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Entanglements in Legal History: Conceptual Approaches

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Translations of the “American Model” in Nineteenth Century Argentina: Constitutional Culture as a Global Legal Entanglement¹

Introduction

In 1908, writing about the possibilities of intellectual cooperation between North and South America, Leo S. Rowe – who taught political science at the University of Pennsylvania and chaired the American Academy of Political and Social Science – stated that the reorganization of South American universities in the nineteenth century was deeply marked by the “period’s dominant French influence” (which was still felt in “higher education’s organization and methods”). Nevertheless, Rowe, who eventually became a key figure in Pan Americanism and Inter-American relations, was optimistic about the possibility of bringing U.S. and South American universities closer, and highlighted the importance of such contacts among intellectuals and men of science to realize the ideal of “international conciliation.”² One of the most important elements that could lead to the resurgence of intellectual cooperation between North and South America, claimed Rowe, was the extensive implementation of the North American constitutional model in many of the new republics. This provided American experts in political science and constitutional law with a new and vast field of study: the opportunity to analyze the operation of similar constitutional systems under completely different conditions and the relationship between constitutional forms and practices.³

1 A previous version was presented at the panel *Entanglements in Legal History: Conceptual Approaches to Global Legal History*, 39 Deutscher Rechtshistorikertag, Lucerne, September 4, 2012.

2 ROWE (1908). On Rowe and Pan Americanism see BARTON CASTLE (2000); on Rowe’s visits to Argentina see SALVATORE (2007).

3 ROWE (1908) 12. Similar observations can be found in ROWE (1921), and in Rowe’s foreword to AMADEO (1943). For a brilliant study on constitutionalism in the Americas, see AGUILAR RIVERA (2000).

Hispanic American *letrados* had been translating and circulating classic works of American constitutionalism since the early nineteenth century. Moreover, between 1820 and 1850, Philadelphia and New Orleans, with their printing presses and commercial networks with Latin American ports, operated as centers for the diffusion of republicanism, through the labors of exiles such as Servando Teresa de Mier, Lorenzo de Vidaurre, Vicente Rocafuerte, and Félix Varela. This process of transnational circulation of ideas produced both an intense feeling of *Americanism*, uniting both sections of the continent in a common struggle; and a *republican pedagogy*, propagating a new political vocabulary and the blueprint for new political institutions and practices. The principles of a common republican ethos spread all over the different sections of the continent. In the United States Henry Clay and Thomas Jefferson before him had spoken of a unified “America,” with shared geopolitical interests and philosophical foundations, different from those of Europe. In the 1840s River Plate provinces, the Rosas regime had enthusiastically promoted such identification, in order to attack the pro-European tendencies of their political rivals.⁴

By the mid-nineteenth century, these tendencies had evolved into a widespread acceptance of American constitutionalism as a model to shape Argentine constitutional culture. Rowe’s observation on the popularity of the U.S. constitution in the region did not seem to grasp the full extent of that influence in the particular case of Argentina. A good measure was provided by an 1877 Argentine Supreme Court decision, which explicitly acknowledged it:

The system of government that rules us today is not our own creation. We found it functioning and tested by long years of experience, and we adopted it. And it has been rightly said that one of the great advantages in having adopted it is that we have come into possession of a whole body of doctrine, practice, and case law which illustrates and completes the fundamental principles of our government and which we can and should utilize in all the constitutional aspects which we have not altered by express provisions of the Constitution.⁵

Thus, the circulation of U.S. constitutional doctrine was seen as an integral part of the establishment of new republican institutions based on the

4 ROJAS (2010) 21, 112, 121; GRANDIN (2012) 80; MYERS (1995).

5 “De la Torre” in *Fallos de la Corte Suprema de Justicia de la Nación* 19 (1877). The now classic reference for this process is MILLER (1997). See also ZIMMERMANN (1998); HUERTAS (2001). For comparisons with the Mexican case see MIROW (2007), and HALE (2000).

adoption of the U.S. model. This provided at the same time the basis for a legal reordering on which to found domestic legitimacy, and a means of achieving recognition as a new actor among modern, progressive, republics.⁶

The issues of constitutional borrowings and legal transplants, and the problems surrounding those practices have been widely discussed in recent years.⁷ This paper does not address the theoretical foundations of such practices. Rather, it explores possible ways of connecting transnational history, in some of its multiple variations, with the cultural history of legal ideas in nineteenth century Argentina, and perhaps, more ambitiously, with a comparative cultural history of law in the Americas.⁸ It does so by taking as a case study the reception and adaptation made by Argentine jurists and lawyers of U.S. constitutional doctrine and jurisprudence in the second half of the nineteenth century, in a remarkable body of translations and textbooks.

In nineteenth century Latin America, lawyers were central actors in the process of adaptation and circulation of transnational forms of social knowledge and professional practices: as statesmen, in the drafting of the first national constitutions and codes, as intellectuals and men of letters, shaping a local public sphere, and lastly, as early participants in the incipient professional market. It is not surprising, therefore, to find local jurists, and the world of the law in general (legislation, jurisprudence, doctrine and legal education, the structure and functioning of judicial institutions) operating as a mechanism of interpretation and mediation between the transnational world of legal knowledge and practices, and local circumstances.⁹ In recent years, there has been an impressive growth in the literature on the development of judicial institutions in Latin America, on the role of lawyers and jurists in the emergence of a public sphere in the new nations, and on the ways in which international circulation of individuals, doctrines and insti-

6 BENTON (2012), 1098: "Patterns of legal reordering inside polities correspond to efforts by emergent states not only to establish legitimacy domestically but also to achieve recognition as legitimate international actors."

7 On borrowings and legal transplants, see, amongst a vast literature, WATSON (2006); HORWITZ (2009); and ROSENKRANTZ (2003), for the Argentine case.

8 For an analysis of the different perspectives in transnational history, see BAYLY (2006); STRUCK/FERRIS/REVEL (2011). For the possibilities of a comparative cultural history of law in the Americas, WEINER (2011); KAHN (1999) for a research agenda on the cultural study of law.

9 On contemporary debates on translation and their relevance for the study of translations in nineteenth century Latin America, see ROJAS (2010) 21–22.

tutions shaped these processes.¹⁰ Similarly, the new history of crime, police and the law has very fruitfully gathered historians and social scientists with new perspectives on the study of law and society, as has the study of the role of judicial institutions in the early twentieth century “social question.”¹¹ All these new fields have successfully incorporated the role of transnational circulation of doctrines and individuals as factors shaping their object of study.

The first globalization of legal thought, observed more recently by Duncan Kennedy, brought forth the rise of “classical legal thought,” between 1850 and 1914, which coincided with the spread of liberalism in the western world, and the arrival of liberal constitutionalism in the new nations of Latin America.¹² In Argentina, this process of reception was visible not only in the drafting of the national constitution and its reform in 1860, in congressional debates, and local jurisprudence and doctrines, but also in the profusion of translations of U.S. constitutional literature that were produced by local jurists with official backing.¹³ This body of translations ranges from collections of state constitutional texts and federal Supreme Court cases, through the *Federalist Papers*, the classic *Commentaries* of Joseph Story, and other well known doctrinal works in constitutional law such as *The Constitution of the United States. Defined and Carefully Annotated*, by George Paschal (1868), and John Pomeroy’s *An Introduction to the Constitutional Law of the United States* (1868). Also translated were works oriented to a discussion of the ideological and philosophical foundations of American institutions, such as *On Civil Liberty and Self Government* (1853), by Francis Lieber; *Considerations upon the Nature and Tendency of Free Institutions* (1848, 1856) by Frederick Grimke; *A Treatise on Government* (1867) by Joel Tiffany; and the 1888 Clodomiro Quiroga’s translation of Andrew Carnegie’s *Triumphant Democracy* (writing an introduction for this text Domingo Sarmiento proudly announced that in terms of progress Argentina was already being touted as “*los yankees de América del Sur*”).¹⁴ By the turn of the century, Julio Carrié had translated two

10 ADELMAN (1999a); BENTON (2002); CUTTER (1995); PALACIO (2004); URIBE (2000); ZIMMERMANN (1999a); MIROW (2004); PEREZ-PERDOMO (2006).

