



Journal of the TEXAS SUPREME COURT HISTORICAL SOCIETY

Summer 2019 Vol. 8, No. 4 General Editor Lynne Liberato Executive Editor David Furlow

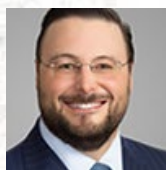
Columns

Message from the President

By Dylan O. Drummond

The Texas Supreme Court Historical Society will celebrate its thirtieth anniversary early next year on January 13th.

[Read more...](#)



Dylan O. Drummond

Executive Director's Page

By Sharon Sandle

This issue of the *Journal* focuses on research and the wealth of archival information available to those researching Texas legal history.

[Read more...](#)



Sharon Sandle

Fellows Column

By David J. Beck

The manuscript for the third book in our judicial civics and court history project, *Taming Texas*, is now complete.

[Read more...](#)



David J. Beck

Executive Editor's Page

By David A. Furlow

Let's examine the legal scholarship that brought an English legal dictionary across the storm-tossed Atlantic to America. [Read more...](#)



David A. Furlow

Leads

The Civil Law Collection of the Texas Supreme Court

By Michael Widener

This is an account of an unused collection of law books, one that did little to shape the minds of its intended users, an "un-library," as a Spanish colleague of mine put it.

[Read more...](#)



Gold spine stamp on many volumes from the Texas Supreme Court's library

From the Western Frontier to the Digital Frontier:

A History of the State Law Library

By Amy Small

The paucity of Republic-era law libraries may have been as much due to the difficulty of having books delivered and distributed as it was to the relatively small number of legal publishers. [Read more...](#)



Supreme Court Library, ca. 1897

Features

State Bar of Texas Digital Archives Portal is Launched

By Caitlin Bumford

The Bar's Archives Department has spent two years developing a tool to provide public access to selected digitized archival materials. [Read more...](#)



Supreme Court of Texas Archive Update

By Tiffany Gilman

Many of the Court's records are judicial work product, and therefore confidential. However, the Court also maintains a wide array of records open to the public.

[Read more...](#)



The Republic-era "Sam Houston" Bible in the Court's collection

Recent Books of Interest

Compiled by Marilyn P. Duncan

Three recently-published books reveal fresh perspectives on Texas and Mexican history. [Read more...](#)



The Civil Law Collection of the Texas Supreme Court

By Michael Widener

This is an account of an unused collection of law books, one that did little to shape the minds of its intended users, an “un-library,” as a Spanish colleague of mine put it.¹ In most cases, the fact that a collection was ignored or unused would not be significant historically. But in the case of the Texas Supreme Court’s collection of Roman, canon, and Hispanic law, the fact that the Court had such a collection and ignored it does shed some light on the “the dark age of ignorance” of Spanish and Mexican law in Texas,² a period stretching from the American Civil War to World War II.

Perhaps “unused” is an exaggeration. A few of the collection’s volumes certainly were used and cited occasionally. The collection later inspired me to make extensive use of it, albeit in a way not foreseen or intended by its founder. And today, when rare book curators like myself consider a book requested once to be a “high-use” item, perhaps this is enough. Nevertheless, this concern about low use is something that my colleagues and I worry about. I will return to this issue after I tell the story of the collection.

Origins of the Study

Soon after I began my career in the rare book collection at the Tarlton Law Library, University of Texas at Austin, I noticed that many of the early volumes of Roman, canon, Spanish, Mexican, and French law bore the spine stamps of the Texas Supreme Court Library. I wondered why the Court had owned such a seemingly exotic collection and why it had ended up in our library.

As I learned more about the collection and the legal history of Texas, I became convinced that the collection was part of an attempt to shape “the mind of the law,” to introduce civil law principles into a common law system. I remain convinced that this attempt was the handiwork of one man, Chief Justice John Hemphill. It was a collection of its time in some ways, and ahead of its time in others.

As an object of study, the collection offers several advantages. Almost all of the 319 volumes that originally made up the collection still survive, either at the Tarlton Law Library or the State Law

¹ José Calvo González, “La No-Biblioteca de la Corte Suprema de Texas, 1854-1944,” personal communication with the author, December 2005.

² Joseph W. McKnight, “The Spanish Watercourses of Texas,” in *Essays in Legal History in Honor of Felix Frankfurter*, ed. Morris D. Forkosch (Indianapolis: Bobbs-Merrill, 1966), 379.

Library in Austin.³ Its contents are well documented in a catalog of the Texas Supreme Court Library published in 1880, which treated the collection as a distinct component.⁴ As an institutional collection, it provides a useful contrast to studies of private libraries. Its use can be measured in part by examining citations to the books in the Court's published decisions. Finally, it provides an example of how books failed to influence their intended users.

I will first give a brief historical sketch of the Texas Supreme Court and its library. I will describe the collection in detail, including the internal and external evidence for its contents, origins, purpose, use, and destiny. I will close with some reflections that this study prompted, regarding institutional collections of rare law books today.

For the sake of brevity, I will use the term "civil law" according to the first definition given for this term in the 7th edition of Black's Law Dictionary: "One of the two prominent legal systems in the Western World, originally administered in the Roman Empire and still influential in continental Europe, Latin America, Scotland, and Louisiana, among other parts of the world."⁵

A Brief History of the Texas Supreme Court and Its Library

The Republic of Texas formed a Supreme Court following independence from Mexico in 1836, but the Court's structure was overhauled in the state constitution of 1845. The most significant holdover from the Republic's judicial system was its chief justice, John Hemphill, who drafted the judiciary section of the 1845 Constitution and was appointed the first Chief Justice of the Supreme Court of the State of Texas.

The Supreme Court, as originally constituted, heard all appeals from the district courts. It consisted of a chief justice and two associate justices at first appointed by the governor with the consent of the Senate, but became elective in 1850. Jurisdiction over criminal appeals was removed to another court in 1876, and additional appellate courts were created in the nineteenth and twentieth centuries to relieve crowded dockets.⁶

The Court originally held sessions in the state capital, Austin, and also in Galveston and Tyler. In 1892 the Court ceased its wanderings and settled permanently in Austin.

The lack of law books had been a problem for the Court since the days of the Republic.⁷ It

"I became convinced that the collection was part of an attempt to shape 'the mind of the law,' to introduce civil law principles into a common law system."

³ The volumes are listed in the Appendix to this article.

⁴ *Catalogue of the Supreme Court Library at Austin, Texas* (Austin: State Printing Office, 1880). The section titled "Foreign Books" is on pages 47–49.

⁵ Bryan A. Garner, ed., *Black's Law Dictionary*, 7th ed. (St. Paul, MN: West Group, 1999).

⁶ Paul Womack, "Judiciary," *Handbook of Texas Online*, <https://tshaonline.org/handbook/online/articles/jzj01>.

⁷ Hans W. Baade, "Law and Lawyers in Pre-Independence Texas," in *Centennial History of the Texas Bar, 1882–1982* (Burnet, TX: Eakin Press, 1981), 240–55; Joseph W. McKnight, "Law Books on the Hispanic Frontier," in *Spanish and Mexican Land Grants and the Law*, ed. Malcolm Ebright (Manhattan, KS: Sunflower University Press, 1989), 74–84.

took several more years for the State of Texas to remedy the situation. In his 1849 report to the governor, Attorney General John W. Woods argued that the acquisition of a law library was the top priority for the judicial system. "In the absence of the lights of a single law book furnished by the government," he wrote, "our Supreme Court is often called on to decide questions novel, difficult and vastly important." He complained that it was "exceedingly humiliating" and "inconsistent with the interests of the State" for its officers to depend on the generosity of those who owned private law libraries.⁸

A small law collection was apparently begun in the Texas Secretary of State's office, probably through the exchange of statute books with other states.⁹ In 1854 the Texas Legislature remedied the situation when it appropriated \$15,000 for the purchase of law books for the Supreme Court. The same statute ordered the Secretary of State's office to transfer its law books to the Court.¹⁰ This legislation is considered the founding act for the Texas Supreme Court Library. To give an idea of what this sum could buy at the time, the 411-volume law library of New Orleans attorney Henry Adams Bullard was auctioned for \$363 in 1851.¹¹ An additional \$5,000 was appropriated in 1856, along with \$100 "to W. L. Chalmers, for receiving shelving, marking, indexing and acting as Librarian to Supreme Court Library for the year 1855," and similar salaries for the men in charge of the satellite libraries at Tyler and Galveston.¹²

The Court's clerical staff was responsible for maintaining the library, but the appropriations statutes and other sources make it clear that the chief justice had sole authority over acquisitions.¹³

In 1866, the Texas Supreme Court Library was already known as the finest law library in the state,¹⁴ and it remained so until overtaken by the state's academic law libraries in the twentieth century. That same year, the Legislature passed a law which designated the Court's clerks as its librarians, and directed that the library be open to the public, with borrowing privileges limited to the justices and legislators.¹⁵ By 1880 the library had grown enough to justify the printing of a 72-page catalog.¹⁶ A subject catalog of the library came out in 1900.¹⁷

⁸ "Report of the Attorney General," *Journals of the Senate of the State of Texas, Third Session* (Austin, 1849), 43–45. Thanks to Mark Lambert for bringing Woods' report to my attention.

⁹ Harriet Smither and Dorman H. Winfrey, "Texas State Library," *Handbook of Texas Online*, <https://tshaonline.org/handbook/online/articles/lct02>.

¹⁰ "An Act to Provide Books for the Use of the Supreme Court," approved Feb. 4, 1854. *Gammel's Laws of Texas* (Austin: Gammel Book Co., 1898–1937), v. 3, ch. XXXIX, p. 1493. The funds were from the proceeds of the sale of Texas' public domain to the United States; see George W. Paschal, "Preface," 28 Tex. v (1866).

¹¹ Robert Feikema Karachuk, "A Workman's Tools: The Law Library of Henry Adams Bullard," *American Journal of Legal History* 42 (Apr. 1998): 161.

