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A LEGAL MISCELLANEA

A NEWSLETTER FOR THE FRIENDS OF THE JACOB BURNS LAW LIBRARY

VOLUME 3, NUMBER 2 AUTUMN 2006 :: THE GEORGE WASHINGTON UNIVERSITY LAW SCHOOL

SPECIAL COLLECTIONS FOCUS: NEW ACQUISITIONS

De l'Esprit des Loix (1748)

One of the best known, most frequently printed, and eminently influential works on the general principles of law first was published anonymously, and within three years appeared on the Catholic Church's Index of Prohibited Books. The author's close friend, the French philosopher Helvétius, counseled him not to publish it at all. Intrepid, Montesquieu proceeded, and *De l'Esprit des Loix*, (*The Spirit of Laws*), well-received outside France, was met with controversy in his own land, despite its widespread success. The Law Library recently has acquired a first edition of Montesquieu's monumental work in two volumes, a handsome quarto bound in contemporary marbled calf with gilt detailing. The Geneva imprint marked the culmination of twenty years' effort devoted to achieving this jurist's ultimate goal: the creation of a magisterial work which sought to understand and interpret laws and social institutions according to the factors which produced them, be they constitutional, political, religious, or even climatic.

The Baron de Montesquieu (1689-1755) was an erudite presence during the French Enlightenment, a legal theorist and philosopher whose work

(continued on next page)

PROFESSORS DONATE WORKING PAPERS TO THE LAW LIBRARY

This year the Law Library was fortunate to acquire working papers for major national and international law projects from two distinguished GW Law faculty members, Professor Thomas D. Morgan and Professor John A. Spanogle.

Professor Morgan, Oppenheim Professor of Antitrust and Trade Regulation Law, has donated papers generated in the course of his association with three national law projects. Papers from the Model Rules of Professional Conduct project (approximately 1979-1983) include published drafts of the Kutak Commission, and correspondence with legendary Commission chair Robert Kutak. After his tenure as dean at Emory University School of Law, Professor Morgan served in 1986 as reporter for the ABA Commission on Professionalism, which focused on lawyer advertising. The third, and largest, group of

(continued on next page)



Professor Morgan

Stan Barouh



Professor Spanogle

Stan Barouh

THE LATEST...



As we near the end of our third year, we extend thanks to three "in-house" professionals who twice a year transform *A Legal Miscellanea* from a handful of ideas into a finished product: Anne Hsieh, Senior Graphic Designer at GW Graphics, Claire Duggan, GW Law's Assistant Director for Public Relations, and Walter Brown, Head of the Law School Copy Center. Anne, Claire, and Walter are critical to the production of *A Legal Miscellanea*: Anne as designer, Claire as photographer, and Walter and his team as production agents. Their talent, creativity, and dedication have been critical to our process, beginning with the first days of considering how to fashion the newsletter. To Anne, Claire, and Walter, our thanks and deep appreciation!

EVENTS...The Friends of the Jacob Burns Law Library will welcome the emeritus faculty during Alumni Weekend on Saturday, October 21, 4:00-5:30 p.m., in the Tasher Great Room. Friends: watch your mail in September for your invitation to this popular event. Alumni: check the schedule of events in your invitation to Alumni Weekend.

(Professors Donate continued)

papers was generated during the preparation of the Restatement (Third), The Law Governing Lawyers (1986-2000), for which Professor Morgan was one of two associate reporters. Papers from this project include the published drafts plus Professor Morgan's supporting papers.

Professor Spanogle, William Wallace Kirkpatrick Research Professor of Law, has donated papers generated during his service as a volunteer for the U.S. Department of State, working at UNCITRAL (United Nations Commission on International Trade Law). For most of the period represented (1982-1989), Professor Spanogle was Chief of the U.S. Delegation, and UNCITRAL's focus was the U.N. Convention on International Bills of Exchange and Promissory Notes. The Convention was approved for signature and ratification in 1989. Professor Spanogle's papers include his memos to the State Department and its advisory committee, his working notes on the meetings with the advisory committee and the UNCITRAL sessions, diplomatic cables summarizing the work of the UNCITRAL meetings, his internal memos analyzing the provisions of the working drafts as well as the U.N. documents themselves - the Working Drafts, Comments by the Secretariat, and Comments by governments.

The Law Library is grateful for these generous donations which add so much to its collections. After processing, the papers of Professors Morgan and Spanogle will be available for research.

(Special Collections continued)

found its way into the legal and political thought of countries other than his own. He received his law degree from the University of Bordeaux in 1708, presided as a magistrate over the criminal division of the Parlement of Bordeaux, and later through inheritance gained the freedom to do what he wanted most: study and write. During a period of extended European travel, he spent time in England, where he observed proceedings at the House of Commons and mingled with British elite. His experience in England is thought to have been of significant import in his intellectual development.

Of interest to students of the American system of government is the sway Montesquieu's work exerted on the thinking of the Founding Fathers. The intellectual foundations of the U.S. Constitution are many, extending into ancient times to the Bible and Roman law. The Founders drew on these sources as well as many others, including those of the Enlightenment. Though the natural law tradition underlies *The Spirit of Laws*, it is the concept of natural rights in Montesquieu's work which especially appealed to the Founders: freedom and its defense, and deliverance from arbitrary rule by the head of state. And although there are differing interpretations of the doctrine of separation of powers as articulated by Montesquieu, he is commonly credited as the inspiration for adopting the doctrine in the United States. Montesquieu topped the list of writers cited during the debates over the ratification of the Constitution, trailed by Blackstone, John Locke, Sir Edward Coke, and many others.

Of the Founders, James Madison was perhaps most influenced by Montesquieu's work, and he included *The Spirit of Laws* in his readings to prepare for the Constitutional Convention (1787). Thomas Jefferson read Montesquieu with skepticism; to him the grand sweep of *The Spirit of Laws*

“Of interest to students of the American system of government is the sway Montesquieu's work exerted on the thinking of the Founding Fathers.”



Detail of Charles Montesquieu (Anonymous, 18th c), Musée National du Château et des Trianons.

allowed too much room for inconsistency, and he dubbed it “a book of paradoxes” while still recommending it as a text on the science of government. Although Jefferson did not embrace *The Spirit of Laws* uncritically, the work occupied his mind. His library contained not only Montesquieu's oeuvre, but also commentaries and critiques; his Commonplace Book reveals passages copied from *The Spirit of Laws*, he revised an English translation of Destutt de Tracy's commentary on the work, and Montesquieu is a topic of lively comment in Jefferson's letters.

The opus which shocked the Church with its intellectualism, and provoked harsh criticism from supporters and opponents alike of the Old Regime, for the better part of three centuries has provided statesmen and scholars with a rich source of ideas. As a work with the latitude to accommodate differing, even opposing, interpretations and analyses, *The Spirit of Laws* continues to stimulate an active discourse on the nature of the law.

THE EDUCATION OF PRINCES

Scott B. Pagel, Director of the Law Library

Early treatises dedicated to the “education of princes” were a fledgling form of political science literature. They began to appear during classical times, flourishing later as a genre during the 16th century, building upon the 14th and 15th century European humanist movement. These works offered advice and instruction on governing a kingdom, either to a particular prince (and future king), or to royalty in general. They served as primers for the proper way to govern by establishing moral and ethical guidelines, analyzing the principles of war and peace, and encouraging the monarch to be a model for the subjects of the realm. These treatises also urged rulers to assist the needy and dispense justice equitably. Eminent writers, many of them important historical figures, composed works intended to guide future rulers. The brilliant Dutch humanist scholar Desiderius Erasmus (1466?-1536) authored *Institutio Principis Christiani* in 1516, while Italian statesman Niccolò Machiavelli (1469-1527) spawned immense controversy with his work *Il Principe (The Prince)* in 1513 by advocating the pursuit of political ends by any necessary means, morality aside.

In Special Collections are found a number of examples of works in this genre, including several composed for French monarchs, which provide insight into the convergence of humanist philosophy and politics. Perhaps the most important of these is a recent acquisition: *Tesmoignage de Temps, ou Enseignemens et Enhortemens Pour l’Institution*

d’un Prince (1547), a work by a man whom scholars recognize as France’s most distinguished early humanist, Guillaume Budé (1468-1540). Appointed a Master of Requests by François I in 1522, Budé found a sympathetic student in the king, whose reign during the pinnacle of the Renaissance in France provided a fertile environment for the humanist philosopher’s agenda. To François, Budé promotes the study of letters as the foundation of good government, and stresses the importance of supporting poets, historians, and

“Early treatises dedicated to the ‘education of princes’ were a fledgling form of political science literature.... These works offered advice and instruction on governing a kingdom, either to a particular prince (and future king), or to royalty in general.”

orators. Though not denying the sacred origins of the king’s authority, he does not address the bond between Church and monarch. Although Budé presented his work, known as the *Institution*, in manuscript personally to François I (ruled 1515-1547), it did not appear in print until 1547, seven years after Budé’s death. It was issued by printers in Paris, Lyon, and Troyes. The library’s copy is the very rare 1547 Lyon edition.

An illustration of Budé’s Institution appears on the back cover.

A SPECIAL VISITOR FROM FRANCE

On June 29 the Law Library hosted Alexis Bouroz, Deputy Director for Internships at the National School for Magistrates, Bordeaux, France. M. Bouroz’s visit was sponsored by the Phelps Stokes Fund’s International Visitor Leadership Fund on behalf of the U.S. Department of State, the goal of which is to foster a better understanding of the American legal system. While in Washington, M. Bouroz also visited the U.S. Supreme Court, Department of Justice, and the Federal Judicial Center. At GW, after discussing issues of American law with Professor Renée Lerner, M. Bouroz spent time in the Law Library with some of the treasures of the French Collection.



Professor Renée Lerner and French Minister Bouroz discuss an exhibit with Director Scott Pagel and Rare Books Librarian Jennie Meade.

Claire Duggan

ELECTRONIC ACQUISITIONS UPDATE

Matt Braun, Reference Librarian &
Nicole Harris, Head of Electronic Services

Continuing its efforts to enhance electronic research capabilities for its patrons, the Law Library recently has acquired a number of new and diverse online sources.

Two CCH internet research networks, the *Tax Research Network* and the *Health, Human Resources and Labor Network*, have been added to the electronic collection. Both allow one-stop searching of material traditionally found in CCH loose-leaf services and select Aspen treatises, and permit law faculty and students to set up alerts to stay informed on developments in their chosen areas of research.

The *Tax Research Network* contains libraries on federal and state tax, sales tax, financial and estate planning, and pension and payroll, while also providing access to *Tax Tracker News*, a collection of daily journals organized by subject and jurisdiction. The *Health, Human Resources and Labor Network* targets research in human resources management, labor and employment law, and health care compliance, with links to primary law and analytical materials. With the acquisition of these two networks, the Law Library now has access to three CCH internet research networks, the third being the enhanced *Business and Management Network*, which includes content in intellectual property, computer and internet law, government contracts, and securities.

The *RIA Checkpoint Tax & Accounting Internet Research Service* provides access to tax and accounting

products, including the *U.S. Tax Reporter*, *Federal Tax Coordinator 2d*, and the *Journal of Taxation*. A few clicks in *RIA Checkpoint* allow patrons to locate U.S. tax and accounting laws, as well as select legislative history and analysis.

Two new Thomson Gale databases are designed for historical research. The *Making of Modern Law Digital Archive* contains nearly ten million pages from Anglo-American legal treatises, 1800-1926. The database allows multiple search techniques, including full-text and subject searching in 99 separate areas, as well as browsing by author and title. *U.S. Supreme Court Records and Briefs, 1832-1978* is part of the Making of Modern Law collection. It contains the digitized

images of more than 240,000 records and briefs filed in the Court over 146 years.

Lastly, *E-Journal Finder* (TDNet) provides an A-Z list of periodicals to which the library subscribes in electronic format. The *E-Journal Finder* allows patrons to determine the electronic availability and location of particular periodicals, and to search tables of contents

for articles. Coverage of the *E-Journal Finder* extends to legal and interdisciplinary journals, newspapers, and other periodicals held by the Law Library, as well as to titles held by the Gelman and Himmelfarb (Health Sciences) Libraries at GW. The TDNet platform also permits authorized users to create personal profiles by which individualized collections of periodicals may be viewed and searched, and current awareness email alerts may be received.

“Continuing its efforts to enhance electronic research capabilities for its patrons, the Law Library recently has acquired a number of new and diverse online sources.”



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RESEARCH AND RESEARCHERS IN SPECIAL COLLECTIONS

This spring the Law Library welcomed a number of readers to Special Collections. The list below reflects the sweep of legal subjects for which researchers consulted our rare materials:

- ✿ Research by the project bibliographer for the first White House Library, established in Millard Fillmore's administration (1850-1853). The project's goal is the reconstruction of the catalogue of titles in the original White House Library. Materials consulted included Joseph Chitty, *A Practical Treatise on the Law of Nations* (London, 1812), and Johann Heineccius, *A Methodical System of Universal Law* (London, 1763).

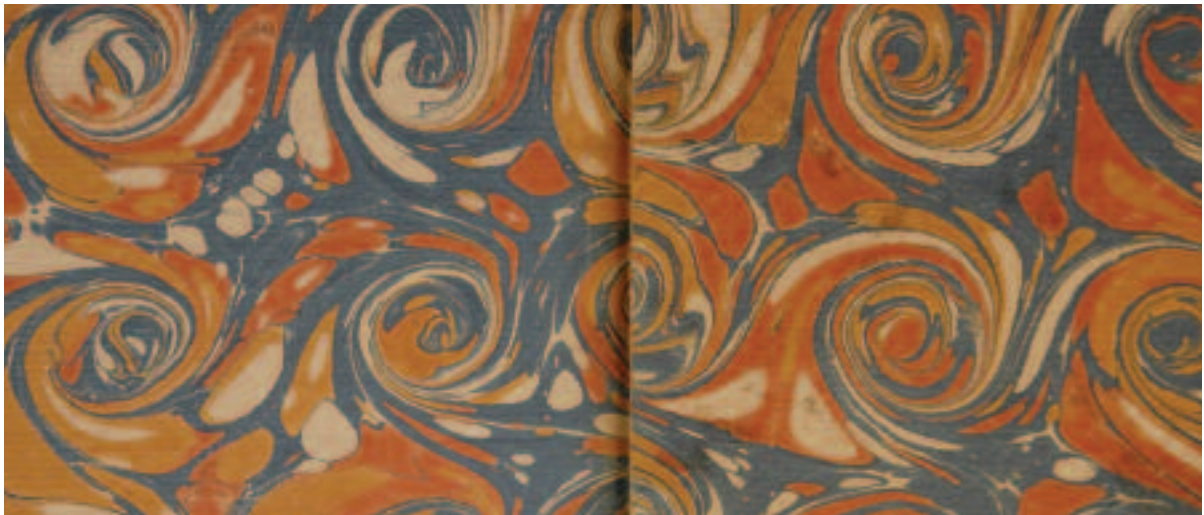
- ✿ Research by an academic legal historian on early French civil law on questions of warranties regarding sale of personal property and merchantability, using early 19th-century imprints of the *Code Napoleon* and the *Code de Commerce*.

- ✿ Research by a professor of literature and his collaborator in composing a historical play about the 18th-century American murderess Bathsheba Spooner (1746-1778). Works consulted include the Bathsheba Spooner primary documents, *The Guilt of Innocent Blood Put Away* (Worcester, MA, 1778) and *The Last Words and Dying Speech of Ezra Ross, James Buchanan, and William Brooks* [Boston, 1778?], plus *American Criminal Trials* (Boston, 1844) and secondary materials on the Spooner case.

- ✿ Research by a professor of fine arts into valuation of properties by notaries in 18th-century France. Among the works consulted are several editions of Claude de Ferrière's *La Science Parfaite des Notaires* (Paris editions from 1684 and later).

- ✿ Research by a professor of history into 17th- and 18th-century French justice, working with the customary laws of Normandy.

- ✿ Research by an SJD student into the history of French criminal procedure, using a large group of 16th- through 19th-century works in French and Latin.



Marbled endpapers from a collection of laws on the police (Lyon, 1711)

Claire Duggan



SUMMER SCHOOL! FIRST-TIME IMPRESSIONS OF RARE BOOK SCHOOL

If you haven't heard of Rare Book School, your book world is about to expand. Rare Book School is a nonprofit educational institute supporting the study of the history of books, printing, and related subjects through one-week courses clustered seasonally throughout the year. Founded at Columbia University in 1983, RBS since 1992 has made its home at the University of Virginia. Its creator, leader, and guardian angel is Terry Belanger, a 2005 MacArthur Fellow and scholar-on-the-move whose presence assures the range and high quality of the RBS offerings. Courses are targeted towards professional book people, and are populated by librarians, booksellers, professors, doctoral candidates, and serious collectors.

The study of the book as a physical object defines Rare Book School, and at the RBS venues (UVA, Walters Art Museum, the Grolier Club and the Morgan), book professionals refine their eye and analytic skills under the tutelage of scholars chosen from among the finest in the world. For librarians with a proclivity for history, Rare Book School can fill a post-MLS void as they seek to learn about the history of the book, descriptive bibliography, book illustration, illuminated manuscripts, and much more.

Recently the Law Library's Head of Collection Services, Iris Lee, took the plunge and traveled to Charlottesville for her first course at RBS. She shares her impressions with us in our interview.

“The study of the book as a physical object defines Rare Book School, and at the RBS venues (UVA, Walters Art Museum, the Grolier Club and the Morgan), book professionals refine their eye and analytic skills under the tutelage of scholars chosen from among the finest in the world.”



Claire Duggan

Early French contract form book (Lyon, 1627)



Stam Barouh

Iris Lee, Head of Collection Services

“AN EXPERIENCE I’LL WANT TO REPEAT”

A Legal Miscellanea: How were you made aware of RBS?

Iris Lee: I received a notifying email from the American Association of Law Libraries. Learning that Morris Cohen would be teaching motivated me to enroll. He is a living legend in our profession.

LM: Which course did you attend at RBS? Did others tempt you?

IL: “Collecting the History of Anglo-American Law.” But as a librarian and history buff, I find nearly all RBS courses of interest.

Describe the application procedure.

The process is straightforward: applicants provide their educational background, employment history, a personal statement describing interest, prior RBS attendance. I was impressed that RBS seeks students who approach the courses seriously and can contribute as well as learn.

Why did you attend the course? How does it relate to your work at the law library?

The rare book collection at Burns has become an important part of its identity and mission, and it was time for me to learn more about historical legal materials. We have treasures in our collection, and I should know how they fit into the history and development of American law.

Pre-attendance readings?

What a reading list! The required readings approached 700 pages. There were also suggested readings, with

additional reading assigned when we arrived. All readings were vital preparation for the course.

RBS instructors?

Morris Cohen and David Warrington. Mr. Cohen is Professor Emeritus of Law at Yale. Mr. Warrington is Head of Special Collections at Harvard Law. Both were exceptional: they absolutely know the material backward and forward.

Describe the typical RBS day.

Long! Class started at 8:30 a.m. with a one-hour lunch and two breaks, and ended at 5 pm. Mostly class was devoted to lecture, but we took one field trip and worked one afternoon on a library project. A variety of optional book-related evening activities are scheduled by RBS, to attend or not as one chooses.

Homework? Number of classmates and class composition?

Two homework assignments. Twelve students: Eight law librarians, three lawyers (two from the UK), and one book dealer.

Extracurricular opportunities?

We visited UVA’s new law school complex and law library— beautiful. Also the Albert and Shirley Small Special Collections Library. Impressive building and collection! And the Charlottesville booksellers stay open late for RBS students on Tuesday night.

Would you attend again?

An emphatic “YES!”

Visit Rare Books School at www.virginia.edu/oldbooks/

FOR INFORMATION

on the topics covered in this newsletter, Special Collections, or the Friends, please contact the editor, Jennie C. Meade, Rare Books Librarian, at jmeade@law.gwu.edu or (202) 994-6857.



Claire Duggan

Guillaume Budé's Temoignage de Temps, ou Enseignements et Enhortemens pour l'Institution d'un Prince (Lyon, 1547). See Library Director Scott Pagel's article on the education of princes, at 3.

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