11 AGUIRRE/BUFFINGTON (2000); SALVATORE et al (2001); CAIMARI (2004); SCHJOLDEN (2002); ZIMMERMANN (1995).

12 KENNEDY (2006), 19, 37.

13 For a previous analysis of many of these translations, see NADELMANN (1959).

14 CARNEGIE (1888), xix. See *Table 1* for complete bibliographical references of the original works and the translations consulted.

books by Frank Goodnow on municipalism, introducing some of the topics of the new science of public administration that was transforming public debate on government in the United States.¹⁵

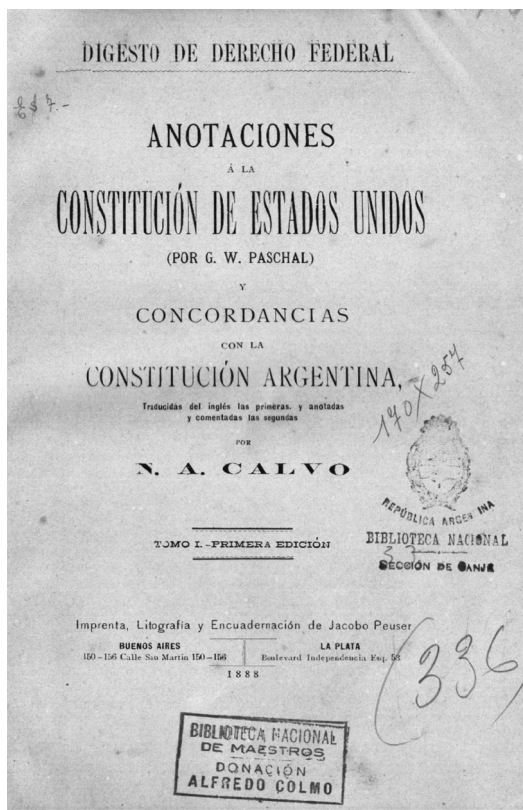


Figure 1: George Paschal's *The Constitution of the United States Defined and Carefully Annotated* (1868) had two different translations, by Nicolás Calvo and by Clodomiro Quiroga. Both aimed at clarifying similarities and differences between the U.S. and the Argentine Constitutions.

15 On public administration in the United States, SKOWRONEK (1982). On municipalism at the turn of the century in Argentina, TERNAVASIO (2006).

Many of the translators also published their own works, or abridged versions of the original translations, and in this they were joined by other jurists and politicians who produced original contributions, with the intention of debating and divulging the new doctrines, thus contributing to the origins of a new constitutional culture. Others combined their work as translators with active participation in the political press of the period (Nicolás Calvo published his first translation of Story's *Commentaries* in the printing presses of his newspaper *La Reforma Pacífica*, and promoted it in its pages).¹⁶ Some of these works were destined for primary and secondary schools (Clodomiro Quiroga, José María Cantilo); others for university courses (Florentino González), and others for local jurists and politicians (Manuel R. García, Florentino González, Bernardo de Irigoyen, Luis Varela).

When we read their own works, and the “paratext” of their translations (prologues, introductions, inscriptions, footnotes, commentaries), we can perceive the willingness of the local jurists to “read” the U.S. institutions at different points in time, according to the particular circumstances of the Argentine context: some defended the need for national unification, others the need to preserve provincial autonomies; there were those who identified the U.S. model not only as a set of political institutions, but as the embodiment of the principles of modernity to be used as a weapon to fight the Hispanic cultural legacy; and others chose to focus on Lincoln and the Reconstruction period as the symbols of the strong national executive that the Latin American nations needed to stave off the threats of provincial *caudillos*. As we shall see, liberal constitutionalism based on the U.S. model could serve the ends of those aiming at greater centralization of power in the national government *and* of those defending provincial autonomy. Thus, the language of liberal constitutionalism in nineteenth century Argentina, gradually produced a novel constitutional culture, a mixture of the original model and the many adaptations and interpretations produced by its local translators. This mixture of the transnational and the local, therefore, revealed a true hybridization of the new political vocabulary of liberal constitutionalism rather than a passive acceptance of a selected model.¹⁷

16 GARCÍA (1863); CANTILLO (1866); DE IRIGOYEN (1867); GONZÁLEZ (1869); QUIROGA (1872), QUIROGA (1873); VARELA (1876).

17 Although many of these translators and authors did produce a high level of mixture and hybridity in the vocabulary of liberal constitutionalism as they understood it, many of the

As we know, the traditional “diffusion model” whereby ideas and doctrines (scientific theories, political ideologies, cultural trends) were simply disseminated from the West – Europe and the United States – to the rest of the world has been superseded in recent years by new perspectives on worldwide knowledge creation. It is now recognized that original currents of thought were often profoundly modified in the process of adaptation and the generalization of their new settings. In fact, it has been pointed out that the emergence of hybrid bodies of learning and linked networks of scientists and intellectuals, rather than a one directional transmission of ideas, seems a better way of describing this process.¹⁸

Two consequences arise from this recognition, and both seem relevant to the study of “entanglements in legal history.” One, the history of this transnational process of circulation of ideas is not just a record of how ideas originated in one place and were received in others; on the contrary, history is also being made precisely in the movement between different regions of the world; that is, the process of transition (and translation) is a historical process of knowledge creation.

Secondly, this process of transit, of hybridization of knowledge, is affected by specific social forms: intellectuals, writers, scientists, policy makers and academics, and their international networks, conferences, journals, and books. Therefore, we need to pay particular attention to the social mechanisms of circulation of legal ideas: book translations, professional associations, personal relationships and networks; and to the crucial role played by the government in the dissemination of legal thought on the more general public discourse about state and society.

The following sections will explore, first, the perception of U.S. institutions by nineteenth century Argentina’s political elites and their diffusion into local universities; second, the role of translators, printers and book-sellers as social mechanisms of circulation of those ideas; and third, the ways in which local interpretations adapted the original model to local needs, creating a vocabulary of liberal constitutionalism suited to the particular political context of the country.

institutions themselves, as adopted by political authorities in Argentina (the structure of the federal judiciary, and the adoption of judicial review, for instance) maintained a remarkable level of fidelity to the U.S. original. See MILLER (1997).

18 BAYLY et al. (2006); BAYLY (2004).

The “American Model” and Nineteenth Century Argentine Constitutionalism

The struggle to establish the rule of law as part of the nation building project in nineteenth century Latin America was burdened by the particular historical circumstances in which that process took place. Among those particular historical circumstances, historians have frequently emphasized the legacy of the colonial world, deeply embedded in a hierarchical, centralist, and corporatist ethos, as discussed by Richard Morse, Glen Dealy, Howard Wiarda, Claudio Véliz, and others.¹⁹ The disappearance of effective state power after independence, the centrifugal effects of strong regionalist movements, and economic structural imbalances helped to consolidate the *caudillista* tradition of a strong personalization of power, which frequently led to political instability and the concentration of all the functions of administration, legislation, and judicial power in one person, making impossible the functional differentiation necessary for the process of rationalization of the law.²⁰ Far from being an abstraction evoked to explain all the ills and shortcomings of the new independent nations, the corporatist legacy of the colonial world was in fact present in very concrete collective actors, such as the Army and the Church. This presence was also felt in very concrete social practices, such as Church and military *fueros*, the special jurisdictional privileges enjoyed by the clergy and military officers, which reinforced a system of legal, social and economic stratification, and appeared as wholly incompatible with the ideals of legal equality embraced by liberal nation building.²¹

The topics of the colonial legacies of *caudillismo* and Catholic obscurantism in the region were already present as recurrent tropes for nineteenth century North American intellectuals, and operated as an influential feedback for Latin American liberal *letrados* struggling to rid their countries of Hispanic traditions.²² Just like the project of a massive influx of European

19 MORSE (1954); MORSE (1964); DEALY (1968); WIARDA (1971); WIARDA (1973); VELIZ (1980). On the persistence of cultural explanations in Latin American history and historiography, see ADELMAN (1999b).

20 On *caudillismo* and political order in nineteenth century Latin America see SAFFORD (1992); CHASTEEN (1994); GOLDMAN / SALVATORE (1998).

21 CUTTER (1999); ARNOLD (1999).

22 KAGAN (1996); JAKSIC (2012).

migrants was seen by many as a tool for the social and cultural transformation of a local population deemed deficient for the construction of a modern republic; the adoption of U.S. constitutionalism was taken by many as a panacea for the institutional ills bequeathed by the Hispanic colonial legacy.

