

— 30 ITEMS ON —  
**FAMILY LAW**

*January 26, 2016*



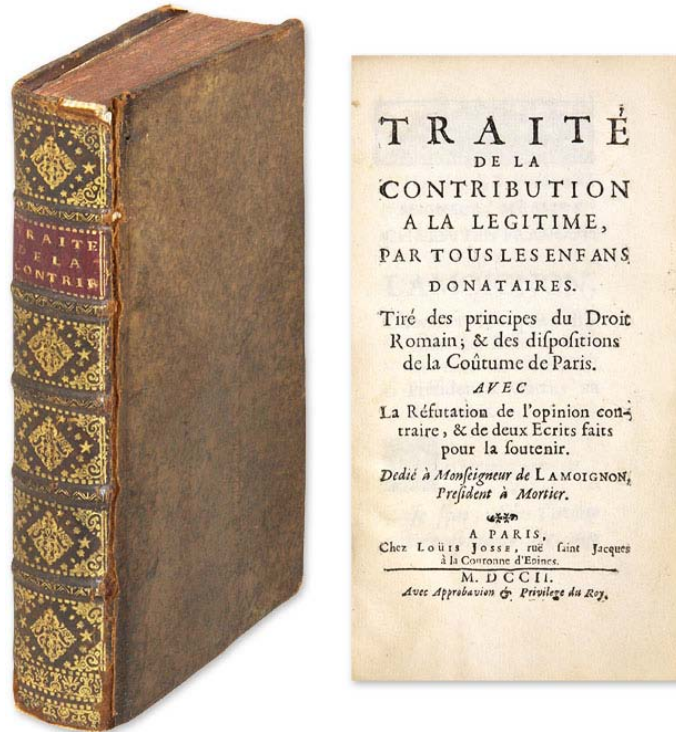
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## 30 Items on Family Law



### Rare Eighteenth-Century French Treatise on an Aspect of Inheritance

1. [Berger, Claude].

*Traite de la Contribution a la Legitime par Tous Les Enfans Donataires. Tire des Principes du Droit Romain; & Des Dispositons de la Coutume de Paris. Avec La Refutaton de l'Opinion Contraire, & De Deux Ecrits Ffaits pour la Soutenir.* Paris: Chez Louis Josse, 1702. [xxxvi], 216 pp.

[Bound with]

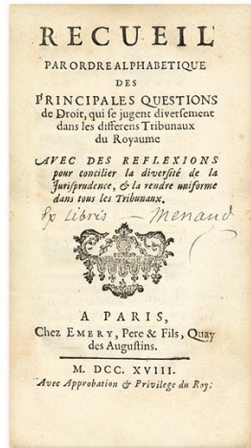
[Berger, Claude].

*Confirmation Des Preuves de la Contributon a la Legitme par Tous les Enfans Ponataires, Et Preuves Nouvelles de la Contributon a la Legitme, Par tous les Donataires, Quels qu'ils Soient, Enfans, Ou Etrangers, Suppose que la Mesure de la Quotdie s'Etende sur les Donations Faites aux Derniers. Seconde Partie.* Paris: Chez Louis Josse & Michel David, 1703. [viii], 306, [4] pp.

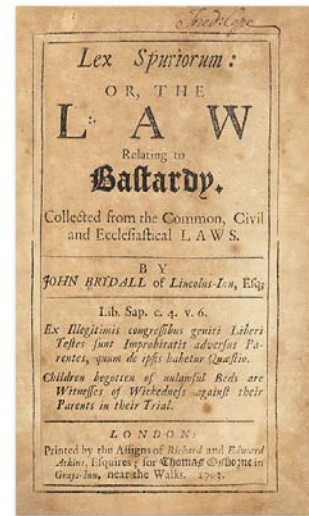
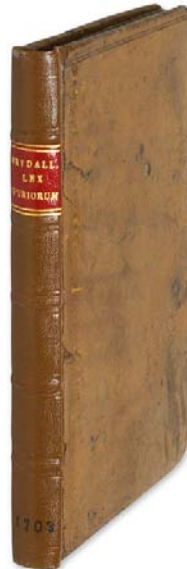
Two books, comprising two parts, in one volume. 12mo. (6-1/4" x 3-1/2").

Contemporary mottled calf, gilt spine with raised bands and lettering piece, gilt tooling to board edges, marbled endpapers, edges rouged, ribbon marker. Moderate rubbing to extremities, small chip to head of spine, corners bumped and somewhat worn. Light toning, light spotting in places, internally clean. An appealing copy. \$750.

\* Only edition. This two-part work by Berger, a Parisian lawyer, addresses the *legitime*, the part of an inheritance due from parents to their children. According to Parisian customary law, it could not be removed without a just cause for disinheritance. Berger, in the first part, discusses the two articles in the Coutume de Paris that deal with the legitime (after the reform of 1580). He argues that according to this, everything a father gives his son is given in advance of inheritance, and that every recipient who accepts an inheritance from his father must report it if he wishes to divide a surplus. Berger then discusses and refutes a number of objections, citing customary law, not just from Paris but also from Orleans, Berry, and elsewhere. He expands his argument in the second part, concentrating on the case of only children, and discusses the ways in which inheritance can legally be considered as the payment of a debt. OCLC records four copies, none in North America. Camus, *Bibliothèque Choise des Livres de Droit* 1542, 1543. (64434)



Item 2



Item 3

**A Curious Hybrid of Encyclopedia, Treatise and Reform Tract**

**2. [Bretonnier, Barthelemy-Joseph (1656-1727)].**

*Recueil Par Ordre Alphabetique des Principales Questions de Droit, Qui se Jugent Diversement dans les Differens Tribunaux du Royaume. Avec des Reflexions pour Concilier la Diversite de la Jurisprudence, & la Rendre Uniforme dans tous les Tribunaux.* Paris: Chez Emery, 1718. lxxii, 463, [18] pp. Octavo (6-1/2" x 3-3/4").

Contemporary sheep, blind rules to boards, gilt spine with raised bands and lettering piece, edges rouged, marbled endpapers, ribbon marker. Light rubbing to extremities, front joint just starting at head, corners bumped and lightly worn, early armorial book plate to front pastedown. Light soiling to title page, light toning to text. Early owner inscription to title page (Ex Libris Menand), interior otherwise clean. A nice copy. \$1,000.

\* First edition. Organized alphabetically, this guide to French law and judicial administration is a curious hybrid of encyclopedia, treatise and reform tract. As the title indicates, it outlines different jurisdictions in order to advance an argument for a comprehensive uniform court system. The "questions" relate, for the most part, to tricky aspects of family law. Some of the topics its covers are the marriage of wives of absent husbands, dowries, bastards, the passing on of jewelry, the marriage of minors, second marriages, subrogation, wills, and wards. Bretonnier was an avocat of the Paris Parlement. First published in 1718, his treatise went through five editions, the final appearing in 1783. All are scarce in North America. OCLC locates 3 copies of the first edition in North America, 2 in law libraries (Harvard, University of Michigan). This edition not in Camus. (61293)

**1703 Treatise on the Law Relating to Bastardy**

**3. Brydall, John [b. 1635?].**

*Lex Spuriarum: Or, The Law Relating to Bastardy. Collected from the Common, Civil and Ecclesiastical Laws.* London: Printed by the Assigns of Richard and Edward Atkins, Esquires; For Thomas Osborne, 1703. [viii], 127, [9] pp. Octavo (6-3/4" x 4-1/2").

Contemporary calf, blind rules to boards, blind fillets along joints, rebacked, raised bands and lettering piece to spine, endpapers renewed. Some rubbing to extremities, corners worn, a few minor scuffs to boards, crack in text block between title page and following leaf. Light browning and foxing to text. Small early owner signature to head of title page, interior otherwise clean. Ex-library. Bookplate to front pastedown. \$850.

\* Only edition. Brydall was a fellow of Queen's College, Oxford, and a bencher of Lincoln's Inn. A remarkably prolific writer, he published 36 legal treatises, and left 30 others in manuscript at the time of his death. All of these are brief, synthetic works. Holdsworth says they are good summaries that are "clearly arranged and based on the leading authorities." *Lex Spuriorum*, a handbook of English laws concerning illegitimacy, is cited in Holdsworth's review of legal writings of the seventeenth and eighteenth centuries. OCLC locates 6 copies in North American law libraries (Harvard, NY State Appellate Division, Ohio State, Southern Methodist University, University of Michigan, US Supreme Court). Holdsworth, *A History of English Law* VI:605, 607. *English Short-Title Catalogue* T116601. (63025)



**Includes Notable Essays on the Legal Rights of Unwanted and Abandoned Children, Abortion and Infanticide**

4. Bynkershoek, Cornelius van [1673-1743].

Conradi, Franz Karl [1701-1748], Editor.

*Opuscula Varii Argumenti, Nunc Primum Collecta Atque in Duos Tomos Distributa*. Halle: Sumtibus Ern. Gottl. Crugii, 1729. Two volumes. [iv], 5-28, [6], [5]-424, [24]; [ii], 3-407, [29] pp.

[Bound with]

Bynkershoek, Cornelius van.

Heineccius, Johann Gottlieb [1681-1741].

