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The Michael H. Hoeflich Collection of Roman Law Books - Spring 2013: An Illustrated Guide to the Exhibit

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THE DANIEL R. COQUILLETTE
RARE BOOK ROOM

THE MICHAEL H. HOEFLICH
COLLECTION OF ROMAN
LAW BOOKS – SPRING 2013

AN ILLUSTRATED GUIDE
TO THE EXHIBIT

In December 2009 and December 2012, Michael H. Hoeflich, John H. & John M. Kane Distinguished Professor of Law at the University of Kansas School of Law, donated his fine collection of antiquarian and modern Roman law books to the Boston College Law Library. Professor Hoeflich is a well-known scholar in many areas of law and legal bibliography, including legal history, comparative law, ethics, contracts, art law, and the history of law book publishing. His 1997 book, *ROMAN AND CIVIL LAW AND THE DEVELOPMENT OF ANGLO-AMERICAN JURISPRUDENCE IN THE NINETEENTH CENTURY*, is a classic.

Dating from 1536, Professor Hoeflich's collection of over 500 titles includes both seminal and lesser-known works on Roman, civil, and canon law in Latin, German, French, and English. The collection is both broad and deep, reflecting his knowledge of and passion for Roman law, bibliography, and the bookmaker's art. All of us at the Boston College Law School and Law Library are profoundly grateful to

Professor Hoeflich for his generous donation.

The books on display in this room include a selection of the rare and antiquarian titles from Professor Hoeflich's collection. The exhibit begins in the horizontal wooden case to the left upon entering and continues clockwise around the room, ending with the other wooden exhibit case.

The exhibit was curated by Laurel Davis, Curator of Rare Books/Legal Reference Librarian. It is largely based on a 2011 exhibit by Karen Beck, now Curator of Special Collections at Harvard Law Library, and incorporates books from Professor Hoeflich's 2012 gift. Some of the background text was drawn from Peter Stein's book, *ROMAN LAW IN EUROPEAN HISTORY* (1999); some descriptions of individual books were adapted from Michael von der Linn's descriptions on the Lawbook Exchange website (www.lawbookexchange.com). The exhibit will remain on view through the spring semester.



Horizontal wooden cabinet to your left upon entering:

JUSTINIAN

In 527 AD, Justinian became Emperor of Rome's eastern empire. A strong ruler, he believed himself to hold supreme religious and temporal power. The famous church of Hagia Sophia was the symbol of his

religious authority. One of the symbols of his temporal authority was a quartet of legal works produced at his direction which collectively came to be known as the **CORPUS IURIS CIVILIS**. Most of what we know about ancient Roman law is based on these texts.

Justinian directed his minister Tribonian and an army of legal scholars to comb through Roman legal sources dating back 1,000 years, from about 500 BC. From this careful review of early sources, they compiled a **CODE** which arranged imperial constitutions, or legislation written by Roman Emperors, in chronological order. During this process the scholars tried to rid the text of redundancies, complexities, and contradictions. The Code was divided into titles and spanned twelve books.

A second work, the **DIGEST**, was an anthology of extracts from the writings of great early Roman jurists. Each fragment was attributed to its original source. The Digest is arranged by title (i.e. subject); and the titles are arranged in a total of fifty books. As with the Code, Justinian instructed the compilers to omit redundancies and eliminate contradictions, so evidence of disagreement among the classical jurists was erased. Finally, the compilers were authorized to make substantive changes to ensure that the Digest expressed the law of sixth-century Byzantium. Called interpolations, these changes have been a source of scholarly interest for the past several centuries. Scholars have labored to determine which bits of the text were original to the classical jurists and which were sixth-century alterations to make the law relevant to the Byzantium of Justinian's time.

A third prong of Justinian's massive overhaul of Roman law was the **INSTITUTES**, an elementary textbook for students that was nonetheless seen as equally authoritative as the **DIGEST** and **CODE**. The **DIGEST** and **INSTITUTES** became law in 529 and the **CODE** a year later.

These three pieces comprised Justinian's compilation. He made the whole work his own (rather than attributing it to earlier emperors and jurists) by converting it into statutory form. He forbade any reference to the original source materials and tried to ban commentaries on his text, stating that it was crystal clear as it was. Justinian continued to issue constitutions, or **NOVELS**, until his death in AD 565. The Novels were added to the other three parts and the whole compilation came to be called the **CORPUS IURIS CIVILIS**, the body of the civil law. This massive work marked the culmination of 1,000 years of legal development. Without Justinian's compilation we would know little about earlier Roman law, as little classical law has survived directly.