There were limits to such an adoption, however, imposed by the local context. The predominance of the Catholic Church on one hand, and nationalist rhetoric on the other, fueled mistrust of Northern influences. As has been rightly pointed out, “the political environment recommended prudence, and prudence was exercised through creative translating and editing.”²³ For others, prudence was dictated by the turbulent past of Argentina, which demanded institutional guarantees of order and authority that the U.S. constitution apparently could not provide. Such was the case of Juan Bautista Alberdi, whose book *Bases* inspired much of the 1853 Argentine constitution, and its peculiar mixture of constitutional sources. The Chilean Constitution of 1833 was the main source adopted by Alberdi to construct a strong national executive and higher degrees of political centralization for Argentina.²⁴

Alberdi's rival, Domingo Faustino Sarmiento, on the other hand, was a staunch defender of the American Model. After his 1847 visit to the States, where he was inspired by Tocqueville, he became fascinated by the strength of civil society in New England (as recorded in his book *Viajes*); his enthusiasm with the United States as a model for the South American republics was almost unlimited. In 1860, Sarmiento was an active participant in the constitutional convention that reformed the 1853 text, and many of the reforms were inspired by his desire to bring the Argentine constitution closer to the U.S. model. When Sarmiento returned from Argentina to the United States as a diplomatic envoy (1865–1868), his friendship with Horace and Mary Mann and his contacts with the Union political establishment were crucial in cementing his belief in the suitability of the United States as a model for Argentina, whether for the propagation of popular education, or the diffusion of constitutional doctrine. Moreover, the victory of the Union and the period of Reconstruction became for Sarmiento symbols of the reconciliation of liberal republicanism, federalism, and a strong executive,

23 JAKSIC (2012), 5–6.

24 BOTANA (1984); NEGRETTO/AGUILAR RIVERA (2000); ADELMAN (2007); ZIMMERMANN (2011).

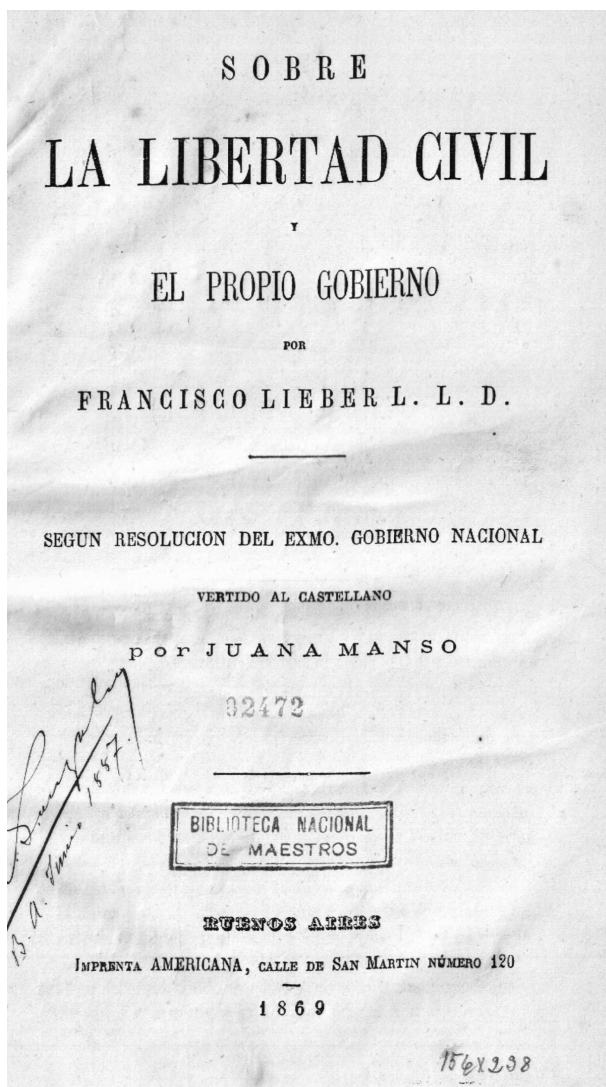


Figure 2: Juana Manso, a close collaborator in President Sarmiento's educational projects, translated Francis Lieber's *On Civil Liberty and Self Government*. A second translation of this popular treatise was made by Colombian Florentino González in 1872.

a formula that was to guide his administration as President of Argentina (1868–1874).²⁵

After the sanction of the 1853 Constitution, the debate on the relative influence of the U.S. model raged on. José Benjamín Gorostiaga, one of the drafters of the document, stated that it had been “cast in the mould of the U.S. Constitution, the only existing model of a true federation.” Alberdi and Sarmiento published their own divergent interpretations on the question, but politics and military action would temporarily suspend the discussion, as Buenos Aires seceded from the Argentine Confederation (1854–1860).²⁶ During the separation, the institutions of the American Model – and the pros and cons of judicial review by a federal supreme court in particular – were debated in Paraná (capital of the Argentine Confederation) and the now independent Estado de Buenos Aires.²⁷ With the military triumph of Buenos Aires and reunification of both political entities came the constitutional reform of 1860 (proposed by Buenos Aires, the reforms brought the Argentine Constitution even closer to the U.S. model²⁸), and eventually the ascendance of Bartolomé Mitre to the presidency in 1862. The stage was set for a more aggressive implementation of the U.S. model in Argentina. Congress sanctioned laws setting up a federal judiciary in 1862 and 1863, which closely followed the U.S. Judiciary Act of 1789. President Mitre had sent a special envoy (Manuel R. García), to the U.S., who had very diligently compiled and sent to Buenos Aires all the relevant precedents.²⁹

The special committee in charge of drafting the *Ley 27* (organization of the federal judiciary) recommended a series of measures to facilitate the implementation of the new institutions. Among them were “to popularize the new doctrines” through a series of “translations and compilations” of the more relevant works written in English on the workings of the U.S. model and its relations to Argentine institutions, and to promote in universities and “*academias de jurisprudencia*” the study of this branch of public law.³⁰ Thus,

25 BOTANA (1984); BOTANA (1997); HALPERIN DONGHI et al (eds.) (1994); WEINER (2011).

26 On judicial institutions in the Argentine Confederation, see LANTERI (2010).

27 LEVAGGI (1980); PÉREZ GUILHOU (1983). For other debates in nineteenth century Argentine constitutional culture, ZORRAQUÍN BECÚ (1976); ZORRAQUÍN BECÚ (1988); LEVAGGI (1981); MILLER (1997).

28 MARTIRE (1984); ZIMMERMANN (1989).

29 *Archivo del General Mitre, Presidencia de la República*, XIII (1912), 174–175; “Justicia Federal,” *La Nación Argentina*, February 6, 1863; GARCÍA (1863); ZAVALÍA (1920).

30 *Diario de Sesiones del Senado de la Nación*, September 27, 1862, 426.

the remarkable process of translation and circulation of texts was to be backed from the outset by government support. This was an important difference with the work of exiles in the first half of the nineteenth century. In 1860s Argentina, the government was actively involved in the diffusion of the U.S. model, and university courses as much as judicial courts were to be the recipients of its efforts.

Constitutional Law and the American Model at the University of Buenos Aires

With the arrival of Juan María Gutiérrez as Rector in 1861, a series of curricular changes transformed the structure and content of legal studies at the University of Buenos Aires. Gutiérrez abolished the *Academia de Jurisprudencia*, where candidates had to take three years of professional practice, and widened the curriculum with the introduction of new courses: Roman Law, in 1863; Constitutional Law, in 1868, Legal Medicine, in 1871, and Procedural Law in 1873. Finally, in 1874 the old *Departamento de Jurisprudencia* changed its name into *Facultad de Derecho y Ciencias Sociales*, as it is known today.³¹ The creation of the Chair of Constitutional Law in 1868, which followed the constitutional reform of 1860, and preceded the reform of the constitution of the province of Buenos Aires from 1870 to 1873, stimulated public debate on constitutional matters, and divergent interpretations on the suitability of the American Model to the Argentine context separated students and professors.³²

Colombian Florentino González held the chair between 1868 and 1874. His *Lecciones de Derecho Constitucional*, a summary of his course published in 1869 and 1871, was a clear exposition of the interpretation of the U.S. constitution as a foundational document in political philosophy and constitutional practice which had to be closely followed. During the 1870s González' *Lecciones* were used as an important source for Argentine students of constitutional law at the Buenos Aires Law School.³³ In these lectures González

31 HALPERIN DONGHI (1962) 71–76; CANDIOTI (1920) 114–115, 209; ZIMMERMANN (1999b).

32 On the influence of the U.S. Constitution on the teaching of constitutional theory and history in Argentine universities see CHIARAMONTE/BUCHBINDER (1991); RAVIGNANI (1930); LANFRANCO (1957); MELO (1969); ETCHEPAREBORDA (1973).

33 GONZÁLEZ (1869). References made by contemporaries about González' influence on students at the Buenos Aires Law School in MONTES DE OCA (1877), and PESTALARDO

presented an opposition between two systems of government that were adopted by “the most civilized Christian nations”: constitutional monarchy, which he called “*sistema europeo*,” and “the representative democratic republic,” or “*sistema americano*.”³⁴ Oddly enough, he made no mention of the many precedents that had used such a conceptual scheme: much of the Hispanic American republican thinking of the first half of the nineteenth century emphasized that distinction between Europe and America; in Argentina, Rosas and his publicists had made ample use of the idea of a “Sistema Americano”; and in the United States, Henry Clay’s “American System” combined with the Monroe Doctrine of 1823 to present plan for a united America counterpoised to the European powers.³⁵ Moreover, Joel Tiffany’s *Treatise on Government*, published in 1867 and later translated by Clodomiro Quiroga in 1874, made a similar distinction about the “American Theory” of government.³⁶

Political science and constitutional theory, claimed González, were an empirical science, “una ciencia de observación,” and from the study of the existing forms of government, it was clear that republican government had been most successfully established in the United States. South American constitutional practice, therefore, had to be based on the detailed study of that model. This approach proved to be very influential among his students. González inspired several dissertations on issues of constitutional theory and practice, on the United States model and its relevance to the Argentine situation: Aristóbulo del Valle, “Intervención del gobierno federal en el territorio de los estados”; Carlos Pellegrini, “Estudio sobre derecho electoral”; Roque Suárez, “Sistema federal”; Juan Esteban Martínez, “Gobierno federal”; Antonio Obligado, “La libertad de cultos”; Manuel Porcel de Peralta, “El sufragio”; José M. Cantilo, “Las provincias no pueden legislar en materia de competencia del Congreso Federal,” among others.³⁷

González’ successor at the Chair of Constitutional Law between 1874 and 1884 was José Manuel Estrada. Estrada strongly modified the outlook of the course, elaborating a new interpretation of the historical background of

(1914). For a biographical study of Florentino González, spanning his political activities in Colombia to his exile in Chile in the early 1860s, see TORRES CAICEDO (1868).