¹² "An Act Supplementary to an Act Making Appropriations for the Use and Support of the State Government for the Years 1856 and 1857," approved Feb. 4, 1856. *Gammel's Laws of Texas*, v. 4, ch. CLXXIII, 517–18.

¹³ "Supreme Court Library," *Texas Libraries* 1:10-11 (Oct. 1915-Jan. 1916): 81–82.

¹⁴ George W. Paschal, "Preface," 28 Tex. 7 (1866).

¹⁵ "An Act to Confer the Office of Librarian on the Clerks of the Supreme Court," approved Nov. 7, 1866. *Gammel's Laws of Texas*, v. 5, ch. CV, 1016–17.

¹⁶ *Catalogue of the Supreme Court Library at Austin, Texas* (Austin: State Printing Office, 1880).

¹⁷ *Catalogue by Subjects of the Books in the Library and Consultation Room of the Supreme Court of Texas, 1900* (Austin: Von Boeckmann, Moore & Schutze, 1900).

“The Spanish Civilian of Texas”

Civil law was destined to play some part in Texas due to the state’s history. Texas was part of the Spanish Empire until 1820, and part of the Republic of Mexico until the Texas Revolution in 1836. About one-seventh of the private land in Texas derives from Spanish or Mexican land grants, and terms of those grants still affect land and water rights today. In addition, the state inherited rights to the seashore and the beds of navigable rivers from the previous sovereigns,¹⁸ rights that have been litigated up through the early years of the twenty-first century. In the first few decades following independence, the courts also faced issues involving inheritance and family law issues arising from marriages contracted under Mexican law.¹⁹

In addition, Texas lawmakers consciously borrowed several features of Spanish law that appealed to them and fit well with conditions in Texas. These included community property, the homestead exemption, adoption, simplified pleading by petition and answer, the fusion of law and equity, and the independent executor in probate procedure. These survivals of Spanish law in Texas have been thoroughly studied, most notably by Joseph W. McKnight²⁰ and Hans W. Baade.²¹

The individual most responsible for the borrowings from Spanish law was John Hemphill, the man who served as Chief Justice of the Texas Supreme Court from 1840 to 1858.²² Hemphill was one of the most colorful figures in Texas legal history, later eulogized as “the John Marshall of Texas” and “the first Spanish civilian of his day.”²³ A native of South Carolina, Hemphill graduated from Jefferson College in Pennsylvania in 1825, and returned to South Carolina. He began his legal studies in Columbia, South Carolina, under David J. McCord, one of the state’s leading attorneys,

¹⁸ Joseph W. McKnight, *The Spanish Elements in Modern Texas Law* (Dallas, 1979), 5.

¹⁹ See Hans W. Baade, “The Form of Marriage in Spanish North America,” *Cornell Law Review* 61 (Nov. 1975): 1–89.

²⁰ “Mexican Roots of the Homestead Law,” in *Estudios jurídicos en homenaje al Maestro Guillermo Floris Margadant* (México: Universidad Nacional Autónoma de México, 1988), 291–304; “Protection of the Family Home from Seizure by Creditors: The Sources and Evolution of a Legal Principle,” *Southwestern Historical Quarterly* 86 (Jan. 1983): 369–99; *The Spanish Elements in Modern Texas Law* (Dallas, 1979); “The Spanish Influence on the Texas Law of Civil Procedure,” *Texas Law Review* 38 (Nov. 1959): 24–54; “The Spanish Legacy to Texas Law,” *American Journal of Legal History* 3 (1959): 222–41, 299–323; “The Spanish Watercourses of Texas,” in *Essays in Legal History in Honor of Felix Frankfurter*, ed. Morris D. Forkosch (Indianapolis: Bobbs-Merrill, 1966), 373–86.

²¹ “Los derechos históricos sobre aguas de México ante los tribunales de los Estados Unidos,” *Anuario Mexicano de Historia del Derecho* 7 (1995): 25–34; “The Formalities of Private Real Estate Transactions in Spanish North America: A Report on Some Recent Discoveries,” *Louisiana Law Review* 38 (1978): 655–745; “The Form of Marriage in Spanish North America,” *Cornell Law Review* 61 (1975): 1–89; “The Historical Background of Texas Water Law—A Tribute to Jack Pope,” *St. Mary’s Law Journal* 18 (1986): 1–98.

²² The most thorough treatment of Hemphill’s judicial career is Timothy S. Huebner, *The Southern Judicial Tradition: State Judges and Sectional Distinctiveness, 1790–1890* (Athens: University of Georgia Press, 1999), 99–129; excerpted as Huebner, “Judge John Hemphill, the Homestead Exemption, and the ‘Taming’ of the Texas Frontier,” *Western Legal History* 11 (Winter/Spring 1998): 65–85. For other biographies of Hemphill, see Rosalee Morris Curtis, *John Hemphill: First Chief Justice of the State of Texas* (Austin, TX.: Jenkins Pub. Co., 1971); Thomas W. Cutrer, “Hemphill, John,” *Handbook of Texas Online*, <https://tshaonline.org/handbook/online/articles/fhe13>; James P. Hart, “John Hemphill—Chief Justice of Texas,” *Southwestern Law Journal* 3 (Fall 1949): 395–415; James D. Lynch, *The Bench and Bar of Texas* (St. Louis: Nixon-Jones Printing Co., 1885), 69–73; and James W. Paulsen, “The Judges of the Texas Supreme Court of the Republic of Texas,” *Texas Law Review* 65 (Dec. 1986): 317–21.

²³ George W. Paschal, “Preface,” 28 Tex. 9 (1866).



Chief Justice John Hemphill. Photo courtesy of the U.S. Senate Historical Office.

and later practiced law in Sumterville.²⁴

It is probable—although there is no direct evidence—that during his time in McCord’s law office Hemphill would have had contact with the group Michael Hoeflich labeled the “South Carolina Circle,” the group of prominent South Carolina lawyers who cultivated an interest in Roman law in the early nineteenth century.²⁵ McCord published reports for South Carolina’s Constitutional Court²⁶ and Court of Appeals,²⁷ edited a short-lived legal periodical,²⁸ and, most significantly, took over the editorship of *The Statutes at Large of South Carolina* from Thomas Cooper, one of the leading figures of the “South Carolina Circle.”²⁹ However, Hemphill would not have needed to belong to this elite group to have absorbed some knowledge and appreciation of Roman law and its European offspring. Several legal historians have demonstrated that citation of civil law sources was widespread in antebellum America.³⁰

When Hemphill arrived in the Republic of Texas in 1838, he was one of the few lawyers with a college degree. He reportedly dedicated

his first two years in Texas to studying the Spanish language and legal system. He was named Chief Justice of the Texas Supreme Court in 1840. He remained in that post when Texas became a state in 1845, until his election as U.S. Senator from Texas in 1858. When Texas seceded from the Union in 1861, Hemphill was sent to represent Texas in the Confederate Congress and died in Richmond, Virginia in 1862.³¹

²⁴ Cutrer, “Hemphill, John.”

²⁵ Michael H. Hoeflich, “Roman Law in American Legal Culture,” *Tulane Law Review* 66 (June 1992): 1735–38.

²⁶ Henry Junius Nott and David J. McCord, *Reports of Cases Determined in the Constitutional Court of South Carolina*, 2 vols. (Columbia, SC: Daniel Faust, 1820–1821); David J. McCord, *Reports of Cases Determined in the Constitutional Court of South Carolina*, 4 vols. (Columbia, SC: Daniel Faust, 1822–1830).

²⁷ David J. McCord, *Chancery Cases Argued and Determined in the Court of Appeals of South Carolina*, 2 vols. (Philadelphia: Carey, Lea & Carey, 1827–1829).

²⁸ *The Carolina Law Journal* (1830–1831).

²⁹ *The Statutes at Large of South Carolina*, 10 vols. (Columbia, SC: A.S. Johnston, 1836–1841). Vols. 1–5 were edited by Cooper, vols. 6–10 by McCord.

³⁰ R. H. Helmholz, “Use of the Civil Law in Post-Revolutionary American Jurisprudence,” *Tulane Law Review* 66 (June 1992): 1649–84; Michael H. Hoeflich, “Roman Law in American Legal Culture,” *Tulane Law Review* 66 (June 1992): 1723–43; Peter Stein, “The Attraction of Civil Law in Post-Revolutionary America,” *Virginia Law Review* 52 (Apr. 1966): 403–34.

³¹ Cutrer, “Hemphill, John.”

Hemphill declared himself a great admirer of the Spanish legal system, and frequently cited Spanish sources in his decisions. He urged lawyers to use Spanish sources before turning to English translations and thereby introducing confusion.³² He was proficient enough in Spanish to correctly point out an erroneous translation in *White's Recopilación*,³³ and complained about the lack of Spanish law books.³⁴ He lauded the “intrinsic equity” of civil law in his judicial decisions.³⁵ As chair of the judiciary committee in the constitutional convention of 1845, he was primarily responsible for the adoption of the homestead exemption and community property provisions of the 1845 Constitution. In the convention debates, he stated that he would have “much preferred the civil law to have continued in force for years to come” in Texas.³⁶

John Hemphill was clearly the leading champion for the adoption of civil law principles in Texas law. The evidence strongly suggests that the civil law collection in the Texas Supreme Court Library, the collection I found so intriguing, was in fact created by Hemphill as part of his program to promote civil law.

The Texas Supreme Court's Civil Law Collection

The Appendix to this article lists the 124 titles (in 319 physical volumes) that once made up the civil law collection of the Texas Supreme Court. The entries are in alphabetical order by author, and are numbered for reference. Footnotes and tables will refer to the entries by number when the author's name is not provided in the text.

The *Catalogue of the Supreme Court Library at Austin, Texas* (Austin: State Printing Office, 1880; hereafter 1880 Catalogue) lists 111 titles in 301 volumes, almost all of them in the section titled “Foreign Books.” When these titles were checked against the holdings of the Tarlton Law Library and the State Law Library in Austin, Texas (the successor to the Texas Supreme Court Library), nine titles (fifteen volumes)³⁷ were missing, along with five volumes from a six-volume set.³⁸ Thus, the collection that survives today is substantially intact.

Twelve titles with Supreme Court markings did not appear in the 1880 Catalogue.³⁹ These could have been removed from the library before 1880, acquired after 1880, or simply overlooked in the preparation of the catalog. Three of these, now in the Tarlton Law Library, have penciled price markings and a September 1964 Tarlton acquisition stamp; they were obviously taken from the Supreme Court Library. They are the three most important primary sources for Spanish law: the *Siete Partidas*, the *Novísima Recopilación*, and the *Recopilación de Indias*.⁴⁰

³² *Scott v. Maynard*, Dallam 548, 552 (Texas 1843).

³³ *Treviño v. Fernández*, 13 Tex. 630, 654–60 (1855). “*White's Recopilación*” is no. 123 in the Appendix.

³⁴ James W. Paulsen, “A Short History of the Supreme Court of the Republic of Texas,” *Texas Law Review* 65 (Dec. 1986): 273–74.

³⁵ *Means v. Robinson*, 7 Tex. 502, 510 (1852).

³⁶ William F. Weeks, reporter, *Debates of the Texas Convention* (Houston: J.W. Cruger, 1846), 271.

³⁷ Nos. 8, 18, 28, 32, 47, 57, 83, 87, and 94.

³⁸ No. 40.

³⁹ Nos. 2, 13, 38, 45, and 86 are at the State Law Library; nos. 16, 20, 21, 95, 97, 105, and 107 are at the Tarlton Law Library.

⁴⁰ Nos. 97, 105, and 107.

TABLE 1: The Civil Law Collection by subject area

Subject	Titles	Volumes	Item numbers (from the Appendix)
Mexican law	3	3	14, 45, 71
Mexican-Spanish law	6	12	70, 86-89, 94
Spanish law	43	101	1-3, 16-17, 27-28, 33, 36, 38, 40, 44, 46-48, 51, 53, 58-60, 63, 65, 72, 85, 96-109, 115-117, 123-124
Roman-Spanish law	3	7	49-50, 66
Roman law	22	44	4-5, 9, 12, 15, 18, 23, 25-26, 57, 73-76, 80, 90, 93, 110, 118-121
Canon law	12	19	10-11, 19-21, 24, 34, 37, 39, 91-92, 122
Roman-canon law	6	9	29, 54-56, 67-68
French law	20	113	6-7, 30-32, 35, 41-43, 61-62, 69, 79, 81-82, 84, 111-114
European law	4	4	8, 52, 64, 78
Nonlegal works	5	7	13, 22, 77, 83, 95
TOTALS	124	319	

Note: Volumes counted are physical volumes.

A volume containing three separate titles would be counted as three titles and one volume.

A title published in five volumes but bound as two volumes would be counted as one title and two volumes.

As shown in Table 1, the collection was strongest in Spanish law. It included all of the fundamental legislation from the Middle Ages to the early nineteenth century, and many of the popular manuals and practice guides, supplemented by the English-language compilations of Rockwell, Schmidt, and White. It is here that the hand of Hemphill can be most clearly seen.

While French law accounted for only nineteen of the titles, the volumes were over a third of the collection. It included several multi-volume encyclopedias, dictionaries, and case law collections, the collected works of Robert Pothier (which were often cited in nineteenth-century American law),⁴¹ and several treatises on commercial law.

In the areas of Roman and canon law, the library contained some of the basic works, but the coverage was not nearly as comprehensive as for Spanish and French law. There were two nineteenth-century German editions of the *Corpus Juris Civilis*, an English translation of Domat's *The Civil Law* (which was the introduction to Roman law for many American lawyers), Vinnius' commentary on the Institutes, Voet's commentary on the Pandects, Savigny's treatise on Roman law, and three English treatises. For canon law, there was a 1614 edition of the *Corpus Iuris Canonici*, Van Espen's survey of canon law (which was a standard textbook in Spanish universities), and various nineteenth-century manuals.

⁴¹ Helmholz, "Use of the Civil Law," 1654; Stein, "The Attraction of the Civil Law," 412-13.

TABLE 2: The Civil Law Collection by imprint dates

16th Century		17th Century		18th Century		19th Century	
Decade	Titles/Vols.	Decade	Titles/Vols.	Decade	Titles/Vols.	Decade	Titles/Vols.
1580s	2 / 2	1610s	2 / 4	17-- s	1 / 1	1800s	4 / 12
		1620s	1 / 1	1720s	1 / 1	1820s	8 / 33
		1660s	3 / 3	1730s	4 / 5	1830s	11 / 35
		1670s	2 / 2	1740s	5 / 8	1840s	29 / 107
				1750s	4 / 5	1850s	21 / 61
				1760s	8 / 11		
				1770s	10 / 21		
				1780s	4 / 7		
				1790s	3 / 4		
Total	2 / 2	Total	8 / 10	Total	40 / 63	Total	73 / 248

Note: For multivolume titles with dates that span decades, the title is assigned to the latest date.

One indication that the collection was a creation of John Hemphill is the imprint dates (see Table 2). None of the “Foreign Books” in the 1880 Catalogue were from later than 1856. It was in 1854 and 1856 that the Legislature made the two large appropriations for the Supreme Court Library. Hemphill, the only justice in the Court’s entire history with an avowed interest in the civil law and fluency in Spanish, left the Court in 1858. The library never acquired another book in a foreign language published after that date. The only civil law titles added after 1880 were a few English translations of Mexican law,⁴² Thomas Cooper’s English translation of Justinian’s Institutes, and the overviews of Roman law by Dropsie,⁴³ Grapel,⁴⁴ Mackeldey,⁴⁵ and Phillimore.⁴⁶

One book in the collection has a marking that suggests an acquisition date during Hemphill’s tenure. *Historia del derecho español* by Juan Sempere y Guarinos (Lima, 1847) has an inscription on the half-title: “Supreme Court of Texas / Austin / 1854.”

The “Foreign Books” included all the oldest volumes in the 1880 Catalogue, such as the 1589 edition of Baldus’ *Consilia* and eight works from the seventeenth century. Elsewhere in the catalog, the only pre-nineteenth century books were the 1685 edition of Selden’s *Fleta*⁴⁷ and a smattering of late eighteenth century English case reports and treatises. This suggests that the dozens of old “Foreign Books” were not acquired because of some general interest in antiquarian law books.

⁴² Namely, Frederic Hall, *Laws of Mexico* (San Francisco, 1885); Leonidas Hamilton, *Hamilton’s Mexican Law* (San Francisco, 1882); and Joseph Wheless, *Compendium of the Laws of Mexico* (St. Louis, 1910).

⁴³ Moses A. Dropsie, *The Roman Law of Testaments, Codicils, and Gifts in the Event of Death* (Philadelphia: T. & J.W. Johnson, 1892).

⁴⁴ William Grapel, *Sources of the Roman Civil Law* (Philadelphia: T. & J.W. Johnson, 1857).

⁴⁵ Ferdinand Mackeldey, *Handbook of the Roman Law* (Philadelphia: T. & J.W. Johnson, 1883).

⁴⁶ John George Phillimore, *Private Law among the Romans* (London: Macmillan, 1863).

⁴⁷ John Selden, ed., *Fleta, seu Commentarius juris anglicani sic nuncupatus*, 2nd ed. (London: H. Twyford, T. Bassett, J. Place, & S. Keble, 1685).

To summarize the evidence so far: John Hemphill had the motive to acquire civil law books for the Texas Supreme Court's library. He was the only chief justice with both passion for the civil law and language skills to use its books, and he actively promoted the adoption of civil law principles in Texas law. The Court struggled with a severe shortage of books of all kinds in its first years. Hemphill also had the means. The authority for purchasing books for the Texas Supreme Court in the nineteenth century rested solely with the chief justice. The 1854 and 1856 appropriations from the Legislature provided him with the necessary funds.

I believe that Hemphill had the opportunity to acquire his civil law collection in New Orleans. Legally, Louisiana was a mixed jurisdiction, the only state in the Union where the civil law stood on equal footing with Anglo-American common law, and the New Orleans bar had many members with long experience in the civil law. New Orleans was the region's major commercial center, and one of the most important ports of entry for foreign law books.⁴⁸ A New Orleans journal, *Debow's Review*, carried a small advertisement in 1853 for J. B. Steel, "Bookseller, Stationer, and Publisher," who offered "Law, Medical, Literary, and Scientific Works, at Northern publishers' prices—French works on Civil Law, at low prices."⁴⁹

What at first seemed unusual about the Texas Supreme Court's collection was the great number of sixteenth-to-eighteenth century authors from the "Golden Age" of Spanish law and Roman law: Covarrubias, Menochio, Mascardi, Salgado de Somoza, and others. However, these works were commonly found in Louisiana lawyers' libraries from the same period. Inventories of the libraries of six nineteenth-century New Orleans attorneys have been published. In all, fifty-one of the titles in the Supreme Court's civil law collection were present in these libraries, and twenty-four were present in more than one (see Table 3). The Court's civil law collection could have easily passed for the library of a New Orleans attorney.



1589 edition of Baldus' *Consilia*. Image courtesy of Tarlton Law Library, Jamail Center for Legal Research, University of Texas School of Law; published with permission.

⁴⁸ Michael H. Hoeflich, "Bibliographic Perspectives on Roman and Civil Law," *Law Library Journal* 89 (Winter 1997): 50; Joseph W. McKnight, "Law Books on the Hispanic Frontier," in *Spanish and Mexican Land Grants and the Law*, ed. Malcolm Ebright (Manhattan, KS.: Sunflower University Press, 1989), 75–77; Roger Philip McCutcheon, "Books and Booksellers in New Orleans, 1730–1830," *Louisiana Historical Quarterly* 20 (July 1937): 606–18.

⁴⁹ *Debow's Review* 15 (July 1853), 112. The ad also ran in the issues for August and November 1853, and January, February, and August 1854.

TABLE 3: Early 19th-century New Orleans lawyers' libraries containing Hispanic & European titles present in the Texas Supreme Court Library

MA – Michel de Armas (1823)	HB – Henry Adams Bullard (1851)	SL – Samuel Livermore (1833)	EL – Edward Livingston (1823)	ML – Louis Moreau Lislet (1832)	GS – Gustavus Schmidt (1877)
Nos. 2, 29, 32, 33, 40, 42, 49, 52, 53, 58, 67, 68, 77, 79, 81, 83, 84, 90, 91, 92, 97, 105, 117, 118, 121 (25 titles)	Nos. 32, 35, 40, 49, 69, 81, 84, 111, 112, 113, 114 (11 titles)	Nos. 6, 7, 9, 15, 29, 42, 49, 50, 52, 68, 90, 91, 92, 118, 120, 121 (16 titles)	Nos. 29, 32, 40, 81, 121 (5 titles)	Nos. 33, 40, 41, 49, 52, 53, 67, 79, 81, 84, 90, 91, 92, 117 (14 titles)	Nos. 22, 29, 33, 38, 40, 52, 53, 59, 62, 68, 75, 77, 78, 79, 81, 82, 88, 89, 97, 102, 103, 105, 107, 111, 112, 117, 118, 121, 124 (29 titles)

Notes: (1) It was impossible in most cases to match specific editions of a given title. The Livermore and Schmidt inventories are well ordered and provide adequate bibliographic descriptions, but the others are disordered lists with sketchy descriptions. Some of the matches cannot possibly be for the same edition (for example, no. 79, Pardessus' *Cours de droit commercial*). (2) Some of the titles listed under several New Orleans lawyers could be for the same copy with different owners. These lawyers would have known each other professionally, and Schmidt was related by marriage to Moreau Lislet.

Sources:

Catalogues of Early American Law Libraries: The 1877 Sale Catalogue of Gustavus Schmidt's Library (Austin, TX.: Jamail Center for Legal Research, 2005).
 Combe, David. "The Louisiana Lawyer's Roman-Law Library: Recollections of an Antiquarian Bibliophile." *Tulane Law Review* 70 (June 1996), 2003–49. Appendix 1: The Livermore Gift to Harvard.
 Franklin, Mitchell. "Libraries of Edward Livingston and of Moreau Lislet." *Tulane Law Review* 15 (Apr. 1941), 401–14.
 Franklin, Mitchell. "Library of Michel de Armas." *Louisiana Law Review* 4 (Mar. 1942), 573–85.
 Karachuk, Robert Feikema. "A Workman's Tools: The Law Library of Henry Adams Bullard." *American Journal of Legal History* 42 (Apr. 1998), 160–89.

There are other aspects of the Court's civil law collection which give the impression that this was an "opportunity purchase," as if the buyer walked into a New Orleans bookshop and said "Give me everything you've got on civil law." Salgado de Somoza's *Labyrinthus creditorum* might have been of some use in a civil law jurisdiction like Louisiana, but it would have never been relevant or useful to a Texas lawyer, even if he understood Latin.

It is possible that the collection was acquired at an auction in New Orleans, but the evidence suggests otherwise.⁵⁰ Several of the large French sets appear to have been practically brand new, and three bear an ink stamp for an 1852 copyright convention between France and Belgium.⁵¹ Only a few volumes bear marks of previous owners.⁵²

⁵⁰ I could find no record of New Orleans book auctions during the 1850s in George McKay, *American Book Auction Catalogues 1713–1934: A Union List* (New York: New York Public Library, 1937). However, note that Henry Adams Bullard's library was auctioned by a New Orleans probate court in 1851. See Karachuk, "The Law Library of Henry Adams Bullard," 161.

⁵¹ Nos. 35, 43, and 82.

⁵² Nos. 48, 51, 78, and 115 almost certainly were not acquired by Hemphill, but are fascinating in their own right. All

The Fading of Hemphill's Dream

John Hemphill's departure from the Court in 1858 marks the beginning of what Joseph McKnight has called "the dark age of ignorance" of Spanish and Mexican law,⁵³ which did not end until two landmark decisions of the Texas Supreme Court in the 1950s and early 1960s, *Luttes* and *Valmont Plantations*.⁵⁴ Hans Baade has also noted the poor quality of the jurisprudence in cases involving Hispanic law after 1870. He asks why the Court's decisions were so consistently wrong, and why the sources were ignored when they were readily available.⁵⁵

In land and water law cases during this dark age, the Supreme Court in particular tended to cite the English translations of White, Gustavus Schmidt, and others, or its own previous decisions.⁵⁶ The only Spanish-language source cited with any frequency was Joaquín Escriche's *Diccionario razonado de legislación y jurisprudencia*.⁵⁷ This was also generally true of the litigants, although a pair of cases in 1871 are an exception. Among a few of the more uncommon works cited are those of Diego de Covarrubias, known as "the Spanish Bartolus," the commentaries on the *Siete Partidas* by Gregorio López, and the *Jurisprudence Generale* de Armand Dalloz,⁵⁸ all of which were available in the Texas Supreme Court Library. The Court, however, made no reference to these sources in its decision.

The library's printed catalogs reflect this decline. The 1880 Catalogue segregates the non-English civil law in the section titled "Foreign Books," suggesting that the civil law collection was viewed as something strange and alien. The 1900 subject catalog of the Court ignores the foreign-language materials completely. The compilers probably did not appreciate or understand the collection, and judged it to be useless to the library's patrons and thus unworthy of mention.⁵⁹ This was the same period that witnessed a general decline in the study of Roman law.⁶⁰

are inscribed by E.B. O'Quinn, and since all are listed in the 1880 Catalogue, they were in O'Quinn's possession before that date. One is signed "E.B. O'Quinn / Austin, Texas," two are signed "E.B. O'Quinn / City of Mexico," and most interesting of all, the last is signed "E.B. O'Quinn / Escuela de Leyes Mexicanos / City of Mexico." The Escuela de Leyes Mexicanos later became the Escuela Nacional de Jurisprudencia, itself the forerunner of the law school at the Universidad Nacional Autónoma de México. I have been unable to further identify O'Quinn, but the indication that a Texan was connected in some way with legal education in mid-19th century Mexico is extremely intriguing. For a brief history of legal education in Mexico, see Lucio Mendieta y Núñez, *Apuntes para la historia de la Facultad de Derecho*, reprinted from *Revista de la Facultad de Derecho* 4 (1939); (México: Universidad Nacional Autónoma de México, 2002).

⁵³ McKnight, "The Spanish Watercourses of Texas," 379.

⁵⁴ *Ibid.*, 374, 386. *State of Texas v. Valmont Plantations*, 346 S.W.2d 853 (Tex. Civ. App.—San Antonio 1961). *Luttes v. State of Texas*, 324 S.W.2d 167 (Tex. Sup. Ct. 1958). For a brief summary of both cases, see Baade, "Los derechos históricos sobre aguas de México," 25–34.

⁵⁵ Baade, "The Formalities of Private Real Estate Transactions in Spanish North America," 743–44; Baade, "The Form of Marriage in Spanish North America," 87.

⁵⁶ Baade, "The Historical Background of Texas Water Law," 23.

⁵⁷ There were dozens of editions; see no. 38.

⁵⁸ *Cavazos v. Treviño*, 35 Tex. 133 (1871); *City of Brownsville v. Basse & Hord*, 36 Tex. 461 (1871).

⁵⁹ *Catalogue by Subjects of the Books in the Library and Consultation Room of the Supreme Court of Texas, 1900* (Austin: Von Boeckmann, Moore & Schutze, 1900).

⁶⁰ Michael H. Hoeflich, "Bibliographic Perspectives on Roman and Civil Law," *Law Library Journal* 89 (Winter 1997): 51.

The books themselves bear witness to the lack of use. The volumes that were lost to theft or wear and tear were the popular English-language translations and treatises, or the most important and frequently-cited Spanish and Mexican titles. Latin and French titles enjoyed a 100-percent survival rate, and their condition today is generally excellent. They are almost totally free of annotations, and one of the few exceptions is telling: on the front cover of Menochio's *De praesumptionibus* (1628), someone wrote in pencil, "What next?"

What was next came in 1943, when the Legislature authorized the Texas Supreme Court to transfer books and documents to the University of Texas Law Library. The act mentioned "the fact that there are many books, documents and publications in the library of the Supreme Court that the library does not need, and that the library is not equipped to store or preserve."⁶¹ The State Capitol was badly overcrowded at that time. A contemporary photograph shows the Supreme Court Library literally drowning in books. Book thefts had become a serious problem.⁶² The transfer was effected promptly. A 1954 report by the University of Texas law librarian mentions that "One section of the Rare Books Room houses volumes of foreign law and textbooks which are on indefinite loan from the Supreme Court of Texas."⁶³

The Court sent to the University of Texas Law Library all of its law books in Latin and French, and kept all of the civil law books in English. Some of the Spanish law books that the Supreme Court had "lost" were rejoined with their companions in the Tarlton Law Library in 1964 when they were purchased. Another title ended up in the law library at Southern Methodist University in 1960.⁶⁴

Ironically, only a few years after the Court divested itself of much of its civil law collection, the revival in civil law jurisprudence in Texas began, first with the Tidelands litigation,⁶⁵ followed soon by the *Luttet* and *Valmont* cases.

The State Law Library's portion of the collection is stowed away in a locked book case in an out-of-the-way corner of the library. The remainder is in the Tarlton Law Library's rare book room. Perhaps a half-dozen of the eighty-one titles in the Tarlton Law Library were consulted during my fourteen years there, and another still holds a 1949 call slip.⁶⁶ I was fond of showing a couple of my favorite volumes to tour groups. My guess is that this is a fairly typical use rate for sizable rare law book collections in the U.S.

"Ironically, only a few years after the Court divested itself of much of its civil law collection, the revival in civil law jurisprudence in Texas began...."

⁶¹ *General and Special Laws of the State of Texas Passed by the Regular Session of the Forty-eighth Legislature* (1943), ch. 78.

⁶² David B. Gracy II, *This Best But Last Chance: Representative Bill Daniel's Fight for a State Courts and Office Buildings in Texas, 1949-1954* (Austin: Graduate School of Library and Information Science, the University of Texas at Austin, 1995), 6.

⁶³ "Law Library University of Texas Biennial Report 1952-1954," call no. Archives Z 733 T4 L3, Rare Books & Special Collections, Tarlton Law Library, University of Texas at Austin.

⁶⁴ No. 14.

⁶⁵ *United States v. Texas*, 339 U.S. 707 (1950).

⁶⁶ No. 46.

And, of course, I used every single one of the volumes in my research for this essay.

Was Hemphill's civil law collection a failure? Not necessarily. To begin with, Hemphill's reputation as the great civilian of Texas law was already cemented in his judicial decisions, and in the civil law features he implanted in Texas law such as the homestead exemption and the community property doctrine. In light of the revival of Texas jurisprudence on Spanish law in the 1950s, Hemphill's collection may have been a hundred years ahead of its time.

A few of the books were used and cited in later years. Some of the volumes were perceived to be useful enough to be worth stealing. Any library collection that has been formed with energy and imagination will have a number of volumes that no one ever asks for. While use is one measure of a collection's quality, it is not the only measure. Given John Hemphill's opportunity in 1854, I might have done the same thing and asked my New Orleans book supplier for everything he had on civil law, and I would have been pleased with the result.

Lessons for Librarians Today

This brings me back to the issue I raised in my introduction: the usefulness of collections of early law books.

Rare book librarians like myself, working in institutions dedicated to training future lawyers or to serving our judicial system, worry a good bit about the usefulness of our collections. In work environments increasingly dominated by performance measures and cost/benefit ratios, we wonder whether we and our collections will be deemed worthy of continued funding.

Usefulness is a special challenge for rare book collections. Our books are old, fragile, beautiful, expensive, and often written in languages that most of our patrons cannot read. Readers cannot take them home, or photocopy them. Much of the law these books contain is simply dead law, in terms of current legal research. Several years ago in Texas a lawyer used a number of our early law dictionaries in a brief for a U.S. Supreme Court case, and I felt like giving him a parade.

We actually seek out collections that other institutions have determined are no longer useful. The Association of the Bar of the City of New York recently transferred to the Yale Law Library a wonderfully rich collection of Roman and canon law, 1,600 volumes, that had long since ceased being used in its library.

Some collections are not used at all, or at most they function as trophy cabinets. This strikes librarians like myself, who love books and love sharing them, as a bit sad. I thought of museums once as trophy cases and swore I'd never run one.

Today I see things differently. I see myself in many ways as a curator of a law book museum, an interactive hands-on laboratory for legal and cultural history. I collect and present law books as physical objects, valuable for what they can teach us about the legal cultures of yesterday and today, valuable because they can be held, opened, smelled. Every year I give presentations to tour groups of incoming law students. I put out selections of books from our rare book collection

that they can see and touch. If this is the only time a student comes in contact with our rare book collection, and if the only thing the student learns is that she or he is about to enter a profession with a rich tradition and a deep involvement in human civilization, then I have performed a useful service.

The physical book, especially the book in its original binding and filled with the earnest annotations and idle doodles of its early owners, helps bring to the forefront the human element in law, in ways that a digital surrogate cannot. Real live people printed these books, bound them in leather or vellum, wrote in the margins, and used them to legislate and adjudicate and argue and plead. Law is, after all, a human endeavor, about people trying to get along and get ahead.

My research on the Texas Supreme Court's civil law library is in some ways an archaeological study. The rare law book museum preserves a physical record of the inquiries, work habits, and aspirations of the legal profession throughout history. It preserves and presents a record of "the mind of the law." Perhaps that is use enough.



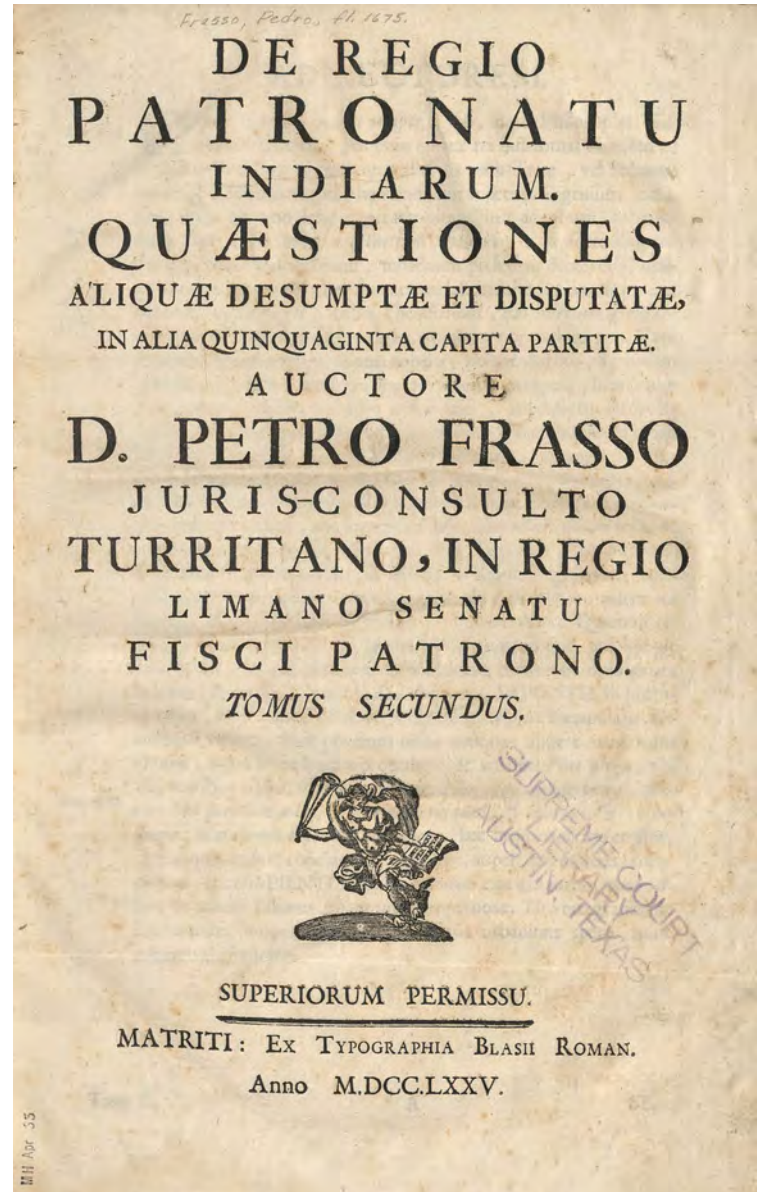
MICHAEL WIDENER is the Rare Book Librarian in the Lillian Goldman Law Library, Yale Law School. From 1991 to 2006 he was Head of Special Collections in the Tarlton Law Library, University of Texas at Austin. He is on the faculty of Rare Book School, University of Virginia, where he teaches a week-long summer course, "Law Books: History & Connoisseurship." Widener served on the Board of Trustees of the Texas Supreme Court Historical Society from 1999 to 2006, and is presently on the board of the Connecticut Supreme Court Historical Society. His 2017 exhibition catalogue, *Law's Picture Books: The Yale Law Library Collection* (with Mark S. Weiner), won the Joseph L. Andrews Legal Literature Award from the American Association of Law Libraries.

Acknowledgments

This article grew out of papers presented at the VII Congreso de Historia del Derecho Mexicano (Mexico City, Sept. 15, 1997), the Roman Law Society (Lawrence, Kansas, Aug. 26, 2000), and "To Collect the Minds of the Law: An International Symposium on Rare Law Books, Law Book Collections, and Libraries" (Malmö, Sweden, June 21, 2007). An earlier version was published as "El derecho hispano y neorromano en la antigua biblioteca de la Corte Suprema de Texas, 1854-1944: un estudio de procedencia," *Anuario Mexicano de Historia del Derecho* 10 (1998), 797-827.

I am grateful to Jorge Adame Goddard, Catherine Adams, José Calvo González, Michael Hoeflich, Timothy Huebner, Susan Karpuk, Mark Lambert, Matthew Mirow, Kjell Modéer, James Paulsen, Peter Reich, Joel Silver, and Emma Molina Widener for their comments and advice. Thanks to Kate Roden, Rare Books Librarian at the Tarlton Law Library, University of Texas at Austin, for providing images. I benefited from the counsel of six giants of legal history who are no longer with us, and I dedicate this article to their memory: Hans W. Baade, Morris L. Cohen, Guillermo Floris Margadant, Joseph W. McKnight, the Hon. Jack Pope, and Alan Watson.

APPENDIX
The Civil Law Collection
in the Old Texas Supreme Court Library



Left: The circular gold spine stamp that identifies many of the volumes from the Texas Supreme Court's library; this example from Pedro Frasso, *De regio patronatu Indiarum* (Madrid, 1775). Right: Title page of Pedro Frasso's *De regio patronatu Indiarum*, showing the Texas Supreme Court Library's distinctive ink stamp. Frasso's treatise, on the Spanish crown's right to regulate the Catholic Church in its American colonies, would have been of little or no use to the Texas Supreme Court, even if it had not been written in Latin. Images courtesy of the Tarlton Law Library, Jamail Center for Legal Research, University of Texas School of Law; used by permission.

The basis for the following list is the titles listed under the heading of "Foreign Books" in the *Catalogue of the Supreme Court Library at Austin, Texas* (Austin: State Printing Office, 1880) (hereafter 1880 Catalogue), along with a few books on Roman and Mexican law listed elsewhere in that catalog, which total 111 titles in 301 physical volumes. In addition, another 12 civil law-related titles (22 volumes) with Texas Supreme Court Library markings that did not appear in the

1880 Catalogue were found in the Tarlton Law Library and the State Law Library. The total is 123 titles in 323 volumes. See Table 1 for an analysis of the books by broad subject area, and Table 2 for a summary of the imprint dates. Languages represented are Spanish (51 titles), Latin (38 titles), French (19 titles), English (15 titles), and German (1 title).

Notes following the bibliographic entries indicate those titles not listed in the 1880 Catalogue, and information on markings in the books such as ownership signatures, annotations, bookseller's tickets, etc. The books usually bear spine stamps or ink stamps of the Texas Supreme Court Library, so only the absence of these markings is noted. The notes also indicate which titles appear in the published library inventories of several early nineteenth-century New Orleans lawyers: Michel de Armas (MA), Henry Adams Bullard (HB), Samuel Livermore (SL), Edward Livingston (EL), Louis Moreau Lislet (ML), and Gustavus Schmidt (GS). Table 3 gives a summary of the titles that appear in New Orleans law library inventories.

Thanks to Catherine Harris, Texas State Law Library, and the late Joseph W. McKnight, Southern Methodist University, for their assistance.

Location symbols (following the item number):

* State Law Library, Austin, Texas (32 titles / 70 vols.).

** Underwood Law Library, Southern Methodist University (1 title / 1 vol.).

† Listed in the 1880 Catalogue, but now missing (9 titles / 15 vols.); see also no. 40 (5 of 6 vols. missing).

No symbol... Rare Books & Special Collections, Tarlton Law Library, University of Texas at Austin (81 titles / 232 vols.).

- 1.* Alvarado y de la Peña, Salvador de. *Cartilla real novísima teórico-práctica* (Madrid, 1836). Vol. 2 only.
The 1880 Catalogue notes vol. 1 as missing.
- 2.* Álvarez, José María. *Instituciones de derecho real de España* (Madrid, 1829). 2 vols.
Not in the 1880 Catalogue. New Orleans libraries: MA.
- 3.* Álvarez, José María. *Instituciones de derecho real de España* (Buenos Aires, 1839). 2 vols.
- 4.* Ayliffe, John. *A new pandect of Roman civil law* (London, 1734).
5. Baldo degli Ubladi. *Consiliorum* (Frankfurt, 1589). 5 vols. in 1.
No markings, but in 1880 Catalogue.
6. Boullenois, Louis. *Dissertations sur des questions qui naissent de la contrariete des loix et des coutumes* (Paris, 1732).
New Orleans libraries: SL.
7. Boullenois, Louis. *Traite de la personnalite et de la realite des loix* (Paris, 1766). 2 vols.
New Orleans libraries: SL.
- 8.† Bowyer, George. *Commentaries on the modern civil law* (London, 1848).
9. Brederode, Pieter Cornelis van. *Repertorium sententiarum et regularum* (Frankfurt, 1587). 2 vols. in 1.
No markings, but in 1880 Catalogue. New Orleans libraries: SL.

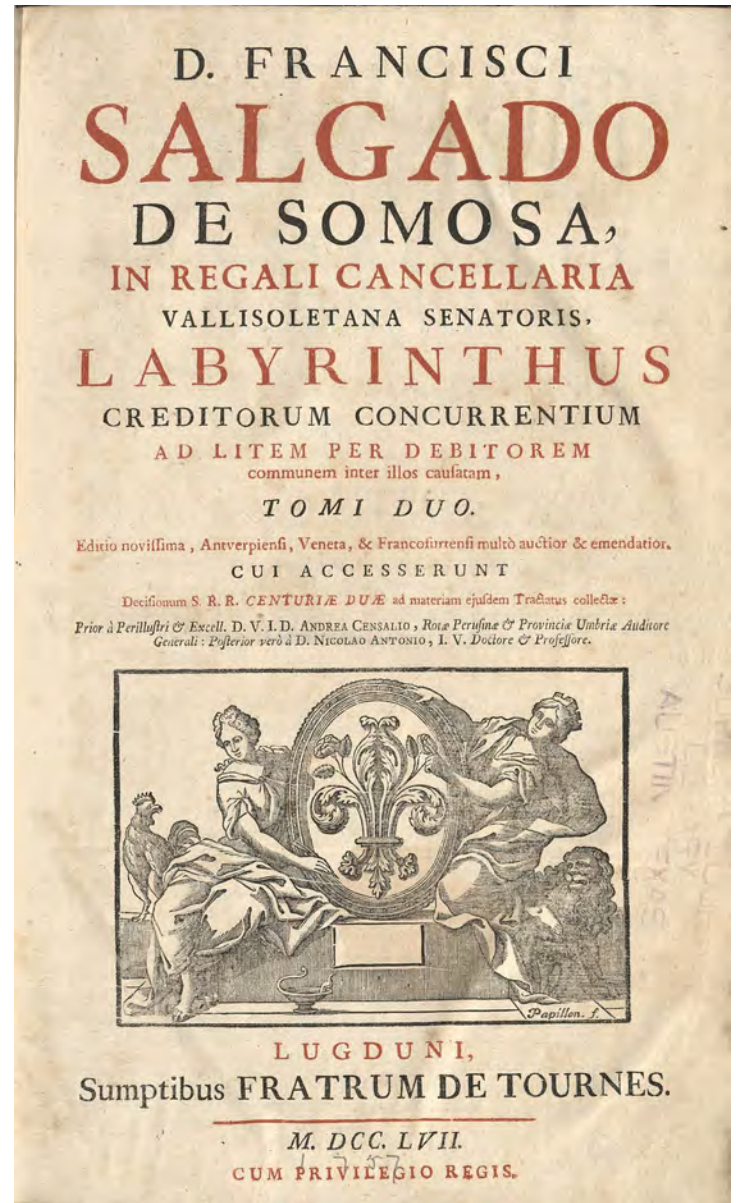
10. Brouwer, H. H. J. *De jure connubiorum apud Batavos recepto, libri duo* (Amsterdam, 1665).
No markings, but in 1880 Catalogue.
- 11.* Cavalario, Domingo. *Instituciones del derecho canónico* (Paris, 1846). 3 vols.
12. Censalio, Francisco. *Observationes ... ad tractatum de fideicommissis Marci Antonii Peregrini* (Frankfurt & Nuremberg, 1669).
Includes: Fideicommissariae materiae tractatus sive epitome / Francisci Marzarrii; Tractatus varii ... / Marci Antonii Peregrini.
- 13.* Clavigero, Francesco Saverio. *The history of Mexico* (London, 1807). Vol. 1 of 2.
Not in the 1880 Catalogue. Heraldic bookplate with motto: "Vigilans et audax".
- 14.** Coahuila and Texas (State). *Laws and decrees of the state of Coahuila and Texas, in Spanish and English* (J.P. Kimball, trans.; Houston, 1839).
Purchased by SMU from book dealer Price Daniel, Jr. in 1960 (letter from Prof. J.W. McKnight, SMU, to M. Widener, 13 Mar. 1998).
15. *Codex Theodosianus* (Leipzig, 1736-1745). 6 vols. in 4.
New Orleans libraries: SL.
16. Colón de Larriategui, Félix. *Apendice a ... los juzgados militares de España y sus Indias* (Madrid, 1791).
Not in the 1880 Catalogue.
17. Colón de Larriategui, Félix. *Juzgados militares de España y sus Indias* (Madrid, 1797). Vol. 1 of 4.
The 1880 Catalogue lists this as a one-volume title.
- 18.† Colquhoun, Patrick MacChombaich de, Sir. *A summary of the Roman civil law* (London, 1849).
3 vols.
19. Council of Trent (1545-1563). *El sacrosanto y ecuménico concilio de Trent* (Paris, 1853).
20. *Concilios provinciales primero, y segundo: celebrados en la muy noble, y muy leal ciudad de México ... 1555 y 1565* (Mexico City, 1769).
Not in the 1880 Catalogue. Price markings.
21. *Concilium mexicanum provinciale III. celebratum Mexici anno MDLXXXV* (Mexico City, 1770).
Not in the 1880 Catalogue. Bound at end of #20.
- 22.* Conde, José Antonio. *Historia de la dominación de los árabes en España* (Barcelona, 1844). 3 vols.
New Orleans libraries: GS.
23. *Corpus iuris Romani anteiustiniani* (Bonn, 1841).
24. *Corpus iuris canonici* (Lyon, 1614). 5 pts. in 1 vol.
25. *Corpus juris civilis / Albertus, Mauritius, Kriegelii, Herrmann & Osenbruggen* (Leipzig, 1844). 3 vols.
26. *Corpus juris civilis / Albertus, Mauritius, Kriegelii, Herrmann & Osenbruggen* (Leipzig, 1854). 3 vols.
27. Council of the Indies (Spain). *Extracto historial del expediente que pende en el Consejo Real, y Supremo de las Indias: a instancia de la ciudad de Manila* (Madrid, 1736).
- 28.† Council of the Indies (Spain). *Ordenanzas del Consejo real de las Indias* (Madrid, 1747).
29. Covarrubias y Leyva, Diego de. *Opera omnia* (Geneva, 1762). 2 vols.
New Orleans libraries: MA, SL, EL, GS.

30. Dalloz, Armand. *Dictionaire general et raisonne de legislation* (Paris, 1835-1841). 5 vols.
31. Dalloz, Armand. *Jurisprudence generale du Royaume* (Paris, 1825-1830). 12 vols.
No markings, but in 1880 Catalogue.
- 32.† Domat, Jean. *The civil law in its natural order* (Boston, 1850). 2 vols.
New Orleans libraries: MA, HB, EL.
33. Domínguez Vicente, José Manuel. *Ilustración, y continuación a la Curia philípica* (Madrid, 1736-1739). 2 vols.
New Orleans libraries: MA, ML, GS.
- 34.* Donoso, Justo. *Instituciones de derecho canónico americano* (Paris, 1854). 3 vols.
35. Duranton, Alexandre. *Cours de droit civil: suivant le Code francais* (Brussels, 1841). 12 vols.
Ink stamp on half-title: "Belgique / France / Convention du 22 Aout 1852". New Orleans libraries: HB.
36. Escalona y Agüero, Gaspar de. *Gazophilacium regium perubicum* (Madrid, [1775]).
37. Escaño, Ferdinando de. *Tractatus de perfectione voluntatis testamento requisita* (Seville, 1676).
- 38.* Escriche, Joaquín. *Diccionario razonado de legislación y jurisprudencia* (Paris, 1852).
Not in the 1880 Catalogue. New Orleans libraries: GS.
39. Espen, Zeger Bernard van. *Jus ecclesiasticum universum* (Louvain, 1778). 5 vols.
- 40.* Febrero, José. *Febrero: o, Librería de jueces, abogados y escribanos* (Madrid, 1852). Vol. 4 of 6.
The 1880 Catalogue indicates all 6 vols. present. New Orleans libraries: MA, HB, EL, ML, GS.
41. France. *The code Napoleon* (New York, 1841).
New Orleans libraries: ML.
42. France. *Les codes annotes de Sirey* (Paris, 1853-1854). 3 vols.
New Orleans libraries: MA, SL.
43. France. *Lois de la procedure civile* (Brussels, 1846-1852). 4 vols.
Ink stamp on half-title: "Belgique / France / Convention du 22 Aout 1852".
44. Frasso, Pedro. *De regio patronatu Indiarum* (Madrid, 1775). 2 vols.
- 45.* Galvan Rivera, Mariano. *Ordenanzas de tierras y aguas* (Mexico City, 1842).
Not in the 1880 Catalogue.
46. Gamboa, Francisco Javier de. *Comentarios a las ordenanzas de minas* (Madrid, 1761).
Contains call slip from University of Texas Law Library, dated 1949.
- 47.† Gamboa, Francisco Javier de. *Commentaries on the mining ordinances of Spain* (London, 1830). 2 vols.
- 48.* García Goyena, Florencio. *Código criminal español segun las leyes y práctica vigentes* (Madrid, 1843). 2 vols.
Inscription on flyleaf: "E. B. O'Quinn / Austin, Texas".
49. Gómez, Antonio. *Opera omnia* (Lyon, 1661). Vol. 1 of 2.
New Orleans libraries: MA, HB, SL, ML.
50. Gómez, Antonio. *Variae resolutiones juris civilis, communis, et regii* (Madrid, 1794). 3 vols. in 2.
New Orleans libraries: SL.

- 51.* Gómez de la Serna, Pedro, & Juan Manuel Montalban. *Tratado academico-forense de los procedimientos judiciales* (Madrid, 1848). 3 vols.
Inscription on flyleaf: "E. B. O'Quinn / Esquela de Leyes Mexicanos / City of Mexico".
- 52.* Grotius, Hugo. *De jure belli et pacis* [Latin & English] (Cambridge, 1853). 3 vols.
New Orleans libraries: MA, SL, ML, GS.
53. Hevia Bolaños, Juan de. *Curia filípica: primero, y segundo tomo* (Madrid, 1825).
New Orleans libraries: MA, ML, GS.
54. Ibáñez de Faria, Diego. *Additiones, observationes et notae ad libros Variarum resolutionum ... D. Didaci Covarruvias a Leiva* (Geneva, 1762).
55. Ibáñez de Faria, Diego. *Enucleatus et auctus practicis in quaestionibus* (Geneva, 1762).
56. Ibáñez de Faria, Diego. *Novae additiones observationes et notae ad libros Variarum resolucionum ... d. Didaci Covarruvias a Leiva* (Geneva, 1762).
- 57.† Irving, David. *An introduction to the study of the civil law* (London, 1837).
58. Jordán de Asso y del Río, Ignacio, & Miguel de Manuel y Rodríguez. *Instituciones del derecho civil de Castilla* (Madrid, 1771).
Inscription on t.p.: "Lic.do Guerra[?]" . New Orleans libraries: MA.
59. Jordán de Asso y del Río, Ignacio, & Miguel de Manuel y Rodríguez. *Instituciones del derecho civil de Castilla* (Madrid, 1805).
New Orleans libraries: GS.
- 60.* Jordán de Asso y del Río, Ignacio, & Miguel de Manuel y Rodríguez. *Institutes of the civil law of Spain* (London, 1825).
61. *Jurisprudence generale du Royaume, annee 1825-1848* (Paris, 1825-1848). 24 vols.
No markings, but in 1880 Catalogue.
62. Laferrierre, Louis Firmin Julien. *Histoire du droit francais: precedee d'une introduction sur le droit civil de Rome* (Paris, 1852-53). Vols. 2-4 of 4.
No markings, but in 1880 Catalogue (also shown as lacking vol. 1). New Orleans libraries: GS.
- 63.* Laso, Eustoquio. *Elementos de derecho mercantil de España* (Madrid, 1849).
- 64.* Linden, Joannes van der. *Institutes of the laws of Holland* (London, 1828).
- 65.* Llamas y Molina, Sancho de. *Comentario crítico, jurídico, literal, a las ochenta y tres Leyes de Toro* (Madrid, 1853). 2 vols.
66. Magro, Jacobo, & Eusebio Ventura Beleña. *Elucidationes ad quatuor libros Institutionum Imperatoris Justiniani* (Mexico City, 1787-1788). 4 vols.
67. Mascardi, Giuseppe. *Conclusiones probationum omnium* (Frankfurt, 1619). 3 vols.
New Orleans libraries: MA, ML.
68. Menochio, Giacomo. *De praesumptionibus, coniecturis, signis, & indicijs, commentaria* (Cologne, 1628).
Inscription in pencil on front cover (vellum): "What next?". New Orleans libraries: MA, SL, GS.
69. Merlin, Philippe Antoine. *Recueil alphabetique des questions de droit* (Paris, 1827-1830). 9 vols.
New Orleans libraries: HB.

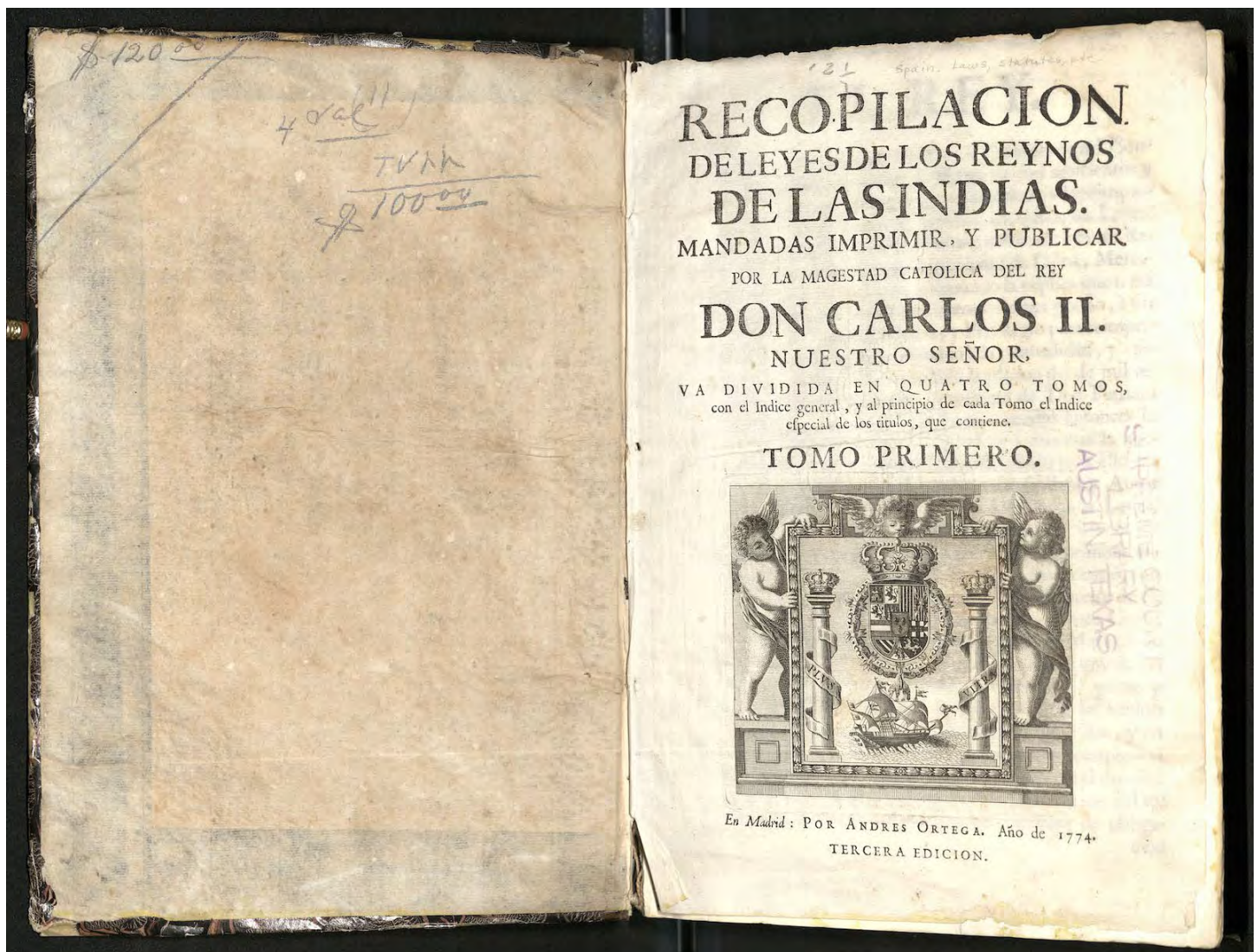
70. México. *Colección de los decretos y órdenes de las Cortes de España, que se reputan vigentes en la República de los Estados-Unidos Mexicanos* (Mexico City, 1829).
Annotations in subject index and text.
- 71.* México. *Ordenanzas de minería* (Paris, 1854).
72. Molina, Luis de. *De primogeniorum hispanorum origine, ac natura, libri quatuor* (Venice, 1757).
73. Mortreuil, Jean-Anselme-Bernard. *Histoire du droit Byzantin ou du droit Romain dans l'empire d'orient* (Paris, 1843-1846). 3 vols.
74. Muhlenbruch, Christian Friedrich. *Delectus legum quae in Muhlenbruchii Doctrina pandectarum laudantur* (Brussels, 1839).
75. Muhlenbruch, Christian Friedrich. *Doctrina Pandectarum: Scholarum in usum* (Brussels, 1838).
New Orleans libraries: GS.
- 76.* Navarro Zamorano, Ruperto, Rafael Joaquín de Lara & José Álvaro de Zafra. *Curso completo elemental de derecho romano* (Madrid, 1842). 4 vols.
- 77.* *Nuevo diccionario de la lengua castellana* (Paris, 1853).
New Orleans libraries: MA, GS.
- 78.* Pando, José María de. *Elementos del derecho internacional* (Valparaiso, 1848).
Inscription on flyleaf: "E. B. O'Quinn / City of Mexico". New Orleans libraries: GS.
79. Pardessus, Jean Marie. *Cours de droit commercial* (Brussels, 1842-1843). 3 vols.
New Orleans libraries: MA, ML, GS.
80. Pellegrini, Marcantonio. *Tractatus ... de fideicommissis* (Nuremberg, 1725).
81. Pothier, Robert Joseph. *OEuvres de Pothier* (Paris, 1845-1848). 10 vols.
New Orleans libraries: MA, HB, EL, ML, GS.
82. Proudhon, Jean Baptiste Victor. *Traite du domaine de propriete* (Brussels, 1842).
Ink stamp on half-title: "Belgique / France / Convention du 22 Aout 1852". New Orleans libraries: GS.
- 83.† Real Academia Española. *Suplemento al diccionario de la lengua castellana* (Paris, 1854).
New Orleans libraries: MA.
84. *Repertoire universal et raisonne de jurisprudence* (Paris, 1827-1828). 18 vols.
No markings, but in 1880 Catalogue. New Orleans libraries: MA, HB, ML.
- 85.* Rios, Juan Miguel de los. *Derecho político, general, español y europeo* (Madrid, 1845-1846). 3 vols.
- 86.* Rockwell, John Arnold. *A compilation of Spanish and Mexican law: in relation to mines, and titles to real estate* (New York, 1851).
Not in the 1880 Catalogue.
- 87.† Rodríguez de San Miguel, Juan Nepomuceno. *Pandectas hispano-megicanas* (Mexico City, 1852). 3 vols.
- 88.* Sala, Juan. *Sala hispano-mejicano* (Paris, 1844). 2 vols.
New Orleans libraries: GS.
89. Sala, Juan. *Sala mexicano, o sea, La ilustración al derecho real de España* (Mexico City, 1845-1849). 4 vols.
New Orleans libraries: GS.