This case features four attractive examples of Justinian's famous work.

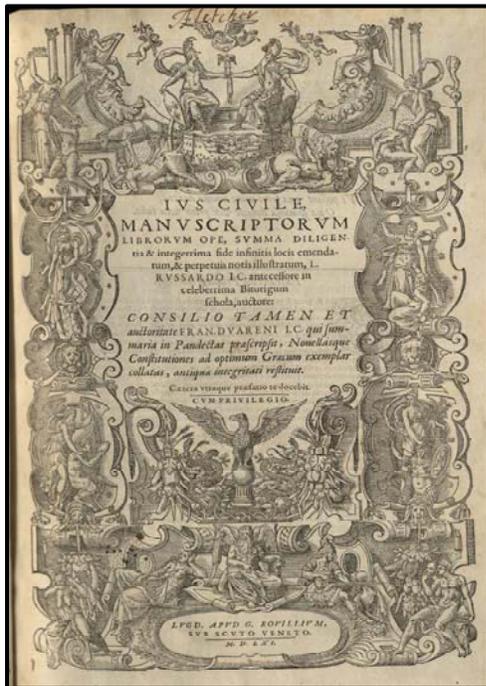
LOUIS ROUSSARD. CODICIS DN IUSTINIANI SACRATISSIMI PRINCIPIS PP. A EX REPETITA PRAELECTIONE, LIB. XII: EX CODICIS THEODOSIANI...Lyon, 1561.

This lovely vellum-bound edition of **JUSTINIAN'S CODE** was printed with the volume to its right. Both volumes have an impressive provenance, having once lived in

the libraries of Joseph Scaliger (French religious leader and scholar), Nicolaas Heinsius (Dutch classicist), and Andrew Fletcher of Saltoun (Scottish writer and politician).

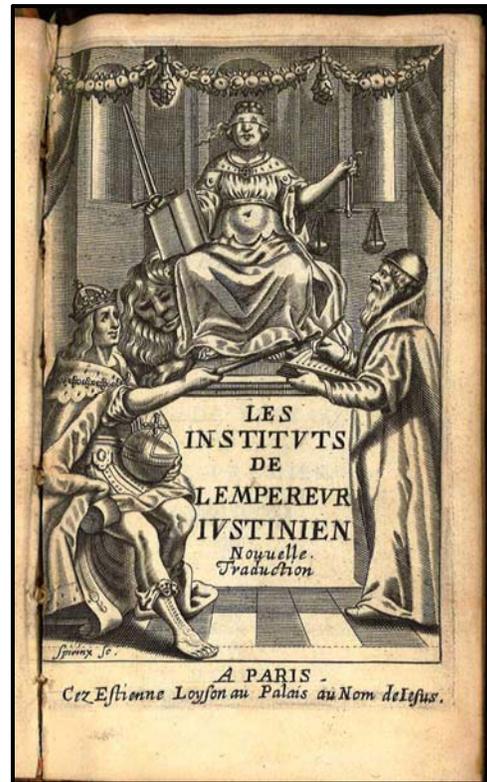
LOUIS ROUSSARD. IUS CIVILE, MANUSCRIPTORUM LIBRORUM OPE: SUMMA DILIGENTIA & INTEGERRIMA FIDE INFINITIS LOCIS EMENDATUM, & PERPETUIS NOTIS ILLUSTRATUM. Lyon, 1561.

Like its partner to the left, this edition of THE PANDECTS features the device of printer Gulielmum Rouillium—the eagle with two snakes rising from beneath him.



IMP. CAES. IUSTINIANI INSTITUTIONUM LIBRI IIII. Lyon, 1587 (shown closed).

LES INSTITUTS DE L'EMPEREUR JUSTINIEN. 2d ed. Paris, 1669.



Cabinet II (first glass cabinet):

CIVIL AND CANON LAW

Even before Justinian's time, popes and emperors jockeyed for power. In the late fifth century, the Church argued for the right to try cases affecting it. At the same time, the Church was developing its own legal system based on resolutions of Church councils, the Bible, and papal decisions, known as *decretals*. These sources were melded into a conceptual whole based on Roman secular - or civil - laws.