*Observationum Juris Romani Libri Quatuor. In Quibus Plurima Juris Civilis Aliorumque Auctiorum Loca Explicantur & Emendantur*. Frankfurt: Apud Ernest. Gottl. Krugium, 1723. [xlix], 446, [30] pp.

Quarto (8" x 6-1/2"). Contemporary vellum, early hand-lettered title to spine, edges rouged. Light rubbing and soiling, small vertical tear to head of spine, vellum beginning to crack through pastedowns. Title pages of *Opuscula*, Volume I, and *Observationum* printed in red and black, woodcut head-pieces, tail-pieces and decorated initials. Light toning to text, somewhat darker in places. Early owner annotations in tiny hand to front free endpaper, interior otherwise clean. Ex-library. Shelf-label residue to spine, small inkstamps to title page and verso. A nice copy. \$650.

\* Later editions. Bynkershoek was a renowned Dutch jurist who founded the positive school of international law, which held that usage and practice were more important than doctrines drawn from natural law. His works are still consulted today. First published in 1719, *Opuscula*, an essay collection on Roman law, addresses topics in maritime and international relations, the legal rights of unwanted and abandoned children, abortion and infanticide. The essays on children reflect Bynkershoek's debate on this topic with his distinguished contemporary Gerard Noodt [1647-1725]. The notoriety of this exchange, which became acrid and lasted several years, did much to promote their circulation. First published in 1710, *Observationum*, a summation of his studies on Roman civil and criminal law, was a standard reference in Dutch universities until the nineteenth century. Heineccius, the editor of the present edition, was a prominent German jurist and a professor of jurisprudence and philosophy at Halle. A companion volume was issued in 1733. "Bynkershoek was undoubtedly a man of rare intellectual attainments and a great force of character (,) [a] very great authority on the law of Holland and on Roman law.": Roberts, *A South-African Legal Bibliography* 69-70. Dekkers, *Bibliotheca Belgica Juridica* 15 (9, 10). (62003)



**Nineteenth-Century Family  
Law in the Kingdom of the Two Sicilies**

**5. Chardon, [Olivier Jacques] [1762-1846].**

**Lombardi, Antonino, Editor.**

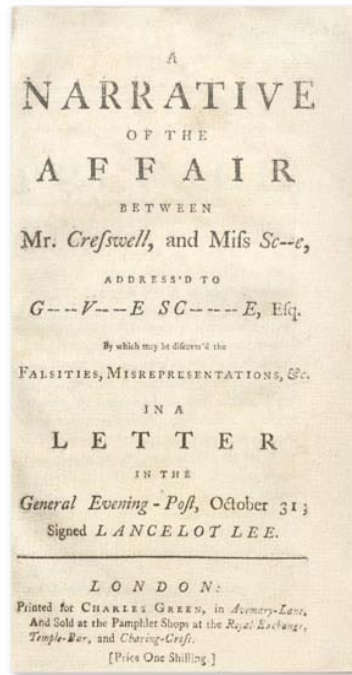
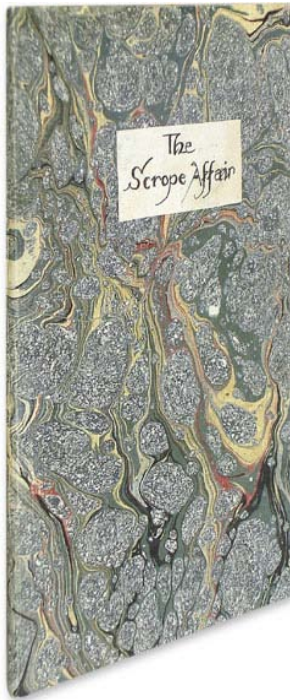
**Cafaro, Fortunato, Editor.**

*Trattato Delle tre Potesta, Maritale, Patria e Tutelare del Sig. Chardon. Arricchito di Tutte le Quistioni Esaminate nel Trattato dei Diritti delle Mogli, Del Cubain; Nel Codice della Minorita, Ec., Del Marchand; E nel Trattato della Minorita, Ec., Del Magnin; Non che Della Giureprudenza e Legislazione Belga. 1. Versione Italiana su la Edizione Belga del 1844, Di Antonino Lombardi, Accomodata Alle Leggi ed Alla Giureprudenza del Regno Delle Due Sicilie, Ed Arricchita di Note per le Cure di Fortunato Cafaro.* Naples: Presso G. Pedone Lauriel/G. Dura, 1848. Three parts in one, each with title page and individual pagination. Main texts in parallel columns. Royal octavo (10" x 6-1/2").

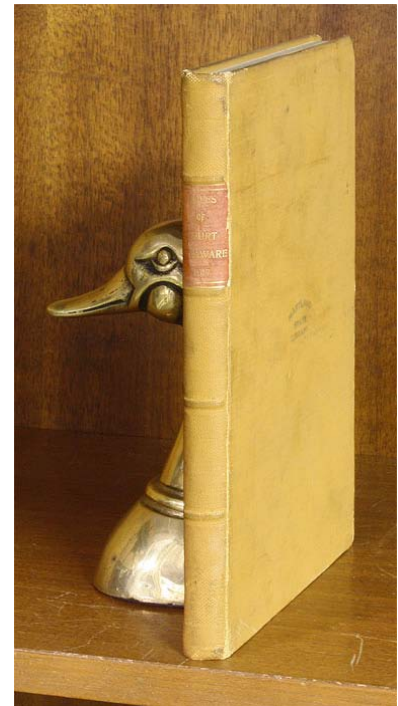
Quarter calf over marbled boards, gilt-edges raised bands and gilt title to spine, marbled endpapers. Light rubbing to extremities, hinges cracked. Negligible toning to text, occasional light foxing, internally clean. \$850.

\* Only Italian edition. Edited for the post-Napoleonic Kingdom of the Two Sicilies, which had a system based on French law, this book collects three treatises on family law by the French jurist Chardon. Part One: husband and wife; Part Two: parent and child; Part Three: guardian and ward. OCLC locates 2 copies in North America (at the Library of Congress and the New York Public Library).

(60008)



Item 6



Item 7

### A "Load of Infamy"

#### 6. Cresswell, Thomas Estcourt [d.1788].

*A Narrative of the Affair Between Mr. Cresswell, And Miss Sc--e, Address's to G--v--e Sc---e, Esq. By Which May be Discover'd the Falsities, Misrepresentations, &c. In a Letter in the General Evening-Post, October 31; Signed Lancelot Lee.* London: Printed for Charles Green, [1747]. [iv], 78 pp. Octavo (7-1/2" x 4-1/2").

Stab-stitched pamphlet in later (?) marbled paper wrappers, small hand-lettered title label to front, light shelfwear. Toning and light foxing to title page and verso of final leaf, interior otherwise fresh. A well-preserved copy. \$300.

\* Only edition. This pamphlet offers a unique perspective on contemporary English law concerning breach of promise, bigamy, adultery. In it Cresswell defends himself against accusations of these transgressions, along with much else, by Gervase Scrope, the father of Elizabeth Scrope. "I thought myself under a necessity of publishing the following Sheets, in order to take off part of that Load of Infamy that has been laid upon me" (Preface). Mr. Scrope was right, however. A few years after entering into a clandestine marriage with Elizabeth Cresswell he married Anne Warneford in order to acquire her fortune. This scandal was one of the great events of the day. *British Museum Catalogue* (Compact Edition) 6:555. (52820)

### Rules of the Delaware Orphans' Court, 1917

#### 7. [Delaware].

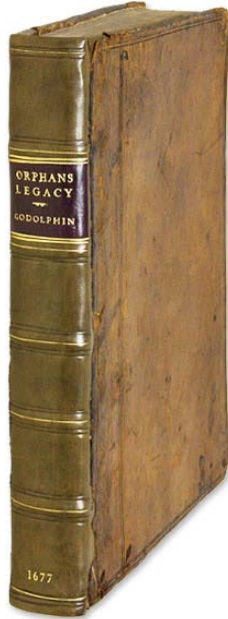
##### [Orphans' Court].

*Rules of the Superior Court, Court of Chancery, Orphans' Court, Court of General Sessions, and Supreme Court of the State of Delaware. In Effect on May 15, 1917. With Approved Forms.* [Wilmington: Press of Mercantile Printing Co.], 1917. vii, 231 pp. Publisher's tan buckram with red gilt lettered spine label. Ex-library with stamps, else very good. \$25.

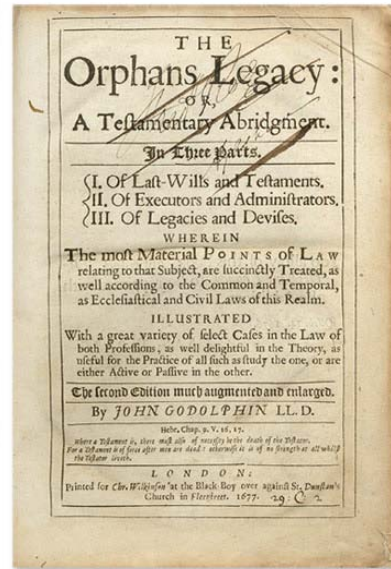
\* Only edition. The Orphans' Court was one of the earliest courts in Delaware. Established by William Penn's new government in 1683, the Orphans' Court was founded to take care of orphans and their estates. It was abolished in 1970; its responsibilities and functions were divided among the Court of Chancery, Superior Court and Family Court. (64218)



Item 8



Item 9



**Notable French Treatise on the Substitution of Heirs, Inheritance and Succession**

**8. Furgole, [Jean-Baptiste] [1690-1761].**

*Commentaire de l'Ordonnance de Louis XV sur les Substitutions. Du Mois d'Aout 1747.* Paris: Chez Herissant Fils, 1767. xxviii, 496, [2] pp. Quarto (10" x 8").