34 GONZÁLEZ (1869), 5.

35 ROJAS (2010); MYERS (1995); GRANDIN (2012).

36 TIFFANY (1867) iii; translation in QUIROGA (1874) xiii.

37 CANDIOTI (1920) 141.

the United States and the Argentine constitutions, and of the origins of Argentine federalism. In the latter case, far from being the result of a compact between provinces understood as sovereign entities, the Argentine nation was seen as a legacy of the administrative design of the Spanish colonial world, thus preceding the existence of the provinces, an interpretation that weakened the case for the suitability of the United States model of a federal system for Argentina, and that would prevail in the teaching of constitutional law during the years that followed, continued by Estrada's successors, Lucio V. López and Aristóbulo del Valle.³⁸

A similar process of dissemination and debate of American constitutional doctrine took place among jurists after the sanction of the laws organizing the country's federal judicial institutions. "All our judges and lawyers must be well versed in our federal judicial system, which they cannot apprehend from the mere text of our Constitution without a previous and detailed study of the foremost authors of North American federal law." Thus, in 1863 the newspaper *El Nacional* justified the government's decision to make available in libraries and courts of justice all over the country the most important works on United States constitutional history and theory. "*Tienen que consultar a cada paso a Story*" concluded the newspaper.³⁹ During the following years, an impressive government effort facilitated copies of Story and other classics, such as *The Federalist*, Curtis, Lieber, Kent, and Pomeroy, to the libraries of federal courts.⁴⁰

The list of translations of U.S. constitutional doctrine and jurisprudence sponsored by the national government grew steadily in the following years, and with the translations came an equally impressive number of university dissertations and the first examples of local constitutional commentary dedicated to the discussion of North American precedents for local doctrine and jurisprudence.⁴¹ After almost two decades of that process of translations and diffusion of U.S. constitutional doctrine, Domingo Sarmiento, who had

38 CHIARAMONTE/BUCHBINDER (1991) 6–10.

39 "De la justicia federal," *El Nacional*, January 5, 1863.

40 *Memoria del Ministerio de Justicia, Culto e Instrucción Pública*, 1865, 30, for a list of "libros que se han traído de Norte América para la Biblioteca de la Exma. Corte Suprema de Justicia," including Curtis, Webster, and Story, among others; and *Memoria del Ministerio de Justicia, Culto e Instrucción Pública*, 1880, 24–25, for an inventory of the library of the Corrientes federal judge including, among others, "un tomo del Federalista, un tomo Derecho Constitucional (por Tiffany), un tomo Derecho Constitucional (por Story)."

41 NADELMANN (1959) 204–214.

been one of its most ardent supporters, vainly proclaimed that Argentina was, “among the Spanish speaking peoples (including Spain) the one most dedicated to the systematic study of her political and institutional precedents.” Similar observations on the remarkable abundance of translations and treatises on constitutional matters by the 1880s were made by other prominent jurists, such as Estanislao Zeballos and Joaquín V. González.⁴² As we shall see, in that process of constitutional analysis and reflection that so impressed Sarmiento and others, the “American Model” was subjected to different interpretations. Editors and translators selected from a list of possible “readings” what the U.S. model meant for Argentina at different points in time. But before getting into that, let us explore the world of material practices that made possible the circulation of these works.

**“Printed constitutionalism” in the River Plate:
jurists, translators and booksellers**

It has been suggested – albeit for a different place and period – that the relation between print and political culture, and specifically “the invention of written – and more particularly printed – constitutionalism” was a key moment in the transition from the bourgeois public sphere to national state. Translators, printers and booksellers thus deserve our attention as part of the process of convergence of “print capitalism” advanced by Benedict Anderson and the “printed constitutionalism” analyzed by Michael Warner.⁴³ The concept of “printed constitutionalism” forces us to look not only into the content of constitutional doctrines circulating in the region, but also to consider the social mechanisms that made possible the diffusion and circulation of such doctrines. To treat books not only as texts but also as physical objects resulting from particular economic and cultural practices allows us to integrate certain aspects of social history into the transnational history of constitutionalism in the Americas, and to explore a new way of thinking about the global spread of ideas and the circuits of crosscultural exchange.⁴⁴

42 SARMIENTO (1879); ZEBALLOS (1886) and GONZÁLEZ (1917) 74–75.

43 WARNER (1990). On “print capitalism” and national identity, see also the classic work ANDERSON (1991, 2006). See also ARMITAGE (2007) for the intersection of politics, printing, and the transnational circulation of political ideas.

44 GAMSÄ (2011); ROJAS (2010).

The diffusion of nineteenth century constitutionalism in Argentina, as part of the nation building process, was notably influenced by the expansion of print and a market for books and translations. The expansion of a reading public has been rightly singled out as the starting point for the modernization of the printing presses and publishing houses in Buenos Aires.⁴⁵ In the early 1860s, when the process of translations began in earnest, Buenos Aires had 14 printing presses. Juan María Gutiérrez, a distinguished member of the Buenos Aires intellectual elite, reporting on the situation of the book industry lamented there were so few entrepreneurs willing to take up this necessary endeavour for the intellectual health of the country. He also pointed out that out of 113 publications in 1863, more than a third had been published with the help of government funding. Gutiérrez also cited the problems he encountered in trying to gather information on the number of imported books that had arrived in Buenos Aires, since there were no official statistics on the matter, and importers were rather reluctant to provide them.⁴⁶

We know little about some of the most important establishments operating in Buenos Aires up to the 1860s – El Progreso, La Tribuna, Imprenta del Plata, Americana, de Mayo, Constitución, Bernheim – or about some of the most active editors and publishers, e.g., Benito Hortelano, Carlos Casavalle, and Pablo Coni. During the next decade, three important new firms entered the scene: Guillermo Kraft (1864), the *Librería Nueva de Jacobo Peuser* (1867), and the *Imprenta Americana de Ángel Estrada* (1871). None of these firms had the characteristics of a modern publishing house that assumes the economic risk of investing in the publication of its titles.⁴⁷ By the 1880s the industry had undergone a process of remarkable modernization, adopting modern technology and combining local production with the printing of many titles abroad. A good number of novels produced by local writers were published by Peuser, Kraft, Biedma, Alsina, Coni, Buffet, La Rápida, and Compañía Sudamericana de Billetes de Banco. By the end of that decade, jurist Joaquín V. González could acclaim the work of publisher Félix Lajouanne for his

45 RIVERA (1998); PRIETO (1988); DE SAGASTIZÁBAL (1995); PASTORMERLO (2006).

46 GUTIÉRREZ (1864), III, 272–294. On bookstores and book importers and the nineteenth century legal culture in Buenos Aires, see also DÍAZ (2001); LEIVA (2005). For a case study on Brazil, RODRIGUES BARBOSA (2010).

47 RIVERA (1998) 19–20.

1888 edition of Clodomiro Quirogas' translation of George Paschal, which started up a collection of translations of constitutional "classics," the *Biblioteca Constitucional Americana*, that amounted to "the beginning of a new era for our constitutional law."⁴⁸

Even though the publishing business was gradually showing signs of expansion, and a new market of readers sustained a moderate demand for local books, local translators still depended heavily on the good will of the authorities to sponsor their work. There were little opportunities for many of these collections to be published by purely private means. Government sponsorship was indispensable, and in turn this facilitated the influence of the authorities and the political establishment on the selection of both the original sources to be translated and the choice of local personalities to do the job. Some of them were journalists and/or owned a newspaper (José María Cantilo, Nicolás Calvo), but all had to negotiate patiently to obtain government subsidies in order to get their work published (prologues to the translations by Calvo, Carrasco Albano, and Cantilo, explicitly recognized this.). Funding usually implied the government purchase of a large number of copies to be distributed in state courts, universities, and schools.⁴⁹

José María Cantilo and Clodomiro Quiroga developed fruitful professional and personal relationships with the liberal political establishment. Cantilo, who was in exile in Montevideo during the Rosas dictatorship, held several positions after Rosas ousting, among others being secretary to Dalmacio Vélez Sarsfield, drafter of the Argentine Civil Code. Clodomiro Quiroga was a close collaborator of president Sarmiento – both being natives of the same province (San Juan). Florentino González was the only figure who seemed to take the place of an outsider, although he had a long track record in the politics of his native Colombia. After being transferred to Chile, he finally arrived in Buenos Aires, in the 1860s, where his credentials were rapidly validated and readily accepted by the city's leaders (this process was facilitated by the publication of a biographical story written by his

48 GONZÁLEZ (1888) 89–117.

49 *Registro Nacional*, vol. 5, 1863–1869, for a September 1863 law authorizing the national executive to buy five hundred copies of José M. Cantilo's translation of Joseph Story, "Esposición de la Constitución de los Estados Unidos, para distribuirla en los establecimientos de educación de la República." Carrasco Albano's 1865 translation of James Kent narrates in its introduction his negotiations with the Ministry of the Interior to obtain proper funding.