In the centuries after Justinian, the canon and civil bodies of law continued to evolve, waxing and waning in influence as popes and emperors vied for power. Both bodies of law were subjects of academic study as well. However, for a long while canon law was at a disadvantage because it lacked an authoritative body of texts akin to Justinian's *CORPUS IURIS CIVILIS*. This changed in the mid-twelfth century, when the monk Gratian published his *DECRETUM*, mining sources including the Bible, decretals, and fragments of Roman law much as Justinian had done with Roman law texts centuries earlier.

In 1234, about a century after Gratian's *DECRETUM* appeared, Pope Gregory IX promulgated a large collection of papal decretals. It was sometimes called the *LIBER EXTRA* because it was outside (extra) Gratian's *DECRETUM*. Together, the *DECRETUM* and the *DECRETALS* were intended to form the body of the law of the Church. In 1298, Pope Boniface added the *LIBER SEXTUS*, which supplemented the *LIBER EXTRA*. By the end of the fourteenth century, the Church had its own *CORPUS IURIS CANONICI*, a compilation of Church law on the same scale as Justinian's compilation of civil law, the *CORPUS IURIS CIVILIS*.

Though in theory the two systems existed on separate but parallel tracks, in practice the Church assumed jurisdiction over nearly everything that pertained to sin, salvation or damnation, such as crimes, adultery, forgery, homicide, marriage, family law, and even financial matters such as taking and making loans, interest, sales, and debt.

By the fourteenth century, the two sets of laws came to be dealt with together, even by civilian lawyers. The phrase "both laws" began to refer to two aspects of what was in many ways regarded as a single legal system, the *ius commune*, for all of Europe.

This cabinet features three examples of seminal works in the development of canon law.

DECRETALES EPISTOLAE SUMMORUM PONTIFICUM A GREGORIO NONO PONTIFICE MAXIMO COLLECTAE. Paris, 1550.

SEXTVS LIBER DECRETALIVM. Lyon, 1553 (shown closed).

CORPUS IURIS CANONICI. Basel, 1717 (shown closed--notice the original clasps).

Cabinet III:

ROMAN LAW IN 16TH CENTURY EUROPE

During the centuries following Justinian's rule, his texts - and Roman law in general - were studied and incorporated into the legal systems of different nations. The Roman law revival started in Italy during the middle ages, then was taken up by France, the Netherlands, and then Germany in later centuries. In *ROMAN LAW IN EUROPEAN HISTORY*, Peter Stein asserts that the texts of ancient Roman law have constituted "a kind of legal supermarket, in which lawyers of different periods have found what they needed at the time." Arranged in rough

chronological order, the materials in the following cabinets expand upon this theme.

JOHANNES FERRARIUS. IOANNIS FERRARI MONTANI ADNOTATIONES IN IIII. INSTITUTIONUM IUSTINIANI LIBROS. Lyon, 1536 (shown closed).

This very rare volume is the oldest of Professor Hoeflich's gift books. Its ornamental title page features the name of the printer, Jacob Giunta.



GUILLAUME BUDÉ (WILLIAM BUDEUS). ANNOTATIONES. Lyon, 1541 (shown closed).

Budé (1467-1540) was a French scholar. This book, NOTES ON THE PANDECTS, was very influential on the study of Roman law in Europe.

NICHOLAS VIGELIUS. INSTITUTIONUM IURIS PUBLICI, LIBRI III. Basel, 1572 (shown closed).

SEBASTIAN BRANT. TITULORUM OMNIUM IURIS TAM CIUILIS QUAM CANONICI EXPOSITIONES. Lyon, 1581 (shown closed).

Brant (1457-1521) was a legal scholar, a professor of jurisprudence, a humanist, and a poet. He was most famous for his satire DAS NARRENSCHIFF (THE SHIP OF FOOLS).

GIOVANNI FRANCESCO BALBO. TRACTATUS DE PRAESCRPTIONIBUS. Venice, 1582 (shown closed).

First published in 1511, this work is concerned with the Roman law of prescription, the principle whereby a right or liability is created or extinguished over a certain period of time, usually in regard to a property title.

HEINRICH CHRISTIAN VON SENCKENBERG, ET AL. BRACHYLOGUS IURIS CIVILIS. Frankfurt and Leipzig, 1743.

The Brachylogus is an anonymous work, designed as textbook and based on THE INSTITUTES. Its origins are somewhat controversial, but it first appeared in Europe in 1550, published in Lyon. It is notable for the application of classical Roman law to contemporary problems. This lovely German edition was printed in Frankfurt and Leipzig during the eighteenth century and is displayed open to the beautiful title page and frontispiece.

Cabinet IV:

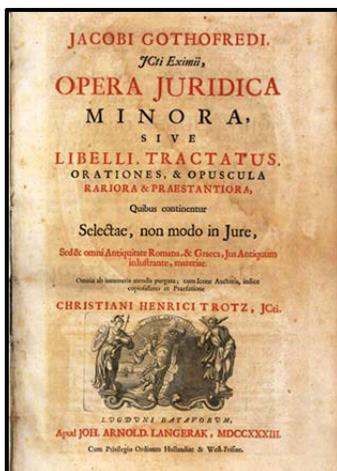
ROMAN LAW IN
17TH-CENTURY EUROPE

Roman law was received to a greater or lesser extent in different European countries, depending on the force of their own customary laws, royal legislation, and their own common law legal systems.

The authors and works in these next three cases were instrumental in furthering the study of Roman law, and the development of the civil law, in seventeenth-century Europe.

Jacques Godefroy (1587-1652) was a member a French noble family, many of whom had careers as jurists. He studied law and history in France before returning to Geneva to embark on a career of public service. Also a law teacher and a scholar, he wrote many important legal works, including several historical studies of Roman law.

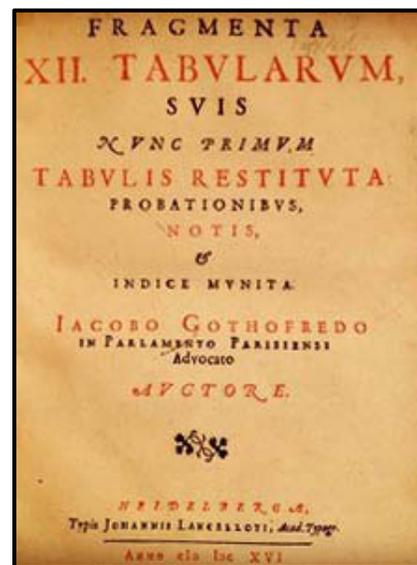
JACOBI GOTHOFREDI. OPERA
JURIDICA MINORA. Leiden, 1733
(shown closed).



IACOBO GOTHOFREDO. FONTES
QUATUOR IURIS CIUILIS IN UNUM
COLLECTI. Geneva, 1653 (shown
closed).

IACOBO GOTHOFREDO. FRAGMENTA
XII. TABULARUM. Heidelberg, 1616.

This rare volume represents Godefroy's discussion of the famous Twelve Tables, important laws publicly displayed in Rome to inform citizens of their rights and duties.



Cabinet V:

17TH-CENTURY EUROPE, CONT'D

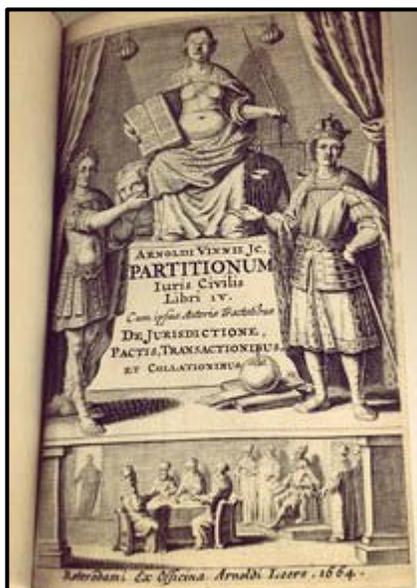
Arnold Vinnius (1588-1657) was one of the Netherlands' leading jurists and law professors. He was most famous for a comprehensive commentary on Justinian's INSTITUTES which first appeared in 1642 and

remained a standard reference until the end of the eighteenth century. Vinnius sought to present Roman civil law as a source of the basic notions of universal law derived from nature, and also as a source of legal practice. Widely acclaimed throughout Europe, Vinnius' commentary was published in multiple editions in several countries. A 1665 edition of this work is displayed here, along with several other Vinnius titles.

ARNOLD VINNIUS & OTHERS. DE ORIGINE & PROGRESSU JURIS CIVILIS ROMANI. Leiden, 1671 (shown closed).

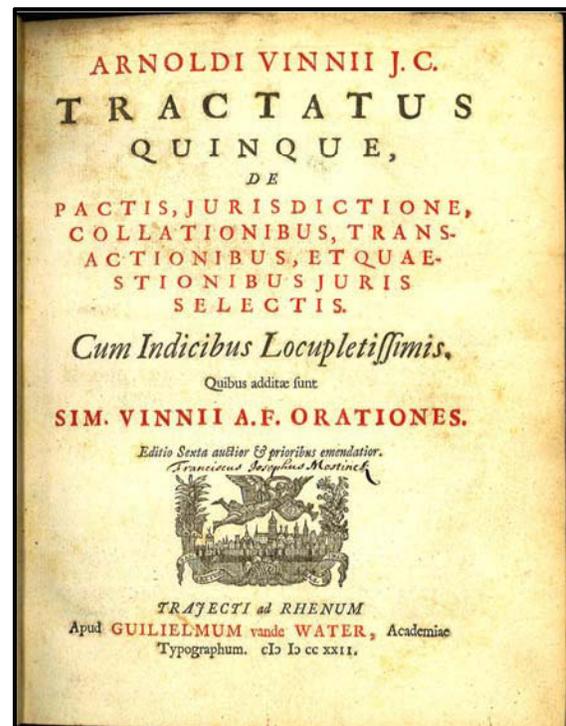
ARNOLDUS VINNIUS. JURISPRUDENTIAE CONTRACTAE, SIVE, PARTITIONUM JURIS CIVILIS. Rotterdam, 1664 (shown closed).

This work addresses the Roman law of contracts, as well as the laws surrounding inheritance and succession.



ARNOLDI VINNII. TRACTATUS QUINQUE DE PACTIS, JURISDICTIONE, COLLATIONIBUS, TRANSACTIONIBUS, ET QUAESTIONIBUS JURIS SELECTIS. Rhenum, 1722 (shown closed).

The title page of this volume features two-color printing and the autograph of a former owner, Franciscus Josephus Mostinck.



ARNOLDI VINNII. IN QUATUOR LIBROS INSTITUTIONUM IMPERIALIUM COMMENTARIUS ACADEMICUS & FORENSIS. Amsterdam, 1665.

This volume is displayed open to the pretty dual color title page.

Cabinet VI (across the room):

17th-CENTURY EUROPE, CONT'D

JEAN DOMAT. THE CIVIL LAW IN ITS NATURAL ORDER. 2d ed., 2 vols. London, 1727 (shown closed).

In the latter seventeenth century, some European legal scholars reexamined and recast their own national laws, and Roman law as well, according to the principles of a universal natural law. These efforts were probably due to a yearning in war-torn Europe for an impartial law that transcended regional differences. Some scholars believed that Roman law might fill that need.

In this work, Domat (1625-1696) combined the materials of Roman and French law into a single system and placed it on a foundation of ethical principles. Domat's work is considered to be one of the most important works on legal science produced in France. It was also one of the main sources of France's Napoleonic Code and the German Civil Code. This English translation, by Strahan, is considered an excellent study of Roman law and, thanks to Strahan's notes, a useful book on comparative law as well.

JANI VINCENTII GRAVINAE. JURISCONSULTI OPERA; SEU, ORIGINUM JURIS CIVILIS LIBRI TRES. Venice, 1758.

Giovanni Vincenzo Gravina (1664-1718) was an Italian man of letters and a

jurist, expert in both the civil and the canon law. This collection of his works includes his most famous: DE ROMANO IMPERIO (completed in 1712) and ORIGINES JURIS CIVILIS (1713).

JEAN-VINCENT GRAVINA. ESPRIT DES LOIX ROMAINES. 3 vols. Amsterdam & Paris: 1766.

This work is a French translation of his ORIGINUM JURIS CIVILIS LIBRI TRES, rearranged by the translator, M. Requier. Volume 1 begins with the topic, "On the nature of good and evil."

Cabinet VII:

ROMAN LAW
IN 18th-CENTURY EUROPE

Cornelius van Bynkershoek (1673-1743) was a Dutch jurist and legal theorist who wrote important works on Roman law, international law, and the law of the sea.

CORNELII VAN BYNKERSHOEK. OBSERVATIONUM JURIS ROMANI LIBRI QUATUOR. 2d ed. Leiden, 1735.

JOHANN GOTTLIEB HEINECCIUS. ANTIQUITATUM ROMANARUM IURISPRUDENTIAM. Strassburg (Germany), 1755.

Heineccius (1681-1741) was a prominent German jurist and a professor of jurisprudence. The leading German scholar

of Roman law in his lifetime, he belonged to the school of jurists who attempted to treat law as a rational discipline rather than as an empirical craft based on custom and expediency. This work, which illustrated the workings of the various institutions of Roman law by looking at THE INSTITUTES, was first published 1719 and went through 20 editions.

ROBERT JOSEPH POTHIER.
PANDECTAE JUSTINIANEAE : IN
NOVUM ORDINEM DIGESTAE : CUM
LEGIBUS CODICIS, ET NOVELLIS,
QUAE JUS PANDECTARUM
CONFIRMANT, EXPLICANT AUT
ABROGANT. 5 vols. Paris, 1818-20.

Early in his life, Pothier (1699-1772) set himself the task of reducing both the Roman and the French customary laws to a rational and usable order. He reworked Justinian's DIGEST, retaining the original titles but reordering the fragments and linking them with additional passages. Published between 1748 and 1752, the work brought him international fame.

He later wrote a famous series of treatises on specific subjects, incorporating Roman law and French customary law in his analyses.

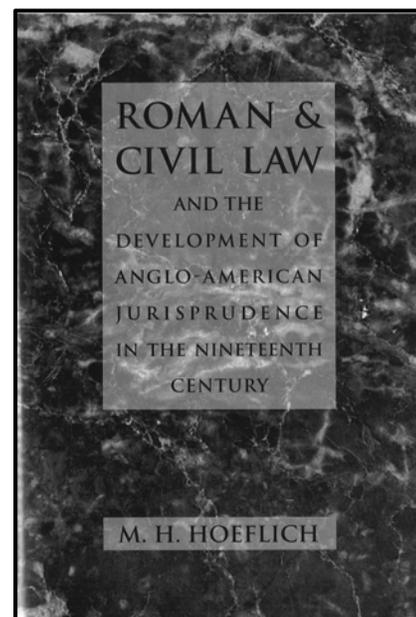
Cabinet VIII:

ROMAN LAW IN ENGLAND AND AMERICA

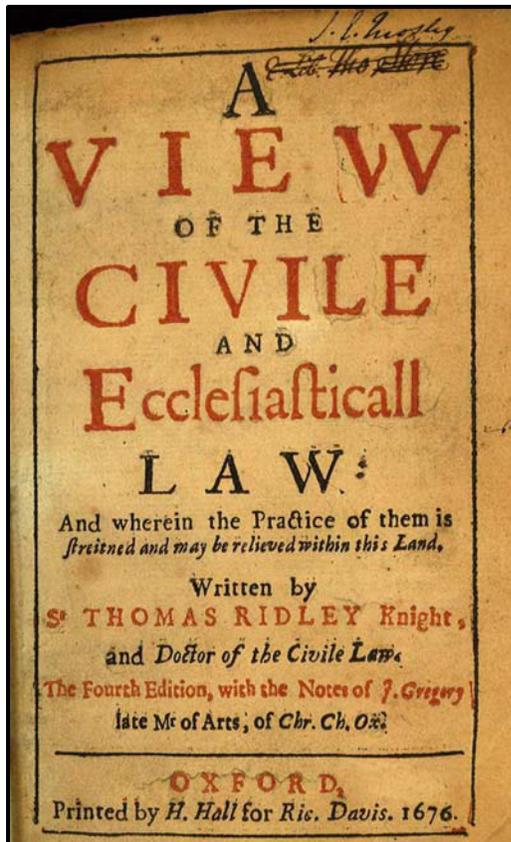
The reception of Roman law in England was an especially complicated

matter. England relied on its own common law for certain disputes, and on civil law for others, such as those brought before the Equity and Admiralty courts. Additionally, England had its own Church courts which applied canon law. Practitioners in the canon and civil law courts belonged to a guild, Doctors' Commons, which was equivalent to the Inns of Courts for the common lawyers. Though the two guilds battled for turf, the English government looked to the Civilian lawyers of Doctors' Commons to conduct international negotiations.

In his book, ROMAN AND CIVIL LAW AND THE DEVELOPMENT OF ANGLO-AMERICAN JURISPRUDENCE IN THE NINETEENTH CENTURY (1997), Professor Michael Hoeflich examined the writings of Anglo-American legal theorists to show how Roman and civil law influenced the development of Anglo-American common law. The works of some of these writers are represented in this case.



THOMAS RIDLEY. A VIEW OF THE CIVILE AND ECCLESIASTICALL LAW: AND WHEREIN THE PRACTICE OF THEM IS STREITNED AND MAY BE RELIEVED WITHIN THIS LAND. 4th ed. Oxford, 1676.



SAMUEL HALLIFAX. AN ANALYSIS OF THE CIVIL LAW: IN WHICH A COMPARISON IS OCCASIONALLY MADE BETWEEN THE ROMAN LAWS AND THOSE OF ENGLAND. New ed. Cambridge, 1836.

In 1774 Hallifax, Bishop of Gloucester, Regius Professor of Civil Law at

Cambridge University and teacher of Sir Henry Maine, offered a course of lectures on "the Roman Civil Law," in which he compared Roman law to the law of England.

ROBERT EDEN. JURISPRUDENTIA PHILOLOGICA, SIVE ELEMENTA JURIS CIVILIS. Oxford, 1744.

Eden (1701-1759) was a professor at Oxford. This introduction to civil law followed the order of THE INSTITUTES and was popular with students for decades.



Cabinet IX:

THE HISTORY AND STUDY OF ROMAN LAW

The final two stops in the exhibit feature a selection of books intended to aid students and lawyers in the study of Roman law. Displayed in Cabinet IX are two examples of

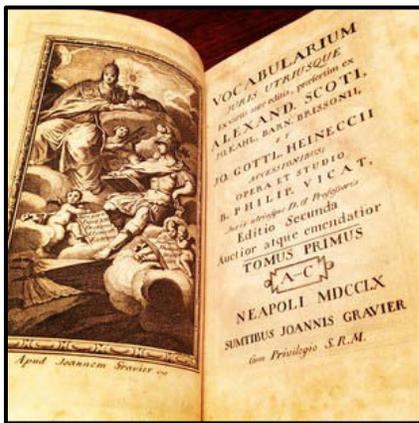
dictionaries that help students of Roman law wrestle with the terminology.

BARNABAE BRISSONII. DE FORMULIS, ET SOLLEMNIBUS POPULI ROMANI VERBIS, LIBRI VIII... Mainz (Rhineland-Palatinate, Germany), 1649 (shown closed).

Barnabé Brisson (1531-91) was a French jurist, perhaps best known for his dictionary, *DE VERBORUM QUAE AD JUS CIVILE PERTINENT SIGNIFICATIONE* (1559). The volume featured here is another of Brisson's works, a comprehensive compilation of Roman legal terminology.

B. PHILIPPE VICAT, ET AL. VOCABULARIUM JURIS UTRISQUE. Naples, 1760. 4 vols.

Complete with terminology from both civil and canon law, this four volume set looks to Brisson, Heineccius, and others as sources.



Horizontal wooden cabinet:

THE HISTORY & STUDY OF ROMAN LAW, CONT'D

ANTOINE TERRASSON. HISTOIRE DE LA JURISPRUDENCE ROMAINE... Paris, 1750 (shown closed).

This handsome large folio volume contains many engraved ornaments, including the one shown here.

LUTHER S. CUSHING. AN INTRODUCTION TO THE STUDY OF THE ROMAN LAW. Boston, 1854.

Luther Stearns Cushing (1803-1856) graduated from Harvard and spent his entire professional life in the law, eventually returning to Harvard to teach a course of lectures on Roman law from 1848 until 1853. The lectures formed the basis of this book. Our copy is inscribed by an early owner: "Henry E. Cutler, Jr. / Harvard College / Dec. 1927 / Dunster House."

GUSTAVE HUGO. HISTOIRE DROIT ROMAIN. Brussels, 1840 (shown closed).

LORD THOMAS MACKENZIE. STUDIES IN ROMAN LAW WITH COMPARATIVE VIEWS OF THE LAWS OF FRANCE, ENGLAND, AND SCOTLAND. Edinburgh & London, 1880 (shown closed).

DOUGLAS CHEAPE. AN INTRODUCTORY LECTURE ON THE CIVIL LAW, DELIVERED IN THE UNIVERSITY OF EDINBURGH, 1827. Edinburgh, 1827 (shown closed).

This copy features a leather and marbled-paper binding.