Contemporary calf with cat's-paw decoration, gilt spine with raised bands and lettering piece, marbled edges and endpapers. Light rubbing to extremities, light toning to text, somewhat heavier in places. A nice copy. \$95.

\* First edition. This treatise analyzes the law governing substitution of heirs, inheritance, and succession. The author was an avocat in the Parlement of Toulouse. Furgole's works on donations and testaments were eventually brought into line with the Napoleonic law reforms and were reissued in revised form in 1810. OCLC locates 5 copies in North American law libraries (Harvard, Law Library of Louisiana, Louisiana State University, University of Minnesota, York). Camus, *Bibliothèque Choisie des Livres de Droit* 1158. (60854)

**The "First Really Able" Book on the Subject**

**9. Godolphin, John [1617-1678].**

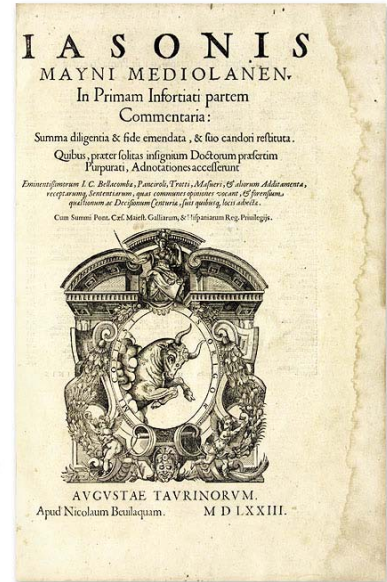
*The Orphans Legacy: Or, A Testamentary Abridgment. In Three Parts: I. Of Last-Wills and Testaments, II. Of Executors and Administrators, III. Of Legacies and Devises: Wherein the Most Material Points of Law Relating to That Subject, Are Succinctly Treated: As Well According to the Common and Temporal, As Ecclesiastical and Civil Laws of This Realm.* London: Printed for Chr. Wilkinson, 1677. [viii], 478 [i.e. 476], [20] pp. Quarto (8-3/4" x 6-1/2").

Contemporary calf, blind rules and small corner fleurons to boards, rebaked in period style with raised bands and lettering piece. Some rubbing to extremities, a few minor scuffs and spots to boards, corners bumped and somewhat worn, hinges mended. Toning to text, early owner annotations and signatures to endleaves, some scribbling to title page, interior otherwise clean. A nice copy. \$250.

\* Second edition. "The first really able books upon ecclesiastical law as a whole were written by Godolphin in the latter half of the seventeenth century. (...) [One of them is his] *Orphan's Legacy* [which deals with the subject] from the point of view not only of the ecclesiastical law, but also of the common law, and of the rising jurisdiction of the Chancellor" (Holdsworth). First published in 1674, its fourth and final edition appeared in 1701. Holdsworth, *A History of English Law* V:12. Sweet & Maxwell, *A Legal Bibliography of the British Commonwealth* 1:492 (13). (56076)



Item 10 (See Front Cover)



Item 11

**"His Office Shelves With Parish  
Laws are Grac'd, But Spelling Books and Guides Between Them Plac'd"**

**10. Hogarth, William [1697-1764], After.  
Cook, Thomas [c.1744-1818], Engraver.**

*A Woman Swearing Her Child to a Grave Citizen.* Copperplate engraving by Thomas Cook after a painting by William Hogarth. London c. 1795-1822. 19-1/4" x 21" image size 11-3/4" x 14," copperplate engraving. Attractively mounted and matted. Negligible light toning and dampspotting to margins, image notably fresh. \$250.

\* A fine example of Hogarth's satirical work, this engraving is captioned with twelve lines of verse describing the scene. It depicts a pregnant woman pleading with a seated justice of the peace to order the "rich old lecher" at the centre of the print to acknowledge his paternity and provide for her unborn child. (The books on the shelves are: *The Complete Justice* and *The Art of Spelling*; a just-consulted *Law of Bastardy* sits on the justice's table.) Hogarth never produced a print of this work during his lifetime. Cook's was the first. A skilled engraver, Cook played an important role in the preservation of Hogarth's legacy through his *Hogarth Restored: The Whole Works of the Celebrated William Hogarth* (1795 and later editions through 1822), which is the source of this plate. (\$8686)

**Distinguished Commentary on  
the *Infortiatum* Titles Dealing with Family Law**

**11. Maino, Giasone dal [1435-1519].**

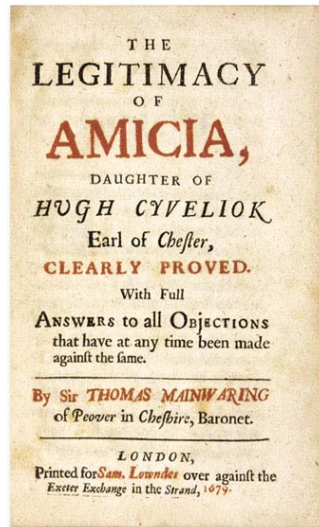
*In Primam Infortiati Partem Commentaria: Summa Diligentia & Fide Emendata, & Suo Candori Restituta. Quibus, Praeter Solitas Insignium Doctorum Praesertim Purpurati, Adnotationes Accesserunt. Eminentissimorum I.C. Bellacombae, Panciroli, Trotti, Masueri, & Aliorum Additamenta, Receptarumq[ue], Sententiarum, Quas Communes Opiniones Vocant, & Forensium Questionum ac Decisionum Centuria, Suis Quibusq[ue] Locis Adiecta.* Turin: Apud Nicolaum Bevilaquam, 1573. 219 ff. Main text in parallel columns. Volume I of a two-volume set. Folio (16" x 11").

Contemporary vellum with recent vellum rebacking, raised bands and calf lettering piece to spine, early hand-lettered abbreviated title to head of text block (?), ties lacking. Light soiling to spine, hinges bumped and somewhat worn, minor worming to boards and pastedowns, hinges reinforced, endleaves lacking. Large woodcut vignette to title page, woodcut head-pieces and decorated initials. Some toning to text, dampstaining and light foxing in a few places. Early underlining to passages in a few leaves, interior otherwise clean. Ex-library. Bookplate to front pastedown. \$500.

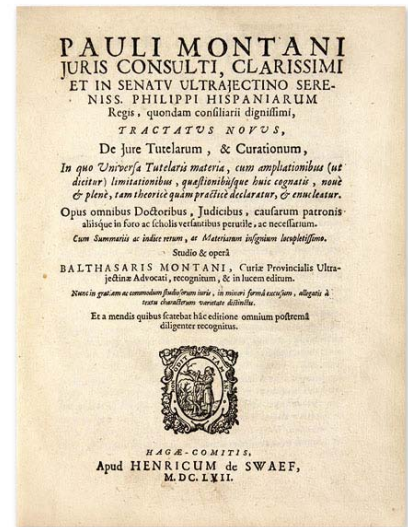
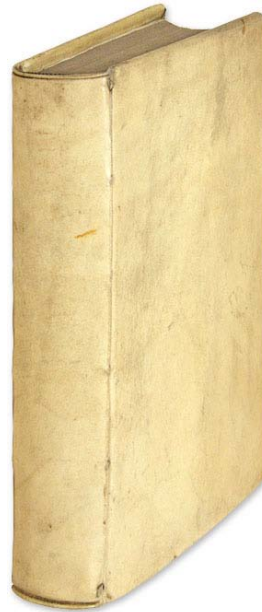


\* Later edition. Maino, a respected Italian jurist, was one of the last commentators of the Bartolist school. He taught at the Universities of Pavia and Padua. Among his students were Filippo Decio and Andrea Alciati. First published in 1499, his commentaries on the first and second parts of the *Infortiatum*, Books XXIV, Title 2-XXXVIII of the *Digest*, were standard works that went through numerous issues and editions into the seventeenth century. In *Primam Infortiati Partem Commentaria* discusses the books concerning donations between husband and wife, divorce, curatorship, wills and testaments and trusts and legacies. Our 1573 imprint is augmented with additional notes by Giovanni Bellacomba [16th c.], Guido Pancirolli [1523-1599], Giovanni Francesco Porporato [1485-1544], Bernardo Trotti [d. 1595] and Jean Masuer [d. 1450]. Complete in itself, this volume is part of a two-volume set. *Censimento Nazionale Delle Edizioni Italiane del XVI Secolo* CNCE 16665.

(62739)



Item 12



Item 13

**Interesting for Its Discussion of Early Common-Law Authorities on Marriage**

**12. Mainwaring, Sir Thomas [1623-1689].**

*The Legitimacy Of Amicia, Daughter Of Hugh Cyveliok Earl Of Chester, Clearly Proved. With Full Answers to All Objections that Have at Any Time been Made Against the Same.* London: Printed for Sam. Lowndes, 1679. [x], 171, [1] pp. Octavo (6-1/2" x 4").

Contemporary speckled calf, blind rules to boards, raised bands to spine, marbled edges. Moderate rubbing to extremities, boards beginning to separate, but secured by cords. Title page printed in red and black. Moderate toning to text, small piece excised from rear endleaf, internally clean. \$500.

\* Only edition. A sequel to the author's *A Defence of Amicia*. The 8-page preface gives a useful account of the endless pamphlet-war that following the publication of *Defence* in 1673, including an account of the controversy itself and the publications of Mainwaring's opponent, Peter Leicester. *Amicia*, the author's grandmother, was the wife of Ralph Mainwaring. Leicester, another descendant of *Amicia*, claimed that she was a bastard. This tract, like the others, is of legal interest for its discussion of the early common law authorities on marriage. Both authors had been students at Gray's Inn. The issue was eventually decided in Mainwaring's favor. OCLC locates 13 copies in North America, 1 in a law library (Ohio State). *English Short-Title Catalogue* R21678. (60928)

**A Venerable Treatise on Guardian and Ward**

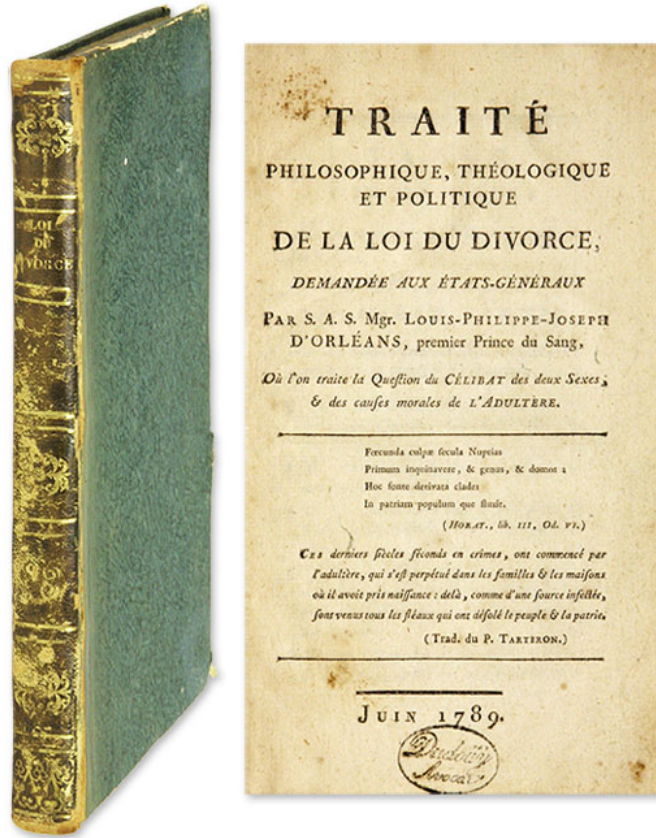
**13. Montanus, Paulus [1530-1587].**

**Montanus, Balthasar, Editor.**

*Tractatus Novus, De Jure Tutelarum, & Curationum, In Quo Universa Tutelaris Materia, Cum Ampliationibus (Ut Dicitur) Limitationibus, Quaestionibusque huic Cognatis, Nove & Plene, Tam Theorice Quam Practice Declaratur, & Enucleatur. Opus Omnibus Doctoribus, Judicibus, Causarum, Patronis Aliisque in Foro ac Scholis Versantibus Perutile, Ac Necessarium.* The Hague: Apud Henricum de Swaef, 1657. [xvi], 585, [80] pp. Quarto (7-1/2" x 6").

Contemporary vellum, speckled edges. A few minor stains to boards, spine ends bumped, minor wear to corners, vellum beginning to crack through pastedowns. Light toning to text, internally clean. Ex-library. Bookplate to front pastedown. \$450.

\* Later edition. Edited and published by the author's younger brother, this venerable treatise on guardian and ward in Roman and Roman-Dutch law was first published in 1595. It went through seven later editions, the last in 1680. Roberts, writing in 1942, said this is "a work of high authority": *A South African Legal Bibliography* 216. (63189)



Scarce 1789 French Essay on Divorce and Related Topics

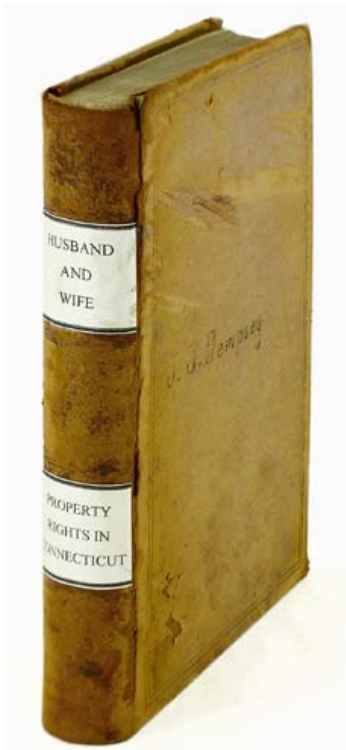
**14. Orleans, Louis Philippe Joseph, Duc d' [1747-1793].**

**[Matigny, Hilaire-Joseph Hubert de], Author.**

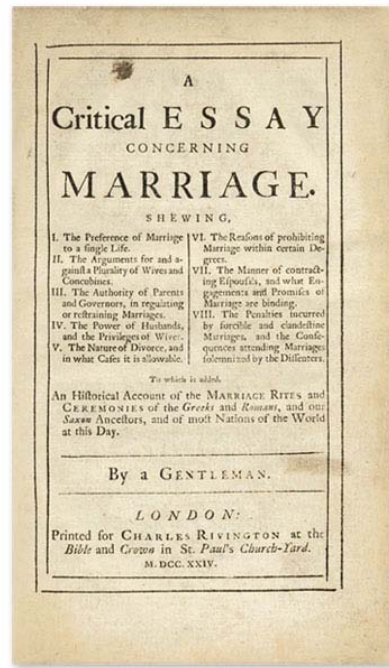
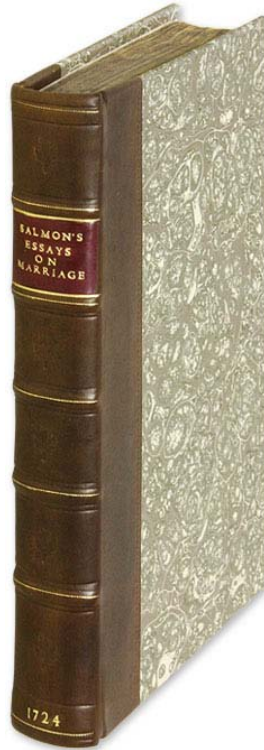
*Traite Philosophique, Theologique et Politique de la Loi du Divorce: Demandee aux Etats-Generaux par S.A.S. Mgr. Louis-Philippe-Joseph d'Orleans, Premier Prince du Sang, Ou l'on Traite la Question du Celibat des Deux Sexes, & Des Causes Morales de l'Adultere.* S.l.: S.n., June 1789. xii, 147 pp. Octavo (7-3/4" x 4-1/2").

Near-contemporary quarter sheep over marbled boards, gilt fillets, ornaments and title to spine. Some rubbing to extremities and spine, front hinge cracked. Moderate toning to text, light foxing in a few places. Small owner stamp to foot of title page, interior otherwise clean. \$500.

\* Only edition. This essay promoting the liberalization of divorce and related laws was published on the cusp of the French Revolution. The Tennis Court Oath was signed on June 20; the Bastille was stormed on July 14. Louis Phillippe Joseph d'Orleans was a member of the House of Bourbon. Though he supported the French Revolution and adopted the name Philippe Egalite, he was guillotined during the Reign of Terror. His son Louis-Philippe became king of the France after the July Revolution of 1830. OCLC locates 3 copies in North American law libraries (Harvard, Loyola, UC-Berkeley). Not in the *British Museum Catalogue*. (60668)



Item 15



Item 16

**By a Respected Scholar of Family Law**

**15. Peck, Epaphroditus [1860-1938].**

*The Property Rights of Husband and Wife Under the Law of Connecticut.* Hartford: Dissell Publishing Co., 1904. xxii, 277 pp.

Contemporary law calf, blind frames to boards, later paper labels replacing original lettering pieces. Moderate shelfwear, a few scuffs to boards, some rubbing to spine, Owner name lettered to front board, front joint starting near head, front hinge cracked but secure, partial split between pp. iv and v. Offsetting to margins to endleaves, interior otherwise clean. \$125.