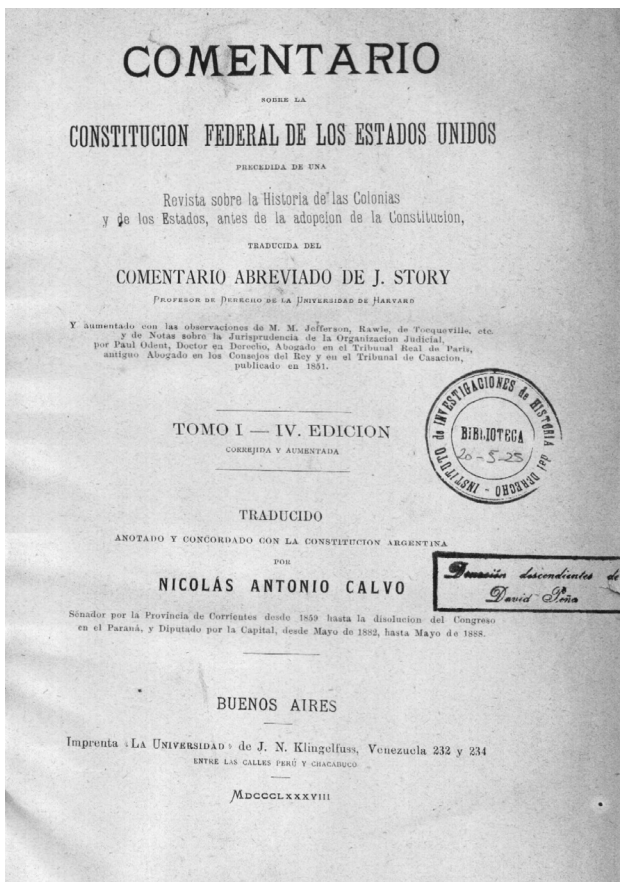


Figure 3: With government funding Nicolás Calvo published several editions of his translation of Story's *Commentaries on the Constitution of the United States*. Most of the translations published in these years received official support.

fellow countryman J. M. Torres Caicedo⁵⁰). As we have seen, in 1868 he was appointed as the first regular professor of the Chair of Constitutional Law at the University of Buenos Aires.

⁵⁰ *Revista de Buenos Aires*, XVI, 1868, 299–320.

Cantilo and Quiroga complemented their work as translators with the writing of manuals of civics, or basic constitutional law textbooks to be taught in secondary schools: José María Cantilo published in 1866 his *La constitución argentina explicada sencillamente para la instrucción de la juventud*, to complement his translations of Joseph Story; and Clodomiro Quiroga, who translated Story, Paschal, Tiffany and Carnegie, wrote his 1872 *Manual del Ciudadano* with the same purpose. Again, their professional and personal links with the political establishment eased their way to economic aid from the government in order to finance their publications.

Ultimately, this is an indication that these works were far from being purely academic exercises produced by the legal establishment. Nor were they solely thought of as tools for the emerging profession of lawyers and attorneys. Rather, they were part of a concrete political project: to support the experiment of adapting the institutions of liberal constitutionalism in post-Rosas Argentina. As such, they contributed to the construction of a new political vocabulary, attuned to the ideological leanings of the particular brand of liberalism guiding Argentina's political and cultural elites. Let us explore some of the elements of this new political vocabulary advanced by the Argentine jurists and translators.

A conceptual history of the “American Model” in Argentina

The particular brand of liberalism that took hold in 1860s Argentina had three central elements: first, the need to consolidate a national union under the leadership of the Buenos Aires political elite and to combat the threat of sectionalism posed by provincial *caudillos* (including the *autonomista* faction in Buenos Aires). Second, a conception of liberal republicanism, strongly identified with the Philadelphia constitution, seen not only as a synthesis of a political system oriented to the protection of individual rights against state encroachment, but also as a weapon to fight the Hispanic cultural legacy. Finally, the combination of liberal principles with a defense of strong central authority, frequently through the granting of special faculties to the national executive, revealing the traditional tension within political liberalism between the limitation and the strengthening of state authority.⁵¹ Through the 1860s and 1870s, a conceptual history of the “American Model” can be

51 HALE (1989a) 248.

traced in the writings of the Argentine translators and commentators, who successively put forward each of these three elements of the liberal formula, in their interpretations of the U.S. institutions.⁵²

In 1860, Nicolás Calvo thought that the idea of the Constitution as a symbol of national unification was paramount. This is how he presented his translation of Joseph Story's *Commentaries* (or rather his translation of the French version of Story, by Paul Odent).⁵³ In his introduction, Calvo made explicit his intentions. The "great question" facing the country was that of "Argentine unification." Buenos Aires, separated from the rest of the Argentine Confederation since 1853, was torn between those who fought for national conciliation (achieved with the constitutional reform of 1860) and those who wanted to maintain the province's status as a separate, autonomous state. Calvo accused the latter of being an intransigent faction, "the *Dulcamaras* who are devouring our country. (...) An oligarchy of separatists (...) that is going to be unmasked with the translation of Story." Story was the best explanation available of the merits of the Philadelphia constitution, and Calvo offered a passionate argument for the likeness of the Argentine situation with that of the United States at the time of the constitutional ratification. "If we follow their example, our prosperity will be no less than the one enjoyed by that prodigious country," stated in following editions of this work. The American Model of federalism, as explained by Story, and as adopted by the Argentine constitution, was the best recipe for crushing the extreme sectionalism of the *autonomistas* in Buenos Aires, and to show that a federal regime could lay the foundations for national union.

For others, this involved a reconstruction of the country's constitutional history, in order to show that even before the sanction of the national constitution, Argentina was already a *nation*, and not a loose confederacy of provincial quasi-sovereign states, as others had contended. A few years later, José María Cantilo tried to reinforce this view, in his textbook of civics for secondary schools. "Was there an Argentine nation before our constitutional organization? Our union has existed since political emancipation," argued Cantilo without a shadow of a doubt, although, as we have

52 On different approaches to conceptual histories of politics see FARR (1989); ROSANVALLON (2003).

53 CALVO (1860).

seen, this was far from being the only way of understanding the country's past.⁵⁴

Once the unified nation had produced the constitutional reform of 1860 and Congress had sanctioned the organization of federal judicial institutions in 1862 and 1863, the Buenos Aires liberal elite led by President Mitre, Domingo Sarmiento, and Dalmacio Vélez Sarsfield launched their ambitious program of refashioning the country's institutions guided by the principles of a modern liberal republicanism. This program encompassed not only a set of political and judicial institutions, but also a cultural war against the Hispanic colonial legacy. The American Model was also a recipe for emulating the type of society that the Argentine elite perceived in the U.S.: liberal, progressive, embarked on a seemingly endless process of economic expansion, and with a vibrant urban civil society. In his introduction to his translation of Francis Lieber's *On Civil Liberty and Self-Government*, Florentino González presented a radical version of this credo, one he pursued with a sense of mission: "Latin traditions and theories can neither support free institutions nor be a firm foundation to build a republic." By "Latin traditions" he meant mostly two philosophical principles that had inspired the Hispanic presence in America: "in politics, the abdication of individuality among the members of a community, and the subordination of such a community before a Caesar, whether an emperor or a king; in religion, the abdication of human reason before a Pope." Therefore, concluded González, he contributed his translation as a means of "rectifying the many and tragic mistakes that corrupt the political science of public officials in the countries that speak the language of Castile."⁵⁵

For others, French appeared as inadequate as "the language of Castile" when the subject matter was constitutionalism, where the English language seemed to reign supreme:

El inglés es el idioma del derecho constitucional, de la libertad política, de las fórmulas concretas y acabadas, como el francés es el de la crítica, de las especula-

54 CANTILLO (1866), 5–6.

55 GONZÁLEZ (1871) 2: "Las tradiciones latinas pueden resumirse en dos capítulos: en política, abdicación del poder individual de los miembros de la comunidad, y del poder social de ésta en un César, llámese emperador o rey; y en religión, abdicación de la razón humana en un Papa." Lieber's book had been previously translated in 1869 by Juana Manso, a close collaborator of President Sarmiento's educational projects. Manso did not write a prologue or introduction to the text.

ciones filosóficas y de las delicadezas del espíritu, y nosotros descuidamos el primero, porque nuestras afinidades de raza y de gustos nos arrastran al segundo irremisiblemente. Ciertamente es más encantador arrullar nuestros oídos con las frases de Saint-Victor, de Taine y de Sainte-Beuve; pero no podemos negar que es más útil para nuestra vida pública, nutrir nuestra inteligencia y educar nuestro corazón para las luchas de la libertad con las páginas majestuosas de Story, de Pomeroy, de Cooley, de Curtis, de Paschal.⁵⁶

Florentino González also translated Frederick Grimke's *Considerations upon the Nature and Tendency of Free Institutions*, emphasizing the importance of political decentralization and narrow limits on the power of the federal government as the best way of securing the individual freedom that the modern republic was grounded on.⁵⁷ Grimke was an important presence in the *Lecciones* González taught at the Universidad de Buenos Aires, a presence that can also be detected in several doctoral dissertations supervised by the Colombian. Some examples include Aristóbulo del Valle's dissertation titled "Intervención del gobierno federal en el territorio de los Estados" (1869) or Antonio Lodola's work on the problem of national codification in a federal regime (1872). This last dissertation made ample use of Grimke, quoting repeatedly the *Considerations* in order to put forward a thesis shared by many: the value of political decentralization within federalism as a means of securing power fragmentation and individual freedom.⁵⁸ But this way of interpreting the American Model, with its radical defense of decentralization and constitutional guarantees of individual freedom, soon clashed with the local need to fortify the faculties of the national executive, challenged by provincial caudillos.

The American Civil War and Reconstruction, and the changing Argentine context, shaken by provincial revolts during the presidencies of Mitre and Sarmiento, offered an opportunity to reinterpret the American Model along different lines. In 1867, Bernardo de Irigoyen published his *Justicia Nacional. Apuntes sobre la jurisdicción de la Corte Suprema*, a brief summary of his polemics with Marcelino Ugarte on whether the federal Supreme Court could hear cases against the provinces. To Ugarte this was another

56 GONZÁLEZ (1888). 98.

57 GONZÁLEZ (1981) 365–381. On the different translations of Grimke in Argentina, GARCÍA BELSUNCE (2009).

58 LODOLA (1872). On González's influence in the period's doctoral dissertations in the Buenos Aires Law School, see CANDIOTI (1920), GARCÍA BELSUNCE (2009).

step towards an endless centralization of power, a process that the ruling *mitristas* had launched with several initiatives: a project to make the whole province of Buenos Aires a federal territory; the refusal by the Minister of the Interior to grant provincial governors the faculty of decreeing the state of siege; new tariffs and export duties sanctioned by Congress; and last but not least, this new doctrine of an expanded jurisdiction of the federal judiciary defended by Irigoyen, that Ugarte considered unconstitutional.⁵⁹ Many of Ugarte's complaints against the federal judiciary faculties over the provinces echoed Vicente Quesada's 1858 arguments against establishing judicial review of provincial legislation by the federal Supreme Court. Quesada had warned, during congressional debates in Paraná, at the time capital of the Argentine Confederation, against creating "a new *Consejo de Indias* disguised as a Supreme Court, with unlimited faculties and unchecked by other powers."⁶⁰ Irigoyen, on the other hand, felt it perfectly natural to adopt this expanded jurisdiction, based on the differences between the federal systems of the American Union and that of the Argentine Federation.

A few years later, Clodomiro Quiroga, one of President Sarmiento's closest collaborators, published a short textbook on civics. In it, Quiroga used a long list of questions and answers on various political issues to explain the operation of constitutional rules, and made clear how far this new, more centralizing, interpretation of the American Model had advanced.⁶¹ At the beginning of this *Manual del Ciudadano*, Quiroga reasserted the predominance of the American Model within Argentine constitutional culture: "The Argentine Republic took its fundamental principles from the United States Constitution (...) Therefore, the United States has provided us with a Constitution and with its jurisprudence (...) Argentina's amendments, aimed at adapting the American Constitution to our traditions and historical background, do not alter the nature of those principles." However, both the original model and the local context appear very different almost two decades after the initial adoption of the Argentine Constitution. Now, it seemed more prudent to recall the more centralizing traits offered by the model, rather than the idea of power fragmentation proposed, for instance, by Grimke and Florentino González. Thus, Quiroga redraws the new

59 DE IRIGOYEN (1867) 4–5.

60 LEVAGGI (1980); PÉREZ GUILHOU (1983); MILLER (1997).

61 QUIROGA (1872); QUIROGA (1873).

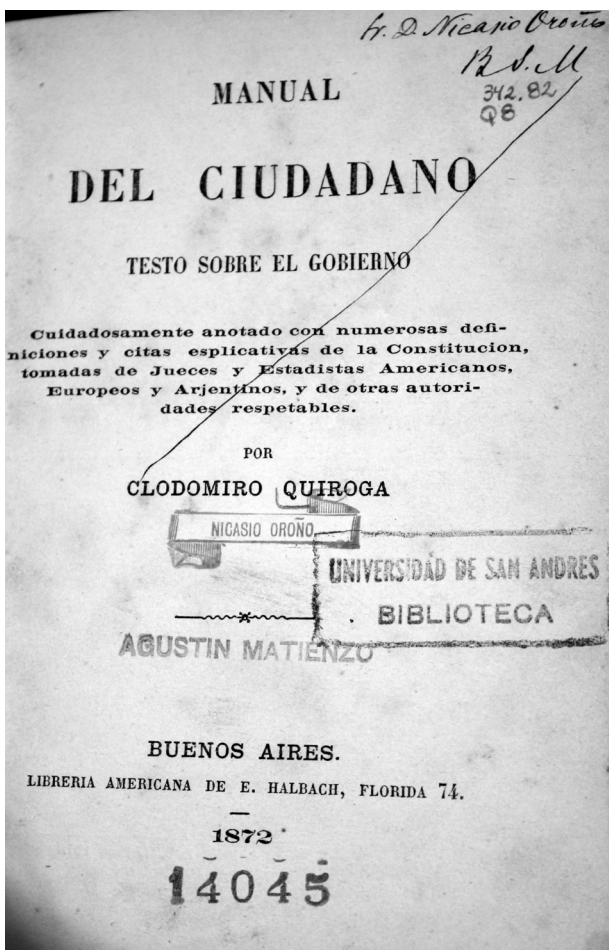


Figure 4: Clodomiro Quiroga complemented his labors as translator with a basic textbook of civics, a *Manual del Ciudadano*, explaining American and Argentine institutions in line with President Sarmiento's centralizing principles.

boundaries for the interpretation of the American Model, condemning the “doctrine of Nullification” and the “theory of State rights” that had been defended by “the school of Calhoun”:

I am of the opinion that the *Constitution has created a government rather than a mere agency or treaty*; a lasting union rather than a league that can be dissolved at the discretion of any Province; a government with limited powers, undoubtedly, but sufficiently empowered to protect, defend and perpetuate our Nation. Under these convictions about principle and public convenience, *provincial outbreaks seeking division and isolation can only be perceived as rebellious and a resistance to legitimate authority, with no apparent cause.* (...) Such is the theory of President Johnson's proclamations, setting aside State governments and appointing new magistracies; such the theory of Congress in passing the Reconstruction laws.⁶²

Years later, Quiroga reiterated his arguments in his translation of George Paschal's *Constitution of the United States*. Paschal's prologue denounced "the heresy of that peculiar school of "State sovereignty," which taught that the States had, in fact, *surrendered* nothing, but had only *delegated* certain powers, in trust, to a common agent: and that any State could, at any time, for any cause, or no cause, resume the delegated powers, and again peaceably take its place among the nations of the earth."⁶³

This interpretation of the evolution experienced by the American Model fitted perfectly into President Sarmiento's goal of reconciling liberal republicanism with the assertion of the national government and of presidential authority in particular. His belief in a "moderate republicanism" had been nourished by the experiences of Lincoln's strong leadership during the American Civil War and the expansion of the American federal government during Reconstruction. Sarmiento's biography of Lincoln highlighted his style of leadership, and his forceful defense of the Constitution. The suspension of *habeas corpus* and the enforcement of martial law during the Civil War were of special interest to Sarmiento, given the context of provincial uprisings in 1860s and 1870s Argentina (and contrasted with his own negative opinions on martial law and state of siege in his 1853 *Comentarios*). This was combined with the "strong government" republicanism synthesized in the Third French Republic (as filtered by Sarmiento's readings of Edouard Laboulaye) to produce a reconciliation of the liberal tradition with the strengthening of national authority over provincial governments, which Sarmiento found particularly suitable for the unstable political context of the 1870s Argentina.⁶⁴

62 QUIROGA (1872) iii–viii.

63 QUIROGA (1888).

64 For instance, D.F. Sarmiento, "Cuestiones de Actualidad," *La Tribuna*, April 23, 1875, Sarmiento, *Vida de Lincoln*, both in SARMIENTO (1953). On the role of Laboulaye's political

It also provided Sarmiento with an opportunity to assimilate the situation of the Argentine interior provinces with the American South during the Reconstruction period, and thus to bring forth again the idea of one greater America sharing common problems, and demanding common policies and institutions. In 1866, speaking at a meeting of teachers and school superintendents in Indianapolis, Sarmiento called for a common educational effort in the American South and in the “farther South,” i.e., the Argentine provinces: “nuestras instituciones son igualmente federales, i tenemos Estados mucho más atrasados en la difusión de la educación i en todo grado de cultura que los más remotos Estados del Sud de esta Unión (...) es vuestra misión extender los beneficios de la educación desde estos centros de luz hasta éste i el otro más remoto Sur, que aún permanecen cubiertos de sombras. Tenemos que pasear la antorcha por toda la América hasta que todo crepúsculo desaparezca.”⁶⁵ Similar considerations were put forward by Mary Mann in her 1868 translation of Sarmiento’s *Facundo or Civilization and Barbarism* (1845), where her concerns about the Union and the South paralleled her interpretations of political conflict in Argentina between the national government and the interior provinces.⁶⁶

thought and the whole political experience of the Third French Republic as a source of inspiration for late nineteenth century Latin American politics, HALE (1989b). For the judicial treatment of the conflictive relations of provincial *caudillos* and the national government, ZIMMERMANN (2010).

65 SARMIENTO (1867) 114–117.

66 JAKSIC (2002), and WEINER (2011) on Sarmiento, Mary Mann and the similarities between Reconstruction and the Argentine situations. GRANDIN (2012) explores the decline and fall of the view of a single, unified America in the United States: “Where Clay and Thomas Jefferson before him had begun to speak of a single, unified ‘America,’ with shared interests different from those of old Europe, ... early Jacksonians, ... began to stress, not for the first time but with particular weight, *South America* as distinct from *North*. This slicing of America in two made it into Webster’s 1828 *American Dictionary*, which divorced north from south at the Darien Gap in Panama, and took place, it should be noted, decades before Spanish Americans began to talk of ‘two Americas,’ one ‘Latin,’ the other ‘Anglo-Saxon’.” Also, SEXTON (2011) for the evolution of the Monroe Doctrine and its changing interpretations in the United States during the nineteenth century. The essays collected in SHEININ (2000) illustrate the complexities involved in the Pan American project.

Conclusions

In their translations and manuals, Argentine jurists made available constitutional models and collections of laws and jurisprudential decisions, but they also mediated between such works and the local contexts, selecting, adapting, reading and interpreting those texts in particular ways, suited to the local circumstances. Recent historiography has emphasized the key role of “mediators” in the transnational circulation of knowledge, and the ways in which lawyers have acted as “cultural intermediaries” in situations of legal pluralism.⁶⁷ Studying the prologues and introductions, footnotes and commentaries to their translations (the “paratext”), and the contents of their manuals, we can appreciate how the work of these “mediators” generated a process of hybridization of knowledge within nineteenth century Argentine constitutional culture.

As specialists in comparative law know full well, “a transplanted rule is not the same thing as it was in its previous home (...) it is rules – not just statutory rules – institutions, legal concepts, and structures that are borrowed, not the ‘spirit’ of a legal system.”⁶⁸ The same could be said about the texts used as sources by our translators. The “spirit” within the interpretations presented in all the translations and textbooks produced by Argentine jurists was eminently local, and contributed to giving birth to a constitutional culture nourished by a “global legal entanglement,” in which the new texts reflected an unique mixture of original, foreign, texts and local interpretations.

I would add two considerations about this process. First, the elaboration of this mixed constitutional culture was not confined to one particular moment; it was a dynamic process that evolved over time in different directions, allowing us to explore the different strands that can be integrated in a conceptual history of the “American Model” in Argentina. As we have seen, this process was deeply affected by one salient feature of Argentine “printed constitutionalism”: the universe of authors, translators, printers, and booksellers which made possible the circulation of constitutional thought was heavily dependent on official economic support. Thus, the vagaries of nineteenth century Argentine politics frequently set the limits of the interpretations put forward by local jurists. In our conceptual history of

67 CHARLE (2004) 197–204; BENTON (2002).

68 WATSON (2006) 2–3.

the American Model, therefore, we have to take into account the diverse political and ideological filters through which American constitutionalism was seen to serve local uses.

But, and this is my second point, if political and economic power could set limits to the universe of interpretations that could be made available, the language of liberal republicanism put forward by these jurists and translators also determined what was politically possible in post-Rosas Argentina. There was no going back to a pre-liberal, charismatic, *caudillo* regime. Optimism in the transforming capacities of a set of political and legal institutions was distilled in a “linguistic constitution of politics”: the establishment and evolution of a language of liberal republicanism in nineteenth century Argentina.⁶⁹ None of the pessimism that had led others with a deterministic belief in the power of old mores and habits to state that “the Spanish of South America (...) are not able to support the democratic republic” deterred our jurists and translators.⁷⁰ On the contrary, Argentine liberal elites were convinced that South American nations and Argentina in particular, could now provide important lessons for the improvement of republican institutions in general, having experienced decades of frustration with their experiments and having ultimately found a successful formula. Sarmiento had insisted on this same point for over two decades: both North and South America had to teach the world the virtues of republican institutions; both North and South America had to develop common policies deriving lessons from their own unique historical experiences.⁷¹

Ultimately, to see the development of a particular Argentine nineteenth century constitutional culture as the result of these global entanglements changes the way in which we study both the nation and its constitutional

69 On the linguistic constitution of politics, FARR (1989) 27, 37, and more generally SKINNER (1988).

70 TOCQUEVILLE (1835), I, 2, 494–495; AGUILAR RIVERA (1999).

71 SARMIENTO (1845): “¿No significa nada para la Historia y la Filosofía, esta eterna lucha de los pueblos hispanoamericanos?”; SARMIENTO (1858): “En América, porque sólo en América el suelo estaba desembarazado de construcciones góticas, pudo levantarse el Gobierno fundado en el consentimiento de los gobernados ...” See also in the same text his demand for common principles, ideas and institutions, for America, “desde el Labrador hasta Tierra del Fuego”; and SARMIENTO (1865): “nos será permitido, con la ciencia del desierto interrogar el suelo, la lengua, la historia y los progresos de la América del Sur, en relación con la del Norte, que no sólo el istmo de Panamá constituye continuación la una de la otra ...” See also FERNÁNDEZ BRAVO (2012).

organization. On the one hand, this may be seen as part of a project of rethinking the nation and its history in a transnational way; to decenter the romantic historiography of nation building as a patriotic saga and to promote global ways of imagining the nation.⁷² On the other, it shows that liberal constitutionalism in the Americas can also be seen as a global creation, in much the same way that the political vocabulary of the Enlightenment has been recently studied:

The philosophical and political vocabulary of the Enlightenment was also a global creation. In many cases, this was a result of the purposeful reformulation of a particular body of thought and practices associated with the ‘Enlightenment’ in Europe. Thus our attention shifts from the salons in Paris, Berlin, and Naples to the conditions under which cultural elites in Caracas and Valparaíso, in Madras and Cairo, engaged with its claims.⁷³

The new global history, then, also invites us to reflect in a different manner on the role of Latin America in the Atlantic constitutional experiment. In nineteenth century Argentina, debates on the adaptation of the American Model touched upon many of the most fundamental problems in that experiment: sectionalism, centralization and provincial autonomies, division of powers, the tensions between the build up of strong national executives and the preservations of the founding liberal principles. To fully recover the relevance of such an experience, we need “a reorientation of world history and a repositioning of Latin America within it.” Such a perspective allows us to move away from “the old characterization of Latin American elites as failed importers of Western constitutionalism,” and to perceive the region as “a central example of the complexities of state making.”⁷⁴

72 BENDER (2002) and BENDER (2006) show how the effort of rethinking and rewriting the history of the United States from a global perspective, incorporates Latin American history as one of its inputs.

73 CONRAD (2012) 1012. See also BILDER (2005) for an analysis of a “transatlantic constitution” (English laws in the American colonies) that gave rise to a particularly long-lasting legal culture, and ARMITAGE (2007) for the global history of the Declaration of Independence of the United States.

74 BENTON (2004), 426, 429. CAÑIZARES ESGUERRA (2002) 10 comments on some of the obstacles faced by these new approaches: “The unspoken assumption is that Latin Americanists should not be writing the intellectual history of the West, on the one hand, and Europeanists should not be meddling with the ‘Third World,’ on the other, where only stories of strife and exploitation are worth chronicling (...) the public expects from historians of the region cautionary tales of revolutionary violence and, if socially conscious, stories of cunning peasants resisting treacherous oligarchs.”

To study the transnational dimension of liberal constitutionalism in Latin America, therefore – the fusion of the global and the local in the making of a particular constitutional culture and the social mechanisms which facilitated its diffusion – sheds new light on the forces shaping the elite’s legal and political culture at a crucial time in the state building process, and gives us a new perspective on the many and varied links between the region and the world.

Bibliography

- ADELMAN, JEREMY (1999a), *Republic of Capital. Buenos Aires and the Legal Transformation of the Atlantic World*, Stanford
- ADELMAN, JEREMY (ed.) (1999b), *Colonial Legacies. The Problem of Persistence in Latin American History*, New York
- ADELMAN, JEREMY (2007), *Between Order and Liberty. Juan Bautista Alberdi and the Intellectual Origins of Argentine Constitutionalism*, in: *Latin American Research Review* 42, 2, 86–110
- AGUILAR RIVERA, JOSÉ ANTONIO (1999), *Cartas mexicanas de Alexis de Tocqueville*, México
- AGUILAR RIVERA, JOSÉ ANTONIO (2000), *En pos de la quimera. Reflexiones sobre el experimento constitucional atlántico*, México
- AGUIRRE, CARLOS, ROBERT BUFFINGTON (eds.) (2000), *Reconstructing Criminality in Latin America*, Wilmington
- AMADEO, SANTOS (1943), *Argentine Constitutional Law. The Judicial Function in the Maintenance of the Federal System and the Preservation of Individual Rights*, New York
- ANDERSON, BENEDICT (1991, 2006), *Imagined Communities. Reflections on the Origin and Spread of Nationalism*, London
- ARMITAGE, DAVID (2007), *The Declaration of Independence. A Global History*, Cambridge, Mass.
- ARNOLD, LINDA (1999), *Privileged Justice? The Fuero Militar in Early National Mexico*, in: ZIMMERMANN (1999a) 49–64
- BARTON CASTLE, DAVID (2000), *Leo Stanton Rowe and the Meaning of Pan Americanism*, in: SHEININ (2000) 33–44
- BAYLY, C. A. (2004), *The Birth of the Modern World 1780–1914. Global Connections and Comparisons*, Oxford
- BAYLY, C. A. et al (2006), *AHR Conversation: On Transnational History*, in: *American Historical Review* 111, 5, 1441–1464
- BENDER, THOMAS (ed.) (2002), *Rethinking American History in a Global Age*, Berkeley

- BENDER, THOMAS (2006), *A Nation Among Nations. America's Place in World History*, New York
- BENTON, LAUREN (2002), *Law and Colonial Cultures. Legal Regimes in World History, 1400–1900*, Cambridge
- BENTON, LAUREN (2004), No Longer Odd Region Out: Repositioning Latin America in World History, in: *Hispanic American Historical Review* 84, 3, 423–430
- BENTON, LAUREN (2012), Introduction. AHR Forum: Law and Empire in Global Perspective, in: *American Historical Review* 117, 4, 1092–1100
- BILDER, MARY SARAH (2005), *The Transatlantic Constitution: Colonial Legal Culture and the Empire*, Cambridge
- BOTANA, NATALIO (1984), *La tradición republicana. Alberdi, Sarmiento y las ideas políticas de su tiempo*, Buenos Aires
- BOTANA, NATALIO (1997), *Domingo Faustino Sarmiento. Una aventura republicana*, Buenos Aires
- CANDIOTI, MARCIAL M. (1920), *Bibliografía Doctoral de la Universidad de Buenos Aires y Catálogo Cronológico de las tesis en su primer centenario 1821–1920*, Buenos Aires
- CANTILLO, JOSÉ MARÍA (1866), *La Constitución Argentina explicada sencillamente para la instrucción de la juventud. Con la Acta de Independencia y el Himno Nacional*, Buenos Aires
- CARNEGIE, ANDRÉS (1888), *La democracia triunfante o sea La Marcha de la República en Cincuenta Años*, traducida del inglés por Clodomiro Quiroga, precedida de una introducción de Domingo F. Sarmiento, Buenos Aires
- CAIMARI, LILA (2004), *Apenas un delincuente: crimen, castigo y cultura en la Argentina, 1880–1955*, Buenos Aires
- CALVO, NICOLÁS (1860), *Comentario sobre la Constitución Federal de los Estados Unidos, precedido de una revista sobre la historia de las colonias y de los estados, antes de la adopción de la constitución. Traducido del Comentario Abreviado de J. Story, profesor de Derecho de la Universidad de Harvard, y Aumentado con las observaciones de MMM. Jefferson, Rawle, de Tocqueville, etc., y de Notas sobre la jurisprudencia de la organización judicial, por Paul Odent, Doctor en Derecho, Abogado en el Tribunal Real de París, antiguo Abogado en los Consejos del Rey y en el Tribunal de Casación. Tomo I. Traducido al Español por Nicolás A. Calvo, Senador en el Congreso de la Confederación Argentina, para la “Reforma Pacífica*, Buenos Aires
- CAÑIZARES ESGUERRA, JORGE (2002), *How to Write the History of the New World. Historiographies, Epistemologies and Identities in the Eighteenth Century Atlantic World*, Stanford
- CHARLE, CHRISTOPHE (2004), Intellectual Transfer and Cultural Resistance, in: CHARLE, CHRISTOPHE et al. (eds.), *Transnational Intellectual Networks. Forms of Academic Knowledge and the Search for Cultural Identities*, Frankfurt/New York, 197–204
- CHASTEEN, JOHN CHARLES (1994), Making Sense of Caudillos and ‘Revolutions’ in Nineteenth-Century Latin America, in: CHASTEEN, JOHN CHARLES, JOSEPH S.

- TULCHIN (eds.), *Problems in Modern Latin American History. A Reader*, Wilmington, 37–41
- CHIARAMONTE, JOSÉ CARLOS, PABLO BUCHBINDER (1991), *Provincias, caudillos, nación y la historiografía constitucionalista argentina, 1853–1930*, Documento para discusión interna, Instituto de Historia Argentina y Americana “Dr. Emilio Ravignani”, Buenos Aires
- CONRAD, SEBASTIAN (2012), *Enlightenment in Global History: A Historiographical Critique*, in: *American Historical Review* 117, 4, 999–1027
- CUTTER, CHARLES R. (1995), *The Legal Culture of Northern New Spain*, Albuquerque
- CUTTER, CHARLES R. (1999), *The Legal Culture of Spanish America on the Eve of Independence*, in: ZIMMERMANN (1999a) 8–24
- DEALY, GLEN (1968), *Prolegomena on the Spanish American Political Tradition*, in: *Hispanic American Historical Review* 48, 1, 37–58
- DE IRIGOYEN, BERNARDO (1867), *Justicia Nacional. Apuntes sobre la jurisdicción de la Corte Suprema*, Buenos Aires
- DE SAGASTIZÁBAL, LEANDRO (1995), *La edición de libros en la Argentina. Una empresa de cultura*, Buenos Aires
- DE TOCQUEVILLE, ALEXIS (1835, 2009), *Democracy in America*, Indianapolis
- DÍAZ, SANDRA LILIANA (2001), *Los libros jurídicos en los avisos de la Gaceta Mercantil (1830–1852)*, in: *Revista de Historia del Derecho* 29, 225–265
- ETCHEPAREBORDA, ROBERTO (1973), *Historiografía del federalismo*, in: *Investigaciones y ensayos* 14, 99–124
- FARR, JAMES (1989), *Understanding conceptual change politically*, in: BALL, TERENCE et al. (eds.), *Political innovation and conceptual change*, Cambridge, 24–49
- FERNÁNDEZ BRAVO, ÁLVARO (2012), *La idea americana de Sarmiento*, in: AMANTE, ADRIANA (ed.), *Historia Crítica de la Literatura Argentina*, IV, Buenos Aires, 395–420
- GAMSA, MARK (2011), *Cultural Translation and the Transnational Circulation of Books*, in: *Journal of World History* 22, 3, 553–575
- GARCÍA, MANUEL R. (1863), *Estudios sobre la aplicación de la justicia federal norteamericana a la organización constitucional argentina*, Florencia
- GARCÍA BELSUNCE, CÉSAR (2009), *Frederick Grimke y la Argentina*, in: *Investigaciones y Ensayos* 58, 217–236
- GOLDMAN, NOEMI, RICARDO SALVATORE (eds.) (1998), *Caudillismos Rioplatenses. Nuevas miradas a un viejo problema*, Buenos Aires
- GONZÁLEZ, FLORENTINO (1869), *Lecciones de Derecho Constitucional*, Buenos Aires
- GONZÁLEZ, FