Burke, "Materials and Methodology," in *Archive-Library Relations*, ed. Robert L. Clark, Jr. (New York: R. R. Bowker, 1976), 41.

less that the documents in the possession of Mount belonged to them (Day 1:57). This, of course, was disproven in the trial. However, this case points out the vulnerability of such institutions and the need for increased vigilance. Writing in 1977 in *Archives and Manuscripts: Security*, Timothy Walch states: "The manners and methods of thievery change and the best protection against such change is the vigilant archivist. Vigilance is the keystone of good archival security."<sup>11</sup>

One can only surmise how Mount acquired these valuable documents from the National Archives and the Library of Congress. As a longtime researcher at these institutions he had developed friendships with some staff and was allowed certain privileges not given other scholars. One Library of Congress staffer reported that he was using manuscripts while he worked with his own documents. Also, according to an article in the *Washington Post*, a statement issued by the police on duty in the Library of Congress indicated: "police officers were told by staffers that 'he's okay' or 'he has special privileges,' meaning he met with their approval and was not required to be inspected." Guards were confused. Because of Mount's special work arrangements in the administrative offices, he was not subject to routine inspections. In the guard's eyes, this "staff condoned breach of security with respect to Mount" was a serious security lapse.<sup>12</sup> The Library of Congress was too liberal and open in their accommodation of Mount.

The transcripts of the trial would also suggest an approach Mount used while working at the National Archives. During one of the trial's bench conferences, it was

noted that Peter Joseph Capelotti, a scholar working in the Archives in late July 1987, discovered documents in a drawer in one of the Search Room work stations—the very one that Mount used regularly. When Mount arrived at the Archives on that particular day, he seemed rather agitated to find Capelotti working at "his desk." Mount caused quite a commotion and attempted to have the supervisor in the Central Search Room remove Capelotti from the space (Day 13:55). The government's attorney would later infer that the drawer was a holding station until the defendant could conceal items in his clothing.

According to Ronald Swerczek, security procedures have improved at the National Archives. First and foremost, the security guards determined to be too lax in the discharge of their duties have been fired. A new contract was awarded and the new security force has been increased in number and given better training. The platforms in the Central Search Room for both the guards and the staff have been more highly elevated to provide a better view of the large room. Reference slips, formerly scheduled for disposal after two years, will now be kept up to twenty-five years. Fortunately, this earlier procedure had been ignored, and the Archives had maintained reference slips for many years.

Another change relates to the design and arrangement of the reading desks in the Archives. One-foot-high solid wooden dividers separating the work stations have been replaced with clear glass. Tables have been rearranged and placed in rows, providing better visibility for the guards and staff. The staff continues to interview scholars, keeping careful records on the traffic in the Central Search Room and on the use of materials.

Similar changes are under consideration at the Library of Congress Manuscript Division. Although the staff believes that their procedures are still sound, suggestions have been put forth for additional security and

<sup>11</sup>Timothy Walch, *Archives and Manuscripts: Security*, Basic Manual Series (Chicago: Society of American Archivists, 1977), 1.

<sup>12</sup>Karlyn Barker, "Mount Was Exempt From Routine Inspections, Library Police Say," *Washington Post*, 1 September 1987, Sec. B, p. 1.



for a redesign of the Reading Room. Speaking about security, David Wigdor, assistant chief of the LC Manuscript Division said, "Perhaps our people haven't been attentive enough . . . but there is a balance between security and access. We are not here just to protect these materials as relics; we are here to see to it that they are used."<sup>13</sup>

The mounting value of manuscripts and historical documents held in our national repositories and the easy availability of these materials to the public make it more vital than ever that all institutions examine and improve their security systems. In 1975, Philip Mason noted that "Theft from archives has now reached alarming proportions. During the past decade several hundred archives and libraries have been victimized and many others have been and did not report it."<sup>14</sup> Cases such as Mount's suggest that the problem will continue.

Perhaps if repositories were permitted to tighten external security through actual body searches of suspicious patrons, much out-

right thievery would be prevented. Because of the "unlawful search and seizure" clause, however, such searches would face inevitable legal challenges. Legal Services advisor Chris Runkel of the National Archives affirms that such searches are neither justified nor constitutionally legal.<sup>15</sup> Yale Kamisar, University of Michigan Law School, claims that even-handed searches might be legal, but such a policy could require the search of each and every researcher using rare documents.<sup>16</sup>

Evidence in the Charles Merrill Mount case suggests that archival security is good, needs to be better, but is never going to be perfect. The circumstances of the Mount case demonstrate that there is no easy way for an archives or manuscript repository to protect itself against a resourceful and determined thief without inhibiting legitimate access. The changes implemented by the Library of Congress and the National Archives in response to the incident suggest the kinds of actions that other repositories must consider to protect against a similar occurrence.

<sup>13</sup>Lois R. Pearson, "Scholar Accused of Stealing Rare Docs from LC, Archives," *American Libraries* 18 (September 1987): 634.

<sup>14</sup>Philip P. Mason, "Archival Security: New Solutions To An Old Problem," *American Archivist* 38 (October 1975): 477.

<sup>15</sup>Author's interview with Chris Runkel, Legal Services, National Archives and Records Administration, 24 March 1989.

<sup>16</sup>*Washington Post*, 20 August 1987, Sec. D, p. 4.