\* Only edition. Peck was an associate judge of the Hartford Court of Common Pleas and a lecturer on domestic relations at Yale Law School. His *Law of Persons and of Domestic Relations* (1913), which is based on his Connecticut treatise, was recommended by Pound and Vanderbilt. See Marke, *A Catalogue of the Law Collection at New York University* (1953) 755. (44968)

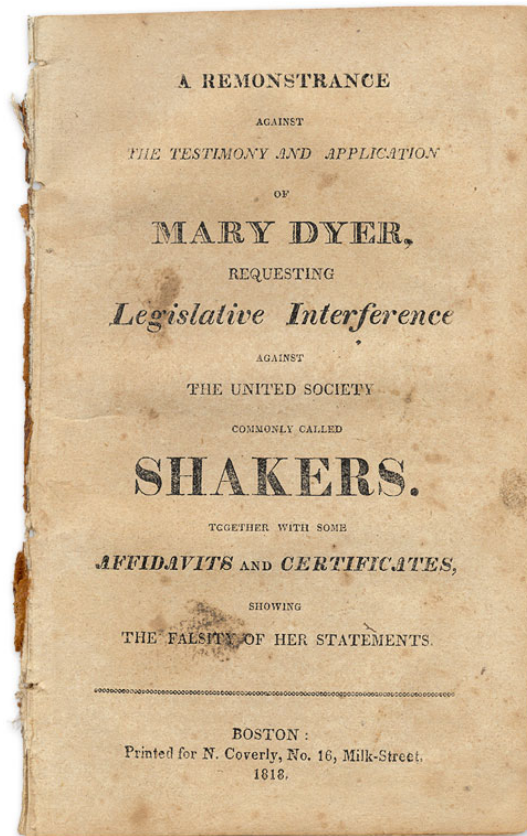
**From the Library of Lord Byron?**

**16. [Salmon, Thomas (1679-1767)].**

*A Critical Essay Concerning Marriage. Shewing, I. The Preference of Marriage to a Single Life. II. The Arguments For and Against a Plurality of Wives and Concubines. III. The Authority of Parents and Governors, in Regulating or Restraining Marriages. IV. The Power of Husbands, and the Privileges of Wives. V. The Nature of Divorce, and in What Cases It is Allowable. VI. The Reasons of Prohibiting Marriage Within Certain Degrees. VII The Manner of Contracting Espousals, and What Engagements and Promises of Marriage are Binding. VIII. The Penalties Incurred by Forcible and Clandestine Marriages, and the Consequences Attending Marriages Solemnized by Dissenters.* London: Printed for Charles Rivington, 1724. [xx], 310 [i.e. 343], [5] pp. Octavo (4-3/4" x 7-3/4").

Recent period-style quarter calf over marbled boards, raised bands and lettering piece to spine, endpapers renewed preserving early armorial bookplate (of William Frederick Webb) and annotated auction record of this copy on front free endpaper. Armorial bookplate (of George Wildman) to verso of title page. Early check marks in pencil to first chapter. Attractive woodcut head and tail-pieces. Light soiling to title page, toning to text, negligible foxing to a few leaves. A nice copy that may have an interesting provenance. \$1,000.

\* First edition. Salmon was a prolific Scottish writer on legal, historical and geographical subjects. He spent many years abroad and later accompanied George Anson on his 1739-40 voyage around the world. His wide experiences as a traveler may have furnished the information used in the book's section on marriage rites, which discusses the practices of Denmark, Livonia, Lapland, Germany, Greece, Armenia, Turkey, Persia, India, Ceylon, Siam, China, Japan, Morocco, Guinea, Ethiopia, Chili, Peru, Brazil, Paraguay, America, Mexico, Canada, Russia and Sweden. Whether he actually visited these places or not, Salmon's book remains a fascinating document of English social values, anthropological views and legal philosophy in the immediate decades after the Civil War and Restoration. This book was published anonymously in 1724. The second edition, which states the author's name, was published later that year. The auction record, which appears to be from the late nineteenth century, says this copy belonged to Lord Byron and adds "a few pencil marks by Lord Byron show that the first portion 'Marriage Preferable to a Single Life' was carefully perused, and it is to be hoped was not responsible for his life of misery." An annotation to this entry reads "From Lord Byron's Newstead Abby Library." *Dictionary of National Biography* XVII:697-698. *British Museum Catalogue* (Compact Edition) 22:493. (51742)



### A Legal Defense of the Shakers

17. [Shakers].

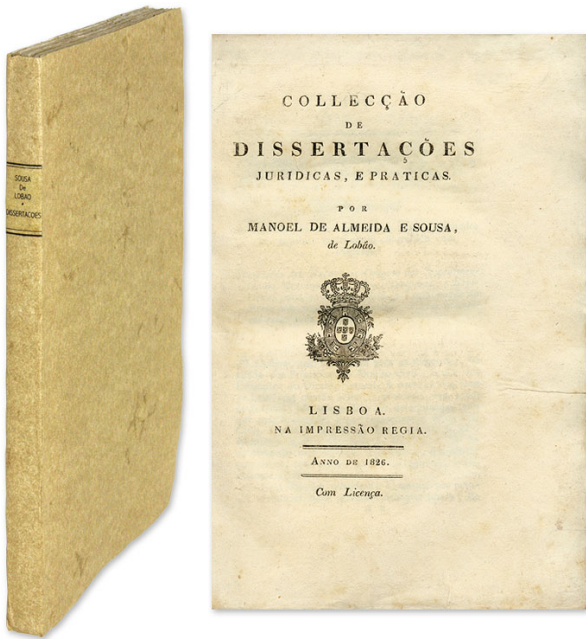
[Dyer, Mary].

*A Remonstrance Against the Testimony and Application of Mary Dyer, Requesting Legislative Interference Against the United Society, Commonly Called Shakers, Together [sic] With the Affidavits and Certificates Showing the Falsity of her Statements.* Boston: Printed for N. Coverly, 1818. 24 pp. Octavo (7" x 4").

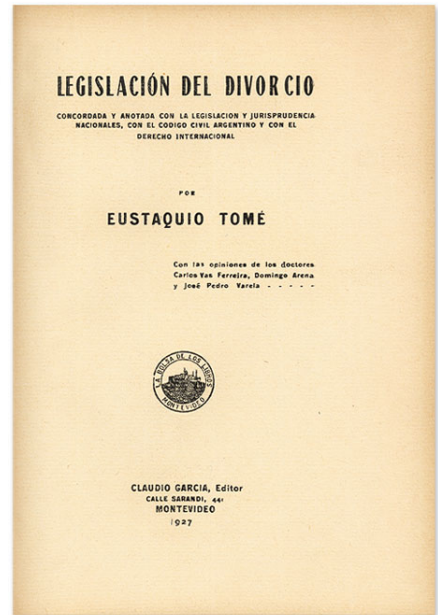
Disbound stab-stitched pamphlet. Light edgewear, some browning and foxing, internally clean. \$1,500.

\* Only edition, also issued the same year in Concord, New Hampshire. A spirited defense of the Shakers by Enfield and Canterbury leaders against Mary Dyer's attempt to get the New Hampshire legislature to interfere with Shaker communities. Dyer and her family joined the Enfield community, but eventually left it. Her husband refused to release any of their children to her, so Mary began a 50-year campaign against the sect. OCLC locates 4 copies worldwide of the Boston imprint (at Brigham Young University, Hamilton College, Library of Congress, Syracuse University), no copies of either imprint in North American law libraries. Sabin, *A Dictionary of Books Relating to America* 21596.

(61364)



Item 18



Item 19

**Rare Portuguese  
Essays by a Leading Portuguese Jurist**

**18. [Sousa de Lobao, Manoel de Almeida e (1745-1817)].**

*Collecção de Dissertações Jurídicas, E Práticas.* Lisbon: Na Impressão Regia, 1826. 178 pp. Quarto (8-1/2" x 6").

Recent wrappers, printed title label to spine, untrimmed edges. Light toning to text, internally fresh. \$250.

\* Second edition. This successful work first appeared in 1808 and went through at least six posthumous expanded editions, the latest in 1903. Included here are essays on children born of incest, succession and legitimacy, guardianship, bail, debtor and creditor. The author, one of the major Portuguese jurists of his time, did much to integrate the civil law tradition with the modern codes. His many works in numerous posthumous editions were accepted as authority through the end of the nineteenth century. The 1808 and 1826 editions were followed by editions in 1836, 1839, 1868, 1884. All are rare in American institutions. OCLC locates 1 copy, at Harvard Law School, which has an 1808 edition.

(61015)

**Scarce Uruguayan Treatise on Divorce**

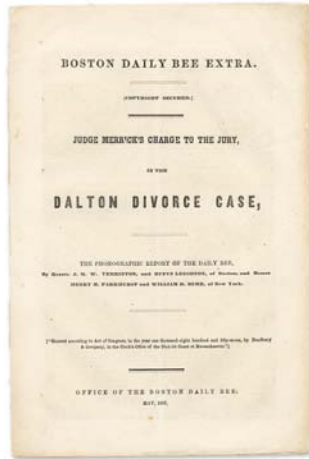
**19. Tome, Eustaquio.**

*Legislación del Divorcio: Concordada y Anotada con la Legislación y Jurisprudencia Nacionales, Con el Código Civil Argentino y con el Derecho Internacional.* Montevideo: Claudio Garcia, 1927. 137 pp.

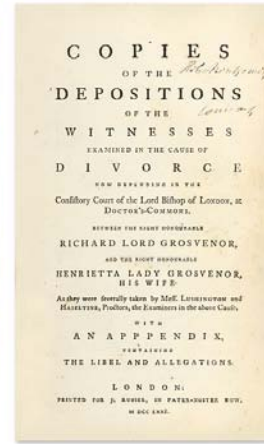
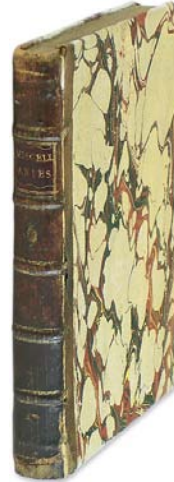
Printed wrappers bound into contemporary quarter cloth over marbled boards, printed paper title label to spine. Light shelfwear, some browning to text, internally clean. Ex-library. Location labels to spines, brief annotations in pencil to preliminaries, small inkstamp to verso of title page. \$250.

\* Only edition. OCLC locates 3 copies in North American law libraries (Harvard, Tulane, Yale).

(58628)



Item 20



Item 21

### A Scandalous Boston Divorce

20. [Trial].

**Dalton v. Dalton**

**Merrick, Pliny [1794-1867].**

*Judge Merrick's Charge to the Jury, In the Dalton Divorce Case, The Phonographic Report of the Daily Bee (Boston Daily Bee Extra), By Messrs J.M.W. Yerrinton, and Rufus Leighton, Of Boston, And Messrs Henry M. Parkhurst and William H. Burr, Of New York.* [Boston]: Office of the Boston Daily Bee, 1857. 16 pp. Text in parallel columns. Octavo (10" x 6-1/2").

Stab-stitched pamphlet. Wrappers detached, light edgewear, vertical fold line through center. Light browning, some spotting to rear. \$150.

\* Benjamin F. Dalton sued for divorce on the grounds of his wife's alleged adultery with William Sumner, who had been killed by Dalton in a crime of passion. Mrs. Dalton denied the charge and alleged that Mr. Dalton had himself committed adultery. The trial was widely publicized and was a notorious society scandal. Richard Henry Dana was the lawyer for Benjamin Dalton, Rufus Choate for Helen Dalton. The jury ended deadlocked with ten votes for Dalton and two for Helen Dalton. Dalton later received a five-month sentence for the murder of Sumner. The light sentence reflected popular sympathy for supposedly cuckolded Dalton. OCLC locates 13 copies, 5 in North American law libraries (LA County, Harvard, Ohio State, University of Pennsylvania and Yale). Cohen, *Bibliography of Early American Law* 11433.

(58121)

### Notable Eighteenth-Century Divorce Involving Arbitration

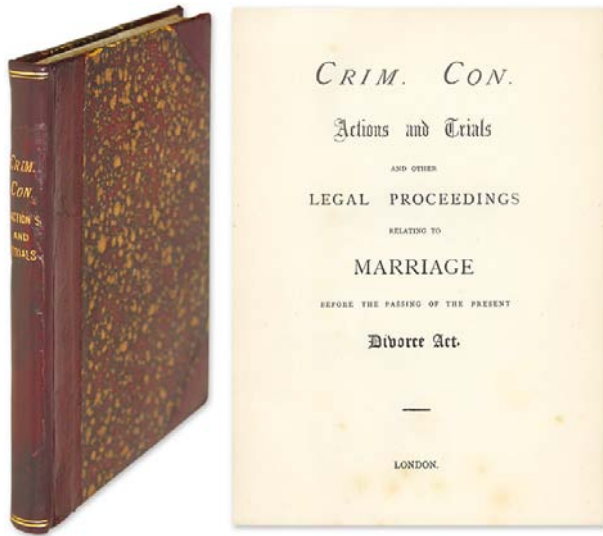
21. [Trial].

**[Grosvenor Cause].**

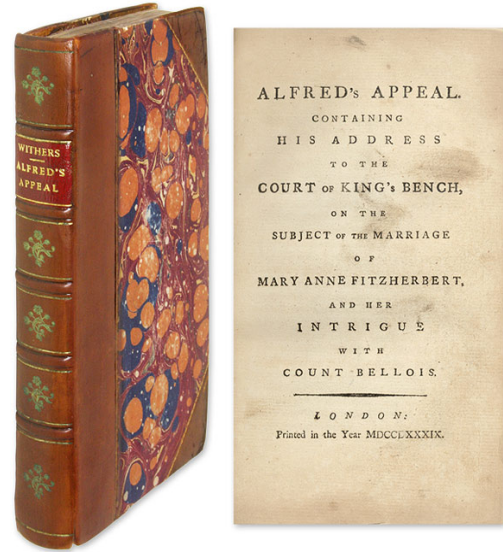
*Copies of the Depositions of the Witnesses Examined in the Cause of Divorce Now Depending in the Consistory Court of the Lord Bishop of London, At Doctor's-Commons, Between the Right Honourable Richard Lord Grosvenor, And the Right Honourable Henrietta Lady Grosvenor, His Wife As They Were Severally Taken by Mss. Lushington and Haseltine, Proctors, The Examiners in the Above Cause. With an Appendix, Containing the Libel and Allegations.* London: Printed for J. Russel, 1771. [viii], [1], 10-240, [8], 249-307 pp. Octavo (8" x 5").

Contemporary quarter calf over marbled boards, raised bands and lettering piece to spine. Front board just beginning to separate but secure, chip to foot of spine, some rubbing to rear joint, corners lightly bumped, rear hinge cracked but secure. Negligible foxing to a few leaves, very faint dampstaining to foot of text block. Early signature to title page, interior otherwise clean. A nice copy of a scarce item. \$350.

\* Only edition. "Lady Grosvenor is described by Walpole as a 'young woman of quality, whom a good person, moderate beauty, no understanding, and excessive vanity had rendered too accessible' to the attentions of Henry, Duke of Cumberland, brother of George III (*Memoirs*, iv. 164). In an action for criminal conversation brought before Lord Mansfield in July 1770, the jury awarded 10,000*l.* in damages against the prince. In 1772 Lord Grosvenor settled 1,200*l.* a year upon his wife by arbitration." (DNB). This book contains the text of documents relating to the arbitration phase of the divorce. OCLC locates 10 copies worldwide. *Dictionary of National Biography* VIII:723. *Catalogue of the Library of the Harvard Law School* (1909) II:1090. (45669)



Item 22



Item 23

### Criminal Conversation's Influence on Later Divorce Law

#### 22. [Trials].

#### [Marriage Law].

*Crim. Con. Actions and Trials and Other Proceedings Relating to Marriage Before the Passing of the Present Divorce Act.* London: n.p, c.1857. [iv], 110, [2] pp. Octavo (7-1/2" x 5").

Three-quarter calf over marbled boards, rebacked retaining portions of original backstrip, hinges mended. Some rubbing to extremities, offsetting and foxing to endleaves, light toning to text. A handsome copy of a scarce title. \$250.

\* Only edition. With two cases involving Thomas Erskine as counsel. "Actions for what was formerly known...as crim[inal] con[versation] were *nominally* abolished thirty years ago: that they were not *actually* got rid of, as will presently be shewn, is evident from the wording of the Divorce Act.... It is a remarkable fact, however, that in spite of the loose wording of the Act, such actions have become of such a rare occurrence as to be virtually at an end, and what the Act was intended to bring about, while failing to do it technically, has yet to come to pass. The object of the following pages is to show the nature of the legal proceedings formerly in vogue as necessary before an injured husband could clear himself of an adulterous wife and marry again, and a number of interesting cases, which attracted a deal of public attention, in their day, are given, from which it may be readily perceived with what facility conspiracy and fraud could be perpetuated.": Preface [iii]. Not in Sweet & Maxwell or the *British Museum Catalogue*. (S1696)

### The Prince of Wales's Clandestine Marriage

#### 23. [Withers, Philip (d. 1790)].

*Alfred's Appeal. Containing His Address to the Court of King's Bench, On the Subject of the Marriage of Mary Anne Fitzherbert, And Her Intrigue with Count Bellois.* London: S.n., 1789. 88 pp.

#### [Bound with]

#### [Withers, Philip].

*Alfred's Apology.* London: Entered at Stationers-Hall, 1789. 86 pp. Half-title lacking.

#### [And]

#### [Withers, Philip].

*Alfred's Apology, Second Part, Containing a Letter to His Royal Highness the Prince of Wales; With a Summary of the Trial of the Editor of Nemesis, On the Prosecution of Mrs. Fitzherbert, For a Libel; With Remarks, By Alfred.* London: Entered at Stationers-Hall, 1789. 154 pp.

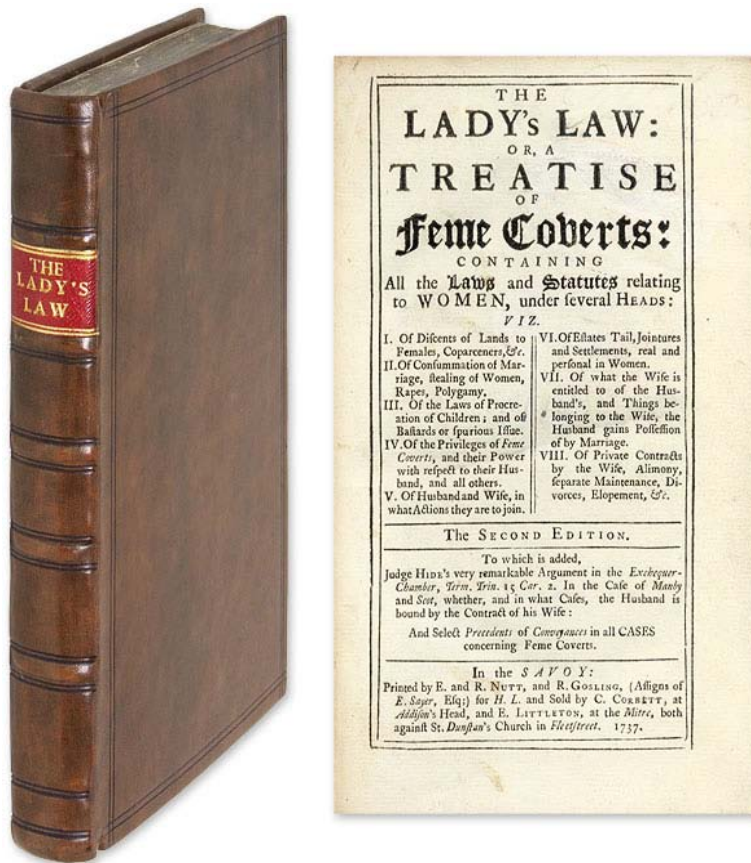
#### [And]

[Withers, Philip].

*History of the Royal Malady, With Variety of Entertaining Anecdotes, To Which are Added, Strictures on the Declaration of Horne Tooke, Esq. Respecting "Her Royal Highness the Princess of Wales," Commonly Called Mrs. Fitzherbert. With Interesting Remarks on a Regency. By a Page of the Presence.* London: Sold at No. 9, Queen-Street, n.d. 62 (of 64) pp. Final two leaves lacking.

Octavo (8" x 4-3/4"). Stab-stitched pamphlets bound into contemporary three-quarter calf over marbled boards, rebacked in period style, raised bands, gilt ornaments and lettering piece to spine, marbled edges. Light rubbing to boards, moderate rubbing to extremities with some wear to corners, endpapers renewed. Moderate toning to text, light foxing in places, internally clean. \$750.

\* Alfred's Apology: second edition; Others: first editions (one of several issues, all in the same year). In 1785 George, the Prince of Wales and the future King George IV contracted an illegal marriage in secret with Maria Anne Fitzherbert, a Catholic commoner. (It violated the Bill of Rights and the 1701 Act of Settlement). King George III compelled the prince to leave her in 1794 to marry Duchess Caroline of Brunswick, but he continued his relationship with her (with some periods of estrangement). These items are part of a pamphlet war that grew out of a libel trial that resulted from Withers's public exposure of the clandestine marriage. *English Short-Title Catalogue* T11257, T11276, T11256, T11274. (61375)



The Lady's Law

24. [Women].

[Hyde, Edward].

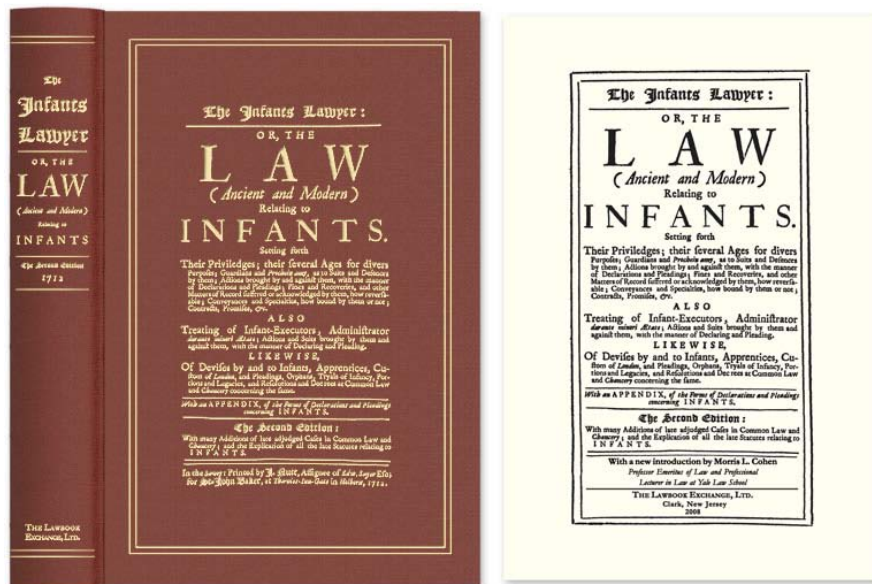
*The Lady's Law: Or, A Treatise of Feme Coverts: Containing All the Laws and Statutes Relating to Women, Under Several Heads...* [London]: Printed by E. and R. Nutt, And R. Gosling, 1737. [viii], 264, [16] pp. Publisher advertisement, usually bound before title page, not present in this copy. Octavo (7-3/4" x 5").

Recent period-style calf, blind rules to boards, raised bands and lettering piece to spine. Light toning to text. Early annotation to rear endleaf, interior otherwise clean. A handsome copy. \$3,500.



\* Second and final edition, a reissue of the first edition with a cancel title page. Originally published in 1732 as *A Treatise of Feme Coverts*, this is one of the first books devoted to laws concerning a "feme covert," that is, a daughter, ward or wife. The work concludes with an account of Robert Hyde's argument in the notable 1663 Exchequer case of *Manby v. Scott*, in which he argued that a husband separated from his wife is not liable to a vendor for goods purchased by the estranged wife. Hyde [1595-1665] was a Chief Justice of the King's Bench from 1663-1665, having gained appointment through the influence of his cousin, Edward Hyde, first Earl of Clarendon. Both editions are scarce. OCLC locates 9 of the first in North American law libraries, 3 of the second (at Harvard, the University of Cincinnati and the University of Pennsylvania). *Dictionary of National Biography* X:400-401. *English Short-Title Catalogue* T107459. (63859)

## A Selection of Lawbook Exchange Publications on Family Law

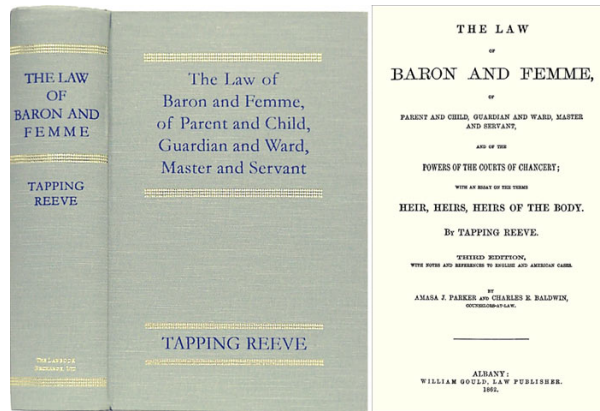


### First English Treatise on the Law of Infants

#### 25. [Carter, Samuel].

*The Infants Lawyer: Or the Law (Ancient and Modern) Relating to Infants. Setting Forth Their Priviledges; Their Several Ages for Divers Purposes; Guardians and Prochein Amy, As to Suits an dDefences by Them; Actions Brought by and Against Them, With the Manner of Declarations and Pleadings; Fines and Recoveries, And other Matters of Record Suffered or Acknowledged by Them, How Reversible; Conveyances and Specialties, How Bound by Them or Not; Contracts, Promises, &c. Also Treating of Infant-Executors, Administrator Durante Minori Aetate; Actions and Suits Brought by Them and Against Them, With the Manner of Declaring and Pleading. Likewise, Of Devises by and to Infants, Apprentices, Custom of London, And Pleadings, Orphans, Tryals of Infancy, Portions and Legacies, And Resolutions and Decrees at Common Law and Chancery Concerning the Same. With an Appendix of the Forms of Declarations and Pleadings Concerning Infants. With many Additions of Late Adjudged Cases in Common Law and Chancery; and the Explication of All the Late Statutes Relating to Infants.* Originally published: London: Printed by J. Nutt, 1712. viii (iii-viii new Introduction), [24], 380, [27] pp. Reprinted 2008, 2015 by The Lawbook Exchange, Ltd. With a New Introduction by Morris L. Cohen [1927-2010], Professor of Law, Yale Law School. ISBN-13: 9781584778332. ISBN-10: 1584778334. Hardcover. New. \$44.95

\* Reprint of the second edition. First published in 1697, this is the first English treatise on the subject. Its twenty comprehensive chapters consist of a digest of the case law relating to each topic with explanatory comments. Holdsworth notes that "[i]t was a useful book to practitioners since it covers all the topics connected with its subject" (*History of English Law* XII:399-400). (S1106)

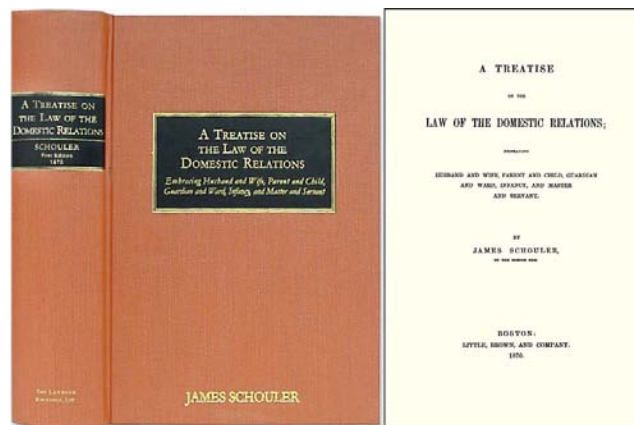


**The First American Treatise on Domestic Relations**

**26. Reeve, Tapping.**

*The Law of Baron and Femme, of Parent and Child, Guardian and Ward, Master and Servant, and of the Powers of the Courts of Chancery; with an Essay on the Terms Heir, Heirs, Heirs of the Body. Third Edition, With Notes and References to English and American Cases by Amasa J. Parker and Charles E. Baldwin, Counselors-At-Law.* Originally published: Albany: William Gould, 1862. xlvii, 677 pp. Reprinted 1998 by The Lawbook Exchange, Ltd. ISBN-13: 9781886363588; ISBN-10: 1886363587. Hardcover. New. \$39.95

\* Third and final edition of the first American work devoted to the law of women is chiefly valued for its description of the legal character of domestic relations. This treatise delineates the marital, parental, guardian, master and chancery authority and rights of property, debts, wills, contracts and settlements. "American text writing as a significant force in our legal development begins in 1816 with Reeve's *Baron and Femme*." Pound, *The Formative Era...* 140. In 1782 Reeve [1744-1823] founded the first American law school, Litchfield Law School, where he was the only teacher until 1798 when he was appointed to the superior court bench. Amasa J. Parker was one of the founders of Albany Law School. (23226)

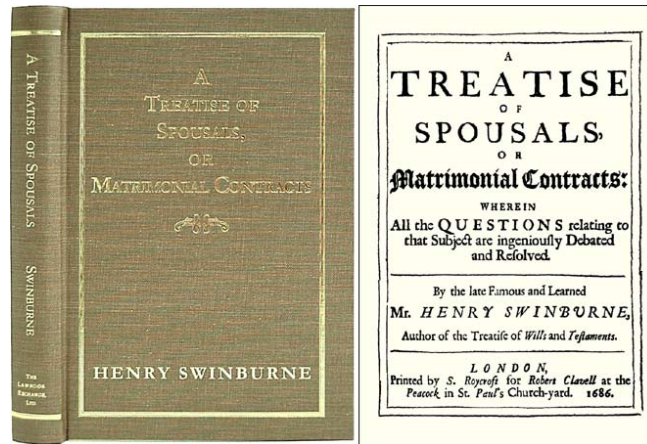


**Standard Nineteenth-Century Treatise on Domestic Relations**

**27. Schouler, James.**

*A Treatise on the Law of the Domestic Relations; Embracing Husband and Wife, Parent and Child, Guardian and Ward, Infancy, and Master and Servant.* Originally published: Boston: Little, Brown, and Company, 1870. lix, 670 pp. Reprinted 2004 by The Lawbook Exchange, Ltd. ISBN-13: 9781584774198. ISBN-10: 1584774193. Hardcover. New. \$39.95

\* Reprint of the first edition. Schouler [1839-1920] was America's leading authority on family law. His book on domestic relations, the first thorough study published in the United States since Tapping Reeve's *The Law of Baron and Femme* (1816), describes domestic law as it stood in the states and territories during the 1860s. A standard text, it went through six editions, the final appearing in 1921. (38776)

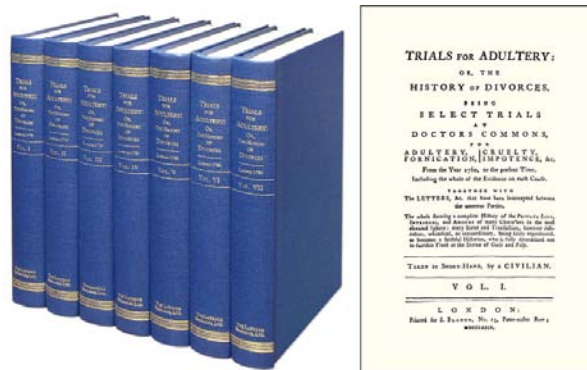


**First English Ecclesiastical Law Treatise on Marriage**

**28. Swinburne, Henry.**

*A Treatise of Spousals, or Matrimonial Contracts: Wherein all the Questions Relating to that Subject are Ingeniously Debated and Resolved.* London: Printed by S. Roycroft for Robert Clavell, 1686. [xvi], 240 pp. Reprinted 2003 by The Lawbook Exchange, Ltd. ISBN-13: 9781584772880; ISBN-10: 1584772883. Hardcover. New. \$34.95

\* Reprint of the first edition. Published posthumously, this was the first English ecclesiastical law treatise devoted to marriage, the relationship between spousal contracts and marriage contracts, the dissolution of those contracts and divorce. He offers a definition of the term "spousals": "Spousals are a mutual Promise of future Marriage, being duly made between those Persons, to whom it is lawful. In which definition I observe three things especially: One, That this Promise must be mutual; Another, That it must be done rite, duly: The Last, By them to whom it is lawful." (p.5) Swinburne [1560?-1623] was commissary of the exchequer and judge of the consistory court at York. (35520)



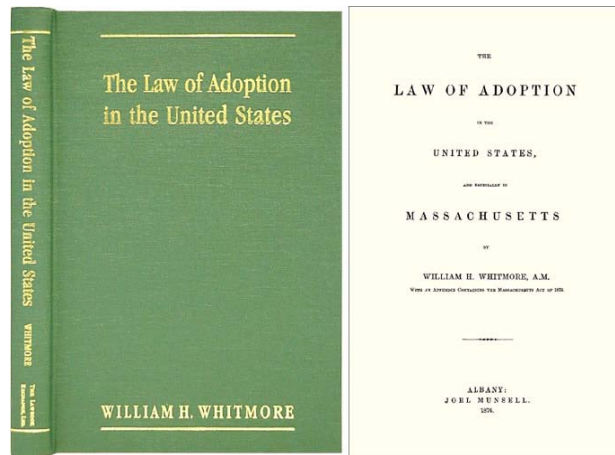
**The Most Extensive Compilation of Eighteenth-Century English Divorce Trials**

**29. [Trials].  
[Adultery and Divorce].**

*Trials for Adultery: Or, the History of Divorces. Being Select Trials at Doctors Commons, for Adultery, Fornication, Cruelty, Impotence, &c. From the Year 1760, to the Present Time. Including the whole of the Evidence on Each Cause. Together With the Letters, &c. That Have Been Intercepted Between the Amorous Parties. The Whole Forming a Complete History of the Private Life, Intrigues, and Amours of Many Characters in the Most Elevated Sphere: Every Scene and Transaction, However Ridiculous, Whimsical, or Extraordinary, Being Fairly Represented, as Becomes a Faithful Historian, Who is Fully Determined Not to Sacrifice Truth at the Shrine of Guilt and Folly. Taken in Short Hand, by a Civilian.* London: Printed for S. Blandon, 1779-1780. Seven Vols. Numerous illustrations. 40, 42, 40, 45, 54, 122, 48; 68, 28, 45, 14, 98, 24, 38, 76; 54, 26, 78, 29, 82, 38, 19, 76; 70, 20, 199, 25, 20, 26, 22; 52, 48, 22, 305; 202, 28, 22, 17, 59, 15, 70; 122, 50, 34, 23, 23, 39, 15, 21, 16, 20, 24 pp. Reprinted 2006 by The Lawbook Exchange, Ltd. ISBN-13: 9781584774686. ISBN-10: 1584774681. Hardcover. New. \$295.

\* With numerous engravings. This is the most extensive compilation of scandalous divorce cases produced in eighteenth-century England. Produced for amusement and titillation, the accounts in these volumes are valuable nevertheless for their combination of accurate reports and vivid background histories. In all, this collection is a fascinating document of English social and legal attitudes toward adultery and divorce at the dawn of an era of unprecedented social change.

(40096)



**American Adoption Law During the Nineteenth Century**

**30. Whitmore, William H.**

*The Law of Adoption in the United States, and Especially in Massachusetts.* Originally published: Albany: Joel Munsell, 1876. vii, 111 pp. Reprinted 2003 by The Lawbook Exchange, Ltd. ISBN-13:9781584773443; ISBN-10: 1584773448. Hardcover. New. \$29.95

\* Reprint of first and only edition. In 1875 the Massachusetts legislature considered a proposal to revise the state's adoption laws. Before it proceeded, however, it commissioned this study from Whitmore to serve as a reference for the legislators. Written in two parts, the first contains the texts of laws and related cases from twenty-two states. He also includes a brief summary of relevant European statutes. Organized by topic, the second part describes how these laws compare and differ. Though written for a specific purpose, this study remains a valuable guide for the scholar of the history of adoption law or family law to all aspects of American adoption law during the nineteenth century.

(36604)



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