A SEVENTEENTH CENTURY ROMAN LAW BIBLIOGRAPHY: JACQUES GODEFROY AND HIS “BIBLIOTHECA JURIS CIVILIS ROMANI”

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Jacques Godefroy (in Latin, Jacobus Gothofredus), born at Geneva in 1587, was a prominent member of what has come to be called the “Elegant School of Jurisprudence.”1 This phrase describes the group of humanist classicists and lawyers, especially in Holland, who taught and wrote about Roman and, to a lesser extent, Greek law from antiquarian and philological perspectives.2

During the sixteenth and seventeenth centuries, Roman law studies took a great leap forward. The work of the great Italian and German humanist jurists of the fifteenth and early sixteenth centuries—men such as Valla, Politian, Alciatus, and Zasius—was the first attempt at replacing the “glossatorial” approach of the Middle Ages with a new focus upon the recovery of “true” Roman law.3 The new approach was furthered by the humanist jurists of the seventeenth century, who continued the task of restoring ancient Roman juridical texts to their “original” states.

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1. See Stein, Elegance in Law, 77 LAW Q. REV. 242 (1962). In order to facilitate the utility of this discussion of early modern editions, references in the footnotes have been given to H.M. Adams, Catalogue of Books Printed on the Continent of Europe, 1501-1600 in Cambridge Libraries (1967) (Cambridge: Cambridge University Press) and to the National Union Catalog of Pre-1956 Imprints (1968) (London: Mansell) when entries were available. In other cases, an attempt has been made to give some post-seventeenth century citation, if at all possible.


3. Lorenzo Valla (1407-1457) was successively professor at several Italian universities, in the service of King Alfonso of Aragon and Sicily, and secretary to Pope Nicholas V. He is best known as one of the founders of the humanist school of textual criticism and a pioneer in diplomatic studies. Among his major works were his Emendationes Liviane and his Declaratio de falsa credita et emerita Constantini Donatione. See generally R. Pfeiffer, History of Classical Scholarship 1300-1850, at 24-25 (1976) (Oxford: Oxford University Press); A. Gu det, Grundrisse der Geschichte der Klassischen Philologie 179-80 (1967) (Stuttgart: Teubner). The collected works are L. Valla, Opera Omnia (Turin reprints from 1938).

Politian (born Angelo de’Ambrosini, 1454-1494), perhaps the greatest of the fifteenth century humanists, completed no textual editions during his lifetime. His fame as a text critic rests on his notes on and proposed emendations to various Latin and Greek texts contained in his unpublished notebooks and
as well as delineating the history and antiquities of the civil law. These jurists were not simply cloistered scholars. They became deeply involved in national politics, for the study and recovery of Roman law during these centuries carried significant practical implications. The period witnessed the growing conflict between proponents of the old-fashioned *mos italicus*, medieval Roman law, and the new *mos gallicus*, the humanist ideas of legal scholarship associated with France and Germany and with such works as François Hotman’s *Anti-Tribonian*.

Jacques Godefroy was the second son of Denys Godefroy, a French jurist who fled to Geneva for religious reasons in 1579. Denys, too, was one of the leading classical and legal scholars of his age and was a law professor successively at Geneva, Basel, Strasbourg, and Heidelberg. He was a correspondent and a friend of the leading figures of his day including J.A. de Thou, Causabon, and Bongarsius. His fame as a civilian jurist and legal antiquarian was without parallel. Chancellor DAGUSSAUX remarked of Denys that he was “[l]e plus docte et le plus profond entre tous les interpretes des lois civils . . .” Denys, like other humanist jurists, divided his labors between works on classical antiquities and literature and works of legal scholarship, both civilian and national. He produced an edition of Cicero’s *Opera Omnia* published at Lyons in 1588, based upon the earlier, inferior edition of LAMBINUS, and he also edited a collection of *Authorès Linguae latinae* with notes, first published at Lyons in 1585. Among his various works of legal scholarship, the

extracts of the notebooks printed as the *Miscellaneae*. Many of his textual notes concern the Florentine manuscript of the *Digest*. See infra text accompanying note 86.

*Andreas Alciatus* (1492-1550) was, in many respects, the founder of the sixteenth century humanistic school of jurisprudence outside Germany and especially in France. His major contribution was the bringing of greater sophistication to the philological criticism of legal texts in such works as his *Paradoxa Juris Civiliis* and his *De Verborum Significatione*. On Alciatus, see F. VIARD, ANDRÉ ALCIAT 1492-1550 (1926) (Paris: Sirey); R. Abbondanza, *La Vie et Oeuvres d’André Alciat, in Pedagogues et Juristes* (1963) (Paris: J. Vrin); D.R. KELLEY, *FOUNDATIONS OF MODERN HISTORICAL SCHOLARSHIP* (1970) (New York: Cambridge University Press). The best edition of Alciatus’s works is the *OPERA OMNIA* (Frankfurt 1617).

*Ulrich Zasius* (1461-1535) was professor of law at Fribourg and author of numerous works collected in his *OPERA OMNIA* (Lyons 1548). One of the most famous remarks about the medieval jurists is by Zasius: “Bartolus et Baldus, caeterique id genus illatini auctores auribus circumstreperrer.” E. WOLF, *GROSSE RECHTSDENKER DER DEUTSCHEN GEISTESGESCHICHTE* 76 n.1 (2d ed. 1944) (quoting from Zasius’ *Epistolae* (Ulm 1774)). See also Troje, *Die Literatur, supra* note 2, 633-34.


7. CHARLES DENYS GODEFROY-MÉNILGLAISE, *LES SAVANTS, GODEFROY 22-35 (Paris 1873) [hereinafter cited as GODEFROY-MÉNILGLAISE].

8. *Id.* at 60-63.

9. *As quoted in id.* at 44.

10. Adams (G) 897, (G) 898; NG 0266330 (203 NUC 140) (Geneva 1585); GODEFROY-MÉNILGLAISE, *supra* note 7, at 54, 56-57.
most notable were his *Consuetudines infrascriptum civilatum et provinciarum Galliae*, published at Frankfurt in 1598, and his *De tutelis Electoratus testemotarii legitimis escludentibus libri sex*, published at Frankfurt in 1611.  

Denys Godefroy's greatest work was his edition, with textual and expository notes, of the *Corpus Juris Civilis*, first published at Geneva in 1583 and reprinted frequently until the twentieth century. The text of this edition was not significantly improved upon until the publication in 1776 of the Gebauer-Spangenberg edition of the *Digest*. Indeed, as a whole, the Godefroy *Corpus* continued to be used by scholars until publication of the *editio stereotypica* of the *Corpus* in 1872-1895. Denys Godefroy's text of the *Corpus Juris* was one of the greatest of the humanist editions and showed marked improvements in the text and notes over its predecessors. Indeed, it is in Denys Godefroy's edition of the *Corpus* that one finds the first appearance in print of the use of the aggregate title for the work, *Corpus Juris Civilis*, rather than the previously common medieval division of the work into component parts, namely *Digestum Vetus, Infortiatum, Digestum Novum, Codex, and Volumen Parvum*.  

Thus, Jacques Godefroy was born into a familial situation that facilitated his development as a legal humanist of the first rank. Jacques was educated in law and classics by his father until 1611. Then, in his twenty-fourth year, he travelled to Bourges and ultimately to Paris to spend three years under the protection and tutelage of Jacques Auguste de Thou, a leading Parisian scholar and lawyer, thereby furthering his studies of ancient history and civil law. At the conclusion of this period, he returned to Geneva, where he remained based for the rest of his life. He then began in earnest his dual career in government and in scholarship. In 1619 he was elected to Geneva's Council of Two Hundred. In 1622 he joined the Council of Sixty and, as a result of being elected to the Petit Council in 1629, began to exercise significant legislative and judicial functions. From 1632 until 1636 he was Secretary of State, and in 1637, 1641, 1645, and 1649, he filled the office of Syndic of Geneva. During much of this time he also served as a law professor, actively lecturing at Geneva's University. In all, Jacques Godefroy produced twenty-one sepa-
rate works, most of which concerned Roman law and Roman legal texts. Among his nonjuridistic tracts were several works on ecclesiastical history, including an edition of *Philostorgii Cappadocis Ecclesiastica Historia* published at Geneva in 1642; a reconstruction of the text of a fourth century Greek geography, *Venus Orbis descriptio Graeci scriptoris*, published at Geneva in 1618; and a collection of Jesuit history, *La Mercure Jesuite*, published at Geneva in two volumes in 1626-1631. He also prepared a history of Geneva up to the year 1627 in three manuscript volumes (which have never been published) and a collection of dissertations on New Testament textual criticism, the *Exercitationes duae de Ecclesia et incarnatione Christi*, published at Geneva in 1643 and reissued in 1649.

Jacques Godefroy's greatest scholarly achievement, however, like that of his father, lay in his legal historical and text-critical work. In 1616 he published his reconstruction, with commentary, of the Twelve Tables, the *Fragmenta XII Tabularum*, published at Heidelberg. Between 1628 and his death in 1652, he published a number of special studies on various Roman law topics, including his *Animadversionum Iuris Civilis Liber* published at Geneva in 1628, the essays included in his *Opuscula Varia Juridica, Politica, Historica, Critica* published at Geneva in 1654, and his treatise *Commentarius in Titulum De Diversis Regulae Iuris Antiqui* concerning Book 50 of the Digest and first published at Geneva in 1652. His greatest work, however, was not published in his lifetime; it remained in his library in sixteen folio volumes in manuscript at his death. This was his edition, with notes and commentary, of the first official collection of imperial Roman constitutions, the *Codex Theodosianus*, promulgated in A.D. 438. Although he had obtained a government privilege to print his edition of the *Codex* in 1645, the edition did not actually appear until 1655, when it was published under the aegis of Antonius Marvillus. Godefroy's edition remained the standard text until the 1904 edition by Mommsen.

21. *Id.* at 99-105. See *infra* note 34.

22. *Le mercure Jesuite* is listed at NG 0266469 (203 NUC 147): GODEFROY-MÉNILGLAISE, supra note 7, at 102-104 (*Le mercure Jesuite*, reflecting Godefroy's Calvinist beliefs, was anti-Jesuit).

23. GODEFROY-MÉNILGLAISE, supra note 7, at 102, 105 (stating that the history of Geneva manuscripts remains in the Public Archives of Geneva).

24. NG 0266457 (203 NUC 146). This edition was dedicated to his patron, Jacques Auguste de Thou. See supra note 16. The format of the edition consisted of a reconstruction of the XII Tables, commentaries giving the sources for the reconstruction (*probationes*), and notes on the reconstructions. This edition was reprinted (without the dedication to de Thou) as the first part of the *Fontes Quatuor Iuris Civilis* by de Tornes at Geneva in 1653.

25. NG 0266434 (203 NUC 145) (*Animadversionum*); NG 0266475-477 (203 NUC 147) (*Opuscula*, reprinted at Helmstadt in 1732 with a preface by F. Conrad); NG 0266471-473 (203 NUC 147) (*Commentarius*, reprinted at Geneva in 1653).

26. (203 NUC 145). See GODEFROY-MÉNILGLAISE, supra note 7, at 100-01; CATALOGUS LIBORUM QUI IN BIBLIOTHECA CLARISSIMI VIRI DOMINI IACOBI GOTHOFREDI IURICONSULTI CELEBERRIMI, ET SENATORIS GENUENSIS DIGNISSIMI, POST IPSUS OBITUM INVENTI SUNT 63 (Geneva 1653) (NG 0266435 (203 NUC 145)) [hereinafter cited as CATALOGUS]. The *Catalogus* lists: “Theodosiani Codicis textus ab infinitis mendis expurgatus, & Iacobi Gothofredi uberinis solidissimisque; Commentariis Illustratus, additi Prolegomenis variisque; Prosographicis, Topographicis Chronologici & Alis Indicibus accuratissimis, in folio, sedecim Voluminibus MSS. Quibus accessit Privilegium Christianissimi Regis.”


28. NC 0510753 (113 NUC 649). It was reprinted with additions by Ritter at Leipzig in 1736. NC 0510754, NC 0510756 (113 NUC 649). According to GODEFROY-MÉNILGLAISE, supra note 7, at 101, Marvillus was the purchaser of Godefroy's library (or a portion of the library).
and Meyer\textsuperscript{29} and, indeed, was reprinted at Leipzig in 1736-1745.\textsuperscript{30} The textual notes in Godefroy's edition, however, have never been superseded and continue to have scholarly value. Mommsen himself in his edition of the \textit{Codex Theodosianus} stressed their continuing utility to modern scholars.\textsuperscript{31} Jacques Godefroy was, by the standards of his time and of our own, one of the most learned jurists, one who possessed an international reputation both during his lifetime and thereafter.

Among the works of Godefroy's mature years was a basic handbook designed for both the beginner and the advanced student of Roman law. This handbook, his \textit{Manuale Iuris}, consists of four parts: (1) \textit{historia}, (2) \textit{bibliotheca}, (3) \textit{florilegium sententiarum politicarum}, and (4) \textit{series librorum et titulorum}. This volume was first published at Geneva in 1632 by Jean de Tournes and Jacques de la Pierre.\textsuperscript{32} It was reprinted at Geneva throughout the seventeenth and early eighteenth centuries, at Leyden by J. à Gelder in 1676, at Lyons in 1684, at Paris in 1806, and at Naples in an Italian translation by Leonardo Boritti in 1854.\textsuperscript{33} In addition, portions of the \textit{Manuale} were reprinted in the posthumous collection of Godefroy's works edited by Heinrich Trotzius and published at Leyden in 1733.\textsuperscript{34} This rather astonishing printing history testifies both to the excellence of the \textit{Manuale Iuris} as a teaching and research tool and to its clear and crisp Latin style.

The second portion of the \textit{Manuale}, the \textit{Bibliotheca Juris Civilis Romani}, has both historical and bibliographical significance. First, it is one of the earliest annotated and systematic bibliographies of Roman law texts and commentaries published during the early modern period. Second, it is one of the very few such bibliographies produced by a noted humanist jurist rather than by a bibliographer or early encyclopedist. Third, the \textit{Bibliotheca}'s historical and antiquarian approach to the sources of Roman law and the various editions of these sources reflects clearly the methodology of the dominant humanist tradition of juridical studies. Fourth, its frequent reprinting and concomitant widespread availability during the seventeenth and eighteenth centuries resulted in its wide dispersion throughout Europe and its

\begin{footnotes}
\footnotetext[30]{F. Schultz, \textit{supra} note 27, at 315 n.1.}
\footnotetext[32]{NG 0266461 (203 NUC 146).}
\footnotetext[33]{NG 0266464 (203 NUC 146) (Leyden: J. a Gelder); NG 0266468 (203 NUC 147) (Paris: C.L. Metier); NG 0266460 (203 NUC 146) (trans. Boritti Naples). For reprints generally, see 203 NUC 146-47.}
\footnotetext[34]{NG 0266474 (203 NUC 147). It is important to note that the 1733 text of the \textit{Bibliotheca} printed by Trotzius is a reprint \textit{not} of the 1632 first edition, but of a later, revised text (post-1647). A quick collation of the 1733 reprint (from the Cambridge University copy) with the 1632 first edition (in the Yale Law Library) reveals that the 1733 edition contains new material. For example, the phrase "quam nos peculiaris hypomnematis illustravimus" in column 1262 of the 1733 edition has been added to Chapter II, part IX of the \textit{Bibliotheca}. In column 1263 of the 1733 edition the following sentences have been added to Chapter II, part XII: "Sullus Probi libellum, ex Mss. auctore longi edidi nostisque illustravit Henricus Ernestus Soreae in 4. A.D. 1647. Ubi tamen moneo, ibi non merum Probum extaro, sed multa ibi addita aliqua & posteroire longe manu." In addition, numerous typographical errors of the 1632 edition have been eliminated in the reprint. The author would like to express gratitude to Morris Cohen of the Yale Law School for sending him a copy of the text of their 1632 edition of the \textit{Bibliotheca}.}
\end{footnotes}
presence in many scholars' and jurists' libraries. Finally, it permits us to reconstruct both the preferred sources as well as the scope of scholarly enquiry of a leading humanist lawyer and law professor. Furthermore, we are able to compare the texts discussed in the Bibliotheca, published in 1632, with the holdings of Jacques Godefroy's own library, as listed in the catalogue of his library that was published posthumously in 1653.

This catalogue of Jacques Godefroy's library, entitled Catalogus Librorum qui in bibliotheca clarissimi viri Jacobi Gothofredi iurisconsulti, was published at Geneva by de Tournes. According to Godefroy's descendant, Denys Charles, the Marquis de Godefroy-Ménilglaise, the library contained 1,858 printed volumes, as well as several dozen manuscripts, in Jacques' own and his father's hands. The library, along with Godefroy's furniture, sold in 1653 for a total of 1,373 florins. Unfortunately, this catalogue of the library, while known to the Marquis de Godefroy-Ménilglaise in 1873, seems to have been forgotten by later bibliographical and legal scholars. It is mentioned neither by Archer Taylor in his classic Book Catalogues: Their Varieties and Uses nor by Graham Pollard and Albert Ehrman in their Distribution of Books by Catalogue. Nevertheless, a copy of the 1653 catalogue is in the Royal Library at Copenhagen, and a microfilm of this copy was obtained by the Newberry Library in Chicago in 1960. Thus it is possible to compare the recommendations as to editions made by Jacques Godefroy in his Bibliotheca to the books he actually possessed as revealed by the 1653 catalogue.

The Bibliotheca Juris Civilis Romani fills slightly more than thirteen sixty-seven line columns in the edition of Godefroy’s Opuscula Minora published by Trotzius at Leiden in 1733. The work is arranged chronologically under six chapter headings:

I. Pro-Justinianeli Veteris Juris reliquiae
II. Jurisconsultorum Veterum ad Jus Pro-Justinianum reliquiae
III. Imperatoriarum Constitutionum Pro-Justinianarum reliquiae
IV. Justinianae Jurisprudentiae eiusque variae Editiones
V. Post-Justinianae Jurisprudentiae reliquiae, seu Jus Graeco-Romanum, & Orientale, ac primo Novellae
VI. Novae Jurisprudentiae post-Justinianum monumenta.

36. Although the catalogue has the appearance of an auction catalogue, no record of an auction being held exists.
37. CATALOGUS, supra note 26.
38. GODEFROY-MÉNILGLAISE, supra note 7, at 93-94.
39. Id. at 93.
42. One may surmise that Taylor, who was at the Newberry in 1960, was thus aware of the catalogue but did not update his prior publication. See supra note 40. The microfilm carries the Newberry pressmark Film Z 491.G534. The author would like to thank Ms. Cynthia Peters of the Newberry staff for help with this matter.
43. I. Pre-Justinian Relics of Old Law
II. Relics of the Old jurisconsults on Pre-Justinian law
Not surprisingly, the longest of the chapters is the second dealing with the juristic sources of classical jurisprudence. The length and detail of the Bibliotheca reflect the interest of the sixteenth and seventeenth century humanist jurists in the Digest and in the attempt to restore the jurists' texts to their original unabridged and non-interpolated classical forms. The shortest of the chapters is the fifth, dealing with medieval Byzantine law after Justinian, reflecting, perhaps, the common anti-medievalism of the humanist jurists.

As a whole, the Bibliotheca represents the distillation of Godefroy's superb knowledge of both substantive Roman law and the textual difficulties attendant upon its recovery and reconstruction. His choice of a chronological rather than a thematic or subject principle of organization is especially noteworthy. It may reflect, in part, his own antiquarian and historical leanings, so amply displayed in his commentary to the Codex Theodosianus. The order Godefroy used is quite logical, especially if law is seen as part of the historical process. But as an ordering principle for bibliographical analysis, a chronological arrangement was by no means the only method available or commonly adopted. For instance, in Fontana's Amphiteatrum Legale . . . seu Bibliotheca Legalis published at Parma in 1688, seventy-seven title entries appear alphabetically within broad subject categories. In B.G. Struvius' Bibliotheca Selectissima Iuris published at Lausanne in 1762, the annotated entries are arranged by subject, and in Daniel George Morhof's Polyhistor, first published in 1688, one of the earliest humanist encyclopedias of scholarship, the annotated bibliography is arranged by subject as well. Thus, it is worthwhile to note Godefroy's choice of a chronological order and its significance as a reflection of the emerging historical approach to Roman law.

The international character of the civilian scholarship discussed by Godefroy in the Bibliotheca is also noteworthy. Although Western Europe in the seventeenth century was torn by national and religious differences, the scholarship of Roman law—and the trade in books reflecting it—had a distinctly transnational character. The range of authors and places of publication appearing in the Bibliotheca (and in Godefroy's own library) is a remarkable testament to this character. Godefroy clearly had little trouble himself (and believed that others would fare as well) in obtaining works from Spain, France, Germany, Italy, or the Low Countries.

The first chapter of the Bibliotheca on pre-classical Roman law reflects the interest of both Godefroy and his contemporaries in the antiquities of Rome and early

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III. Relics of Pre-Justinian Imperial Constitutions
IV. Justinian law and its various editions
V. Relics of Post-Justinian law, or Byzantine and Oriental law and the first novels
VI. Monuments of the New Post-Justinian Jurisprudence

44. See supra notes 3-4.
45. See supra note 5. See also D.R. Kelley, supra note 3, passim.
46. Technically, the arrangement of the bibliography is by broad period rather than year-by-year as, for instance, in the latter section of E. Spangenberg, supra note 12.
47. NF 0224113 (177 NUC 142).
48. The broad categories are divided, for example, among civil and canon law.
49. NS 1015721 (577 NUC 129).
Roman history. Much of the effort of the sixteenth and seventeenth century humanists was directed at antiquarian research into the earliest known periods of Roman history. This general preoccupation found a specific outlet in the works of the jurists on early Roman law. Godefroy’s Bibliotheca provides a representative cross-section of the best of these efforts. His first chapter is divided into six sections concerned with the early leges regiae; the Twelve Tables; the Republican leges, both aggregate and individual; senatus consulta; and the praetorian Edict (culminating in the codification of the Edict by the jurist Julian during the reign of the Emperor Hadrian). The leges regiae and the Twelve Tables take up the greatest part of the chapter. The leges regiae are supposedly fragments of laws dating from the regal period of Roman history before the fifth century B.C. These fragments are known primarily through the works of later writers and some archaeological evidence, both of which sources were known to the humanists. Godefroy recites the long list of scholars who had worked on the reconstruction of these early laws in the sixteenth century, including Antonius Augustinus, the great Spanish canonist and civilian, as well as Franciscus Contius, Franciscus Baldinus, Julius Ursinus, and Justus Lipsius. He especially singles out a collection of such laws made by Augustinus and published at Rome in 1583 and an edition of the so-called Leges Romuli regis by Franciscus Baldinus, which was taken from the remains of an inscription in the Capitoline at Rome and published at Paris in 1550.

Godefroy’s analysis of the sources for reconstructing the laws of the Twelve Tables is even more interesting. The Twelve Tables, thought to represent the earliest Roman legal codification around 450 B.C., posed an extremely attractive intellectual puzzle to the humanist jurists. Existing in no contemporary copies nor in any near-contemporary literary sources, the Twelve Tables had to be reconstructed from late, even post-classical fragmentary sources. Furthermore, those fragments of the Twelve Tables known to the humanists represented both an invaluable source for the history of early Roman society and an unparalleled treasure trove of old Latin for the philologically minded, since they were rife with odd terms found in no other extant Latin texts. The task of reconstructing the Twelve Tables appealed to both the...

53. The Praetorian Edict was the means by which the Praetor could supplement the ius civile by adding to the actions he would allow to be heard during his year of office. Gradually, the form of the Edict became relatively fixed, until, finally, the Emperor Hadrian commissioned the jurist Salvius Julianus to codify the Edict, thus preventing further additions. See F. Schulz, supra note 27, at 127, 148-52.
55. These titles are not listed in either H.M. Adams, supra note 1, or NUC Pre-1956 Imprints, supra note 1.
56. Adams (B) 91 (Baldinibus).
57. E. Andersen, supra note 4, at 69-79.
58. See F. Schulz, supra note 27, at 35; L. Wenger, supra note 54, at 357-72. For a modern edition of the Twelve Tables, see 1 S. Riccobono, supra note 54, at 23-75. See also A. Watson, Rome of the XII Tables (1975) (Princeton: Princeton University Press) (discussing the substantive law of the Twelve Tables).
59. See L. Wenger, supra note 54, at 348-57.
philological and the antiquarian inclinations of sixteenth and seventeenth century humanist jurists. Both Denys Godefroy and Jacques Godefroy produced editions of the Twelve Tables, so this section of Jacques' Bibliotheca takes on even more significance. 60 Jacques Godefroy's analysis of the editions he cites from the sixteenth century is critical; he cites the best known of these, including those by François Hotman and by his father Denys. 61

Among all of the editors of pre-classical legal texts discussed by Godefroy, however, it is Antonius Augustinus (in Spanish, Antonio Agustín) who is most often cited by Godefroy in this first chapter of the Bibliotheca. 62 Augustinus studied at Bologna under Andreas Alciatus and returned to his native Spain to pursue a career as lawyer, scholar, and churchman, which culminated in his election as Archbishop of Tarragona, an office he held until his death in 1586. He was prolific as both canonist and civilian and worked especially in the area of text criticism and early law. His De legibus et senatus consultis liber published at Rome in 1593 was a leading source for early Roman legislation. 63 His palingenetic work and his work on the Florentine manuscript of the Digest were among the best legal historical work done in the sixteenth century. 64 His published study of Gratian's Decretum, the foundation of canon law, was invaluable. 65 It is not at all surprising that Godefroy should so frequently refer to Augustinus as a learned authority and editor in this first chapter of the Bibliotheca.

The second chapter concerning the classical period of Roman law is interesting for several reasons. First, the chapter illustrates the fascination of the humanist jurists with the task of reconstructing the "original" texts of second and third century juristic commentaries from the raw stuff of the Digest, the official Byzantine collection of truncated fragments from juristic books that was published by the Emperor Justinian. The chapter begins with a discussion of attempts at reconstruction of the original texts and recommends as essential tools the two indices of chapter headings and individual juristic fragments arranged by jurist and edited by Augustinus and Labittus. 66 Among the Roman jurists whose work Godefroy

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60. Unlike his son Jacques' work, Denys Godefroy's work was not a total reconstruction of the XII Tables. Cf. supra note 24 (discussing Jacques Godefroy's XII Tables).
61. For Hotman's edition, see NL 021263 (324 NUC 14) (Lyons 1564). For Denys Godefroy's edition, see Adams (O) 901.
62. See generally F. de Zulueta, Don Agustín (Glasgow 1939) (the standard modern bibliography of Augustinus).
63. Adams (A) 2230.
64. See, e.g., A. Augustinus, L. Taurelli Enarationes (Heidelberg 1594) (Adams (A) 2241) (on the 1553 edition of the Florentine manuscript). See also F. de Zulueta, supra note 62, at 29. For an example of Augustin's works on the Florentine Digest manuscript, see A. Augustinus, Emendationum Et Opinionum Libri (Venice 1543 & reprint Lyons 1544) (with five additional reprints), cited in Troje, Die Literatur, supra note 2, at 682. The term palinetic refers to the attempt to restore the pre-Justianian texts contained in the Digest to their original form.
65. A. Augustinus, De Emendatione Gratiani (Paris 1617). See also A. Augustinus, Super Decretalibus (Paris 1609). Both these references are taken from A. Fontana, Amphitheatrum Legale I, at cols. 45-46 (Bologna 1688), discussed supra text accompanying notes 47-48. Godefroy owned a copy of De Emendatone, Catalogus, supra note 26, at 19 ("Antonii Augustini Dialogi de Emendatione Gratiani, in 4, Parisii, 1607"). See also Troje, Die Literatur, supra note 2, at 666 (citing the works as Deemendatione Gratiani dialogorum libri duo (Tarragona 1587) and Antiquae collectiones Decretaliun; cum Antonii Augustini et Iacobo Cuailci notis et emendationibus (Paris 1609)).
66. Augustinus' Index is cited by A. Fontana, supra note 65, at col. 45, as Index Nominum Priorum Pandectarum (Ilerdae 1579). See also Troje, Die Literatur, supra note 2, at 663 (citing the work
discusses are Gaius, Ulpian, Paulus, Modestinus, Papinian, and Volusius Macce- 
clonius.67 Godefroy also discusses the textual history of the Roman maritime laws, 
the Leges Rhodiarum, as well as the Notitia Dignitatum, a military document, and 
the odd late Roman text, the Collatio Legum Mosaicarum & Romanarum.68 Here 
again, Augustinus' editions find pride of place, although the work of Pithou, Cuñas, 
Puteanus, and Charondas (in French, Le Caron) all merit mention.69 Godefroy also 
dedicates a fairly full discussion in this second chapter to the reconstruction of both 
Gaius' Institutes and Paul's Sentences from early Romano-Visigothic sources. He 
noted that Gaius' text was no longer extant in a complete version or in a third 
century manuscripts but had to be reconstructed from the fragments contained in the sixth 
century Lex Romana Visigothorum.70 He also notes that precisely the same situation 
with one difference existed as to the text of Paul's Sentences. Fragments from the 
Sentences were known to the early modern jurists only from the Lex Romana 
Visigothorum and from several passages in the Collatio Legum, which allowed some 
minimal comparison and collation.71

Throughout the second chapter of the Bibliotheca, Godefroy demonstrates his 
knowledge not only of the sources, but also of the manuscript traditions and various 
editors' use of manuscripts in printed texts. In part, this familiarity with the 
manuscripts may stem from Godefroy's own interest in and eventual edition of the 
Codex Theodosianus, since this too had to be reconstructed, in part, from 
manuscripts of the Lex Romana Visigothorum.72 For instance, in his discussion of

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as De Nominibus propriis . . . Fllentini cum Notis Antonii Augustini (Tarragona 1579 & reprint Barcelona 
1592). The Labitus index is found as Indices Iuris Varii . . . Ad Pandectarum & Codicis Leges (Geneva 
1585) (Adams (L) 6). A reprint of the Labitus index is cited as Index Legum Omnium Quae In Pandectis 
Continentur (Leyden 1674) in M. ISRAEL, LAW & GOVERNMENT: CATALOGUE 6, at item 477 (Amsterdam 
1983) (an excellent catalogue devoted primarily to humanistic 16th and 17th century Roman law texts).

67. There is an enormous literature on the jurists. See, e.g., F. SCHULZ, supra note 27, at 102-23; 
L. WENGER, supra note 54, at 473-530; W. KUNKELE, HERKUNFT UND SOZIALE STELUNG RÖMISCHEN 

68. On the Lex Rhodia, see W. ASHBURNER, THE RHODIAN SEA LAW 569-699 (1909). On the 
Notitia Dignitatum, see L. WENGER, supra note 54, at 221, 884. On the Collatio, see the edition of M. 
HYAMSON, MOSAICARUM ET ROMANUM LEGUM COLLATIO (1913) (London: Oxford University Press) (with 

69. There are three extent MSS of the Collatio, now at Berlin, Vienna, and Verceil. Pithou published 
his edition in 1572 at Paris. Charondas published his text as part of his Antwerp, 1575 edition of the 
Corpus Iuris Civilis. According to M. HYAMSON, supra note 68, at xvi, Cuñas had access to Pithou's 
manuscript, now at Berlin. Hyamson also notes that Cuñas' handwritten comments are to be found "in 
the Public Library at Berne." Id. at xvi. On Puteanus' contributions, see id. at 294.

70. The standard modern text of the Lex Romana Visigothorum, with introduction, is G. HAENEL, 
LEX ROMANA VISIGOTHORUM (reprint Aalen 1962) [hereinafter cited as LRV]. This text, promulgated 
by the Spanish Visigothic King Alaric II early in the sixth century prior to his defeat by the Franks at Vouillé 
in A.D. 507, was considered the Lex romana during the period prior to the tenth century in Western 
Europe. On the LRV, see J. GAUDEMET, LE BREVIARE D'ALARIC ET LES EPITOME (Ius Romanum Medii 
Aevi P.I, 2 b aa 165). The LRV was drawn, in large part, from the Codex Theodosianus.

71. See L. WENGER, supra note 54, at 545. According to Wenger, the compiler of the Collatio 
did not know the Codex Theodosianus to any significant extent. Id. at 546. Hyamson, following Haenel, 
Mommsen, and other earlier scholars, agrees. M. HYAMSON, supra note 68, at xxxvii. Apparently, the 
compiler of the Collatio used the pre-Theodosian, unofficial Codices Gregorianus et Hermogenianus. 
On the Codices Gregorianus et Hermogenianus, see F. SCHULZ, supra note 27, at 287, 308-11.

72. See Mommsen, supra note 31, at xxxviii. Mommsen notes: "Theodosianus non integer ad nos 
pervenit." Id. at xxxviii.
the text of the *Collatio Legum*, Godefroy first discusses Tilius’ discovery of certain manuscripts of the *Collatio*, which in conjunction with a manuscript found in the “Bibliotheca Mandubiorum” (now identified as the Berlin Codex of the *Collatio Legum*) was used by Pierre Pitou in the first printed edition of the *Collatio Legum* published at Paris in 1572. Godefroy adds that Charondas, in his 1575 edition of the *Digest*, also mentions that he had in his possession another manuscript of the *Collatio* found at the Abbey of St. Denys and thereby suggests the possible incompleteness of the Pitou edition. The most interesting section of the third chapter of the *Bibliotheca* is Godefroy’s discussion of the available editions of the *Codex Theodosianus*. There is here what appears, at least superficially, to be an error. Godefroy mentions several sixteenth century editions, including that published by Cujas in 1566 and the *ad ditamenta* to this Cujas reconstruction later published by Pitou. He also identifies what he calls the first edition of the *Codex*, the 1528 Basel edition by Sidur. In fact, the first printed edition of part of the *Codex* was not the 1528 Sidur edition but rather that prepared by Petrus Aegidius and published at Antwerp or Louvain in February 1517. It is impossible to know whether Godefroy was aware of this earlier edition and deliberately chose not to mention it or whether he simply did not know of its existence. The earliest printed edition of the *Codex* listed in the 1683 catalogue of his own library is the 1528 Sidur edition. Thus, it is possible that Godefroy was unaware of this earlier edition at the time he wrote the *Bibliotheca*. It is also possible, however, that he did know of the 1517 edition but felt that it did not merit reference, because it was simply a transcription of a single manuscript tradition rather than a critical edition based on manuscript collation.

Evidence that Godefroy was exercising his critical faculties in choosing which editions of the *Corpus Juris* to discuss in his *Bibliotheca* is clear. The discussion of the *Corpus* completely excludes all editions of the medieval “vulgate” text of the *Corpus*. This exclusion is not at all surprising. To the jurists and legal historians of the seventeenth century, the “vulgate” text of the *Corpus* represented the worst of medievalism; it was impure both philologically and organizationally. Even the printed format of humanist editions radically rejected medieval traditions. The “vulgate” texts of the *Corpus* printed during the fifteenth and sixteenth centuries consisted of several often rubricated passages of the text itself surrounded by a mass

73. See supra note 69.
74. See supra note 69.
76. See Mommsen, supra note 31, at 14 (this analysis of the editions of the *Codex Theodosianus* prior to the Mommsen/Kruger edition is invaluable).
77. Adams (T) 541 (Basel 1528) (no author mentioned). See Mommsen, supra note 31, at cvii. See also E. Andersen, supra note 4, at 58-63 (also crediting Sidur with the first edition of the *Codex Theodosianus*).
78. See Mommsen, supra note 31, at cvii.
80. Mommsen, supra note 31, at cvii, gives us a “summarivse argumenta Legum diversorum imperatorum ex corpore divi Theodosii . . . ex vetustissimo archetypico.” In texts of the sixteenth century the reference to a single archetype suggests that only a single manuscript was used. Cf. E. Kenney, THE CLASSICAL TEXT (1974).
81. For the best bibliography of vulgate editions of the *Corpus*, editions with the medieval (pre-Florentine) text and glosses, see E. Spangenberg, supra note 12.
of medieval glosses. The humanist editions wholly rejected this glossed format, and a page of one of these editions generally appears far different to the eye: a single or double column of text with very few marginal notes solely of an antiquarian or philological nature. Indeed, it must be remembered that it was Jacques Godefroy's own father, Denys, who effectively renamed the text, abandoning the medieval division into five books (Digestum Novum, Digestum Vetus, Infortiatum, Codex, and Volumen Parvum) and adopting the aggregate title of Corpus Juris Civilis.

It is not surprising, therefore, that Godefroy discussed only the most notable humanist editions of the Corpus in his Bibliotheca. These editions fall into two different but related textual traditions. First, Godefroy discussed the textual tradition started by the German jurist George Haloander in his edition of the Corpus published between 1529 and 1531 at Nuremberg. Godefroy praised this text as the "first worthy of mention" on account of Haloander's attempts at restoring the Corpus to its pure state, unadulterated by medievalisms. Godefroy explained that Haloander accomplished this task through textual emendation and through the use of Politian's collations of the Florentine manuscript of the Digest, the so-called Florentine Pandects or Florentina. This manuscript had been universally regarded by the humanist jurists since Politian and Alciatus as the principal manuscript archetype, with readings on difficult or corrupted passages that were superior to all others. Indeed, except for the Haloander Corpus of 1529 to 1531 and the 1541 Basel edition of Johann Hervagius based upon it, all of the other editions cited and praised by Godefroy were based upon actual readings of the Florentina. Godefroy cites, for instance, the two editions of Hugo à Porta published at Lyons in 1551 and 1552 based upon the Florentina with the Latin translations of Greek texts made by François Hotman. He cites, too, the Russardus edition published at Lyons by Rovillius in two volumes in 1561. He remarks that the latter edition is especially notable for its

82. For instance, one may compare the 1584 Venice edition of the Corpus, an example of the medieval vulgate text (whose pages are rubricated and consist of two columns of 35 lines of text surrounded by gloss in a small type face), to the 1561 Lyons edition of the Corpus, an example of a humanist edition (whose pages consist of two 83-line columns in a uniform type face, with few, if any, marginal annotations). For a brief introduction to the typography of these editions, see H. KASPERS, VOM SACHENSPIEGEL ZUM CODE NAPOLEON 94 (Köln 1961).


87. See sources cited supra notes 84-86. For Alciatus' use of the Florentina, see his notes on Digest passages in 1 A. ALCIATUS, OPERA OMNIA tomes 1 & 2 (Frankfurt 1616).


89. Adams J 514; NC 0712598 (123 NUC 361); E. SPANGENBERG, supra note 12, at 809 no. 240.
notes by eminent jurists. He cites, as well, the 1571 Contius edition published at Lyons. Of this edition Godefroy makes special mention not only of its reliance upon the Florentina, but also of the restitution of a number of corrupted passages from Byzantine texts, including the Basilica. Of course, Godefroy cites the three volume edition of the Florentina published by Lelio Torelli at Florence in 1553. Godefroy also cites, without comment, the 1575 edition by Charondas and, not at all surprisingly, the edition by his father, Denys, of which he comments: "[J]am totius orbis et augustissimorum tribunalium consensus recepta est." It is interesting to compare Godefroy’s discussion of editions of the Corpus in the Bibliotheca with those he possessed in his own library. Significantly, Godefroy owned a copy of the medieval "vulgate" text, the 1589 Lyons edition "cum commentariis Aurecii et aliorum." He also owned a copy of an edition with his father’s notes, published at Paris in 1628. He had a reprint of the Halander edition, published at Basel in 1570. He also owned the Charondas edition published at Lyons in 1575 as well as the 1580 Geneva edition published by Vignon. Apparently he did not possess a copy of the 1553 edition of the Florentina, a fact which may simply testify to its rarity and expense, even during the seventeenth century.
Godefroy also includes in the fourth chapter of the Bibliotheca a discussion of separate editions of Justinian’s Novels, of the collection of sixth century Novels by Julian, and of the Institutes of Theophilus Antecessor, a Greek paraphrase of Justinian’s Latin Institutes. The inclusion of a separate discussion of this sixth century Byzantine law reflects perhaps the growing interest of the humanists in the Greek passages in the Digest as well as the Greek language legislation of the sixth century imperial court.100 Because most editions of the whole Corpus included editions of the Novels, it was unnecessary for Godefroy to repeat his comments made earlier as to various editors. However, Godefroy did note the separate edition of the Greek Novels published by a Scotsman, Scrimgerus, in 1558, which was based upon a manuscript of Cardinal Bessarion.101 Godefroy’s mention of Bessarion’s manuscript demonstrates, perhaps, the continuing fame in the seventeenth century of Bessarion’s library, which had contained about 500 Greek manuscripts and was one of the treasures of fifteenth century Italian humanism.

In his discussion of the Novels, Godefroy divides the Latin translations into three classes. The first is the medieval “vulgate” translation that he attributes to Bulgarus. Godefroy is contemptuous of this translation and, citing Cujas, discusses it as inaccurate and filled with lacunae. The second class is that of Haloander, first published in the 1531 Corpus, which Godefroy sees as a great improvement. Finally, Godefroy cites the “best translation of all,” that by Henricus Agylaueus published at Basel in 1561.102 Godefroy possessed copies of both the Haloander and Agylaueus translations in his own library.

Of the Institutes of Theophilus, Godefroy had a fair amount to say. His discussion is quite technical and shows a mastery of the textual history of the Institutes. He notes first that Politian discussed them in his Miscellanea and that they were first published in 1533 based upon a manuscript also found in Cardinal Bessarion’s library.103 He notes also that the 1534 Paris revision, of which he owned a copy, was to be preferred.104 He goes on to discuss the “utilior” edition of the Institutes prepared by his father, Denys, and first published at Geneva in 1583.105 Finally, he recommends the edition prepared by Fabrot based upon three manuscripts in the Royal Library at Paris and published there in 1638. He concludes his discussion of editions of Theophilus’ Institutes with a short note on their value and utility for Roman law studies.

The final two chapters of the Bibliotheca concern later Byzantine law. Godefroy runs through the major sources: Novels, the Ecloga of the Emperor Leo, the Paratitia Juris, the Nomocanon, the Basilica, and the later Byzantine commentators. The choice of editions of the various Byzantine legal texts that were available are found in the British Library copy of the Heinsiana, B.L. pressmark 620.a.4, and in a Cambridge University copy, Cambridge pressmark Munby.d.898 (a microfilm of this copy is owned by the author). See Hoeftich, Bibliography in the Seventeenth Century: J.G. Graevius’s Lectures, 32 THE LIBRARY [Transactions of the Bibliographical Society] 48-52 (especially 52) (1977).

100. See H.E. Troje, supra note 12.
101. NC 0713792 (123 NUC 408). On Scrimgerus, see E. Spangenberg, supra note 12, at 478-79. See also H.E. Troje, supra note 12, at 58-60.
103. NC 0713509 (123 NUC 388) (1539 Antwerp).
104. Catalogus, supra note 26, at 15.
105. Jacques Godefroy owned a copy of this edition. Id. See also Troje, Die Literatur, supra note 2, at 663 (citing a 1587 Geneva edition of the Institutes by Denys Godefroy).
to seventeenth century scholars was not great. Godefroy cites, for instance, the three editions of the *Nomocanon* by Hervetus, Aglaeus, and Christopher Justel, the latter based upon a manuscript in the Bibliotheca Palatina. As to the *Basilica*, he cites the 1609 Paris edition by Charles Labbé, which was based upon earlier work of Cujas, and the later edition by Charles Fabrot, which was based upon a manuscript in the Royal Library at Paris.¹⁰⁶

When viewed critically, Godefroy's *Bibliotheca* is a remarkable work. It is far more than a simple list of titles and authors. Rather it is an intelligent and critical analysis both of the sources of Roman law from its origins to the later Byzantine period and of the textual traditions of these sources. Godefroy analyzes the strengths and weaknesses of the various editions that were available to an interested scholar in the first half of the seventeenth century. The *Bibliotheca* is a testament to Godefroy's immense learning, for he had quite obviously examined, if not studied, all of the texts and editions that he discussed. The 1653 catalogue of his library and the overlap between its entries and those in the Bibliotheca confirm this. The *Bibliotheca* may not meet modern standards of critical Roman legal bibliography and scholarship to rival the works of Fritz Schultz or Alan Watson on the sources of Roman law, but it certainly far exceeds any similar work of its time in both the scope and depth of the learning it displays.¹⁰⁷


¹⁰⁷ See Fuchs, *Die Anfänge der juristischen Fachbibliographie in 16 Jhdt.*, 1929 ARCHIV FÜR BIBLIOGRAPHIE, BUCH, UND BIBLIOTHEKSWESEN 44-54.