90. Salgado de Somoza, Francisco. *Labyrinthus creditorum concurrentium ad litem per debitorem communem inter illos causatam* (Lyon, 1757). 2 vols.
New Orleans libraries: MA, SL, ML.
91. Salgado de Somoza, Francisco. *Tractatus de regia protectione vi oppressorum appellantium a causis & iudicibus ecclesiasticis* (Lyon, 1759).
New Orleans libraries: MA, SL, ML.
92. Salgado de Somoza, Francisco. *Tractatus de supplicatione ad Sanctissimum a literis* (Lyon, 1758).
New Orleans libraries: MA, SL, ML.
93. Savigny, Friedrich Karl von. *Traite de droit romain* (Paris, 1840-1851). 8 vols.
- 94.† Schmidt, Gustavus. *The civil law of Spain and Mexico* (New Orleans, 1851).
95. *Schul-und-reife-Tarchen-Worterbuch der Franzossichen und Deutschen Sprache* (Leipzig, [17--]).
Not in the 1880 Catalogue. Inscription on flyleaf: "G. B. Rosenbach 1829."
- 96.* Sempere y Guarinos, Juan. *Historia del derecho español* (Lima, 1847).
Inscription on half-title: "Supreme Court of Texas / Austin / 1854."
97. *Las siete partidas del sabio rey Don Alonso el IX* (Madrid, 1829-1831). Vols. 1, 3-4 of 4.
Not in the 1880 Catalogue. Price markings; acquired by Tarlton Law Library Sept. 1964. New Orleans libraries: MA, GS.
98. Solórzano Pereira, Juan de. *De Indiarum jure* (Madrid, 1777). 2 vols.
99. Solórzano Pereira, Juan de. *Emblemata centum, regio politica* (Madrid, 1779).
100. Solórzano Pereira, Juan de. *Obras varias posthumas del doctor don Juan de Solórzano Pereyra* (Madrid, 1776).
101. Solórzano Pereira, Juan de. *Politica indiana* (Madrid, 1776). 2 vols.
- 102.* Spain. *Código de comercio, decretado, sancionado y promulgado en 30 de mayo de 1829* (Madrid, 1856).
New Orleans libraries: GS.



90. Salgado de Somoza's *Labyrinthus*. Image courtesy of the Tarlton Law Library, Jamail Center for Legal Research, University of Texas School of Law— used by permission.

- 103.* Spain. *Los códigos españoles* (Madrid, 1847-1851). 12 vols.
New Orleans libraries: GS.
104. Spain. *Decretos del Rey Don Fernando VII: año primero de su restitucion al trono de las Españas* (Madrid, 1818-1824). 8 vols.
105. Spain. *Novísima recopilación de las leyes de España* (Madrid, 1805-1807). 6 vols.
Not in the 1880 Catalogue. Price markings; acquired by Tarlton Law Library Sept. 1964. New Orleans libraries: MA, GS.
106. Spain. *Reales ordenanzas para ... la minería de Nueva-España* (Madrid, 1783). [2 copies.]
Both copies listed in 1880 Catalogue.
107. Spain. *Recopilación de leyes de los reynos de las Indias* (Madrid, 1774). 4 vols.
Not in the 1880 Catalogue. Price markings; acquired by Tarlton Law Library Sept. 1964. New Orleans libraries: GS.
108. Spain. *Tomo tercero de autos acordados* (Madrid, 1745).
109. Suárez de Paz, Gonzalo. *Praxis ecclesiastica et saecularis* (Madrid, 1780).



107. *Recopilación de leyes de los reynos de las Indias*, 1774. Image courtesy of the Tarlton Law Library, Jamail Center for Legal Research, University of Texas School of Law— used by permission.

- 110.* Taylor, John. *Elements of the civil law* (London, 1828).
111. Troplong, Raymond Theodore. *Commentaire des privileges et hypotheques* (Brussels, 1844). 2 vols.
New Orleans libraries: HB, GS.
112. Troplong, Raymond Theodore. *Commentaire du contrat de societe en matiere civile et commerciale* (Brussels, 1843).
New Orleans libraries: HB, GS.
113. Troplong, Raymond Theodore. *Commentaire du mandait* (Brussels, 1847).
New Orleans libraries: HB.
114. Troplong, Raymond Theodore. *Commentaire du pret, du depot, du sequestre et des contrats aleatoires* (Brussels, 1845).
New Orleans libraries: HB.
115. Veitía Linage, Joseph de. *Norte de la contratación de las Indias Occidentales* (Seville, 1672). 2 vols. in 1.
Inscription on verso of t.p.: "E. B. O'Quinn / City of Mexico". Bookseller's ticket: "Librería Nacional y Estrangera de Charlain y Fernandez ... Habana".
116. Vilanova y Mañes, Senen. *Materia criminal forense* (Madrid, 1807). 4 vols.
Bookseller's ticket in v.1: Hortal y Compañía, Cádiz. Cancelled inscription on t.p.
117. Villadiego Vascuñana y Montoya, Alonso de. *Instrucción política y práctica judicial* (Madrid, 1788).
New Orleans libraries: MA, ML, GS.
118. Vinnius, Arnoldus. *Institutionum imperialium commentarius academicus, et forensis* (Lyon, 1761). 2 vols.
New Orleans libraries: MA, SL, GS.
119. Vinnius, Arnoldus. *Jurisprudentiae contractae, sive, partitionum juris civilis* (Lyon, 1748).
Bound at the end of vol. 2 of #118.
120. Vinnius, Arnoldus. *Tractatus quatuor: nempe de pactis, jurisdictione, collationibus, et transactionibus* (Lyon, 1748).
Bound at the end of vol. 2 of #118. New Orleans libraries: SL.
121. Voet, Joannes. *Commentarius ad Pandectas* (Geneva, 1778). 2 vols.
Inscription on the half-title of vol. 1: "Supreme Court Library / Austin, Texas / June 7 1882". New Orleans libraries: MA, SL, EL, GS.
- 122.* Walter, Ferdinand. *Manual del derecho eclesiástico universal* (Paris, 1852).
- 123.* White, Joseph M. *A new collection of laws ... of Great Britain, France and Spain: relating to the concessions of land* (Philadelphia, 1839). 2 vols.
"To which is prefixed Judge Johnson's translation of Azo and Manuel's Institutes of the civil law of Spain."
- 124.* Zamora y Coronado, José María, comp. *Biblioteca de legislación ultramarina* (Madrid, 1844-1849). 7 vols.
New Orleans libraries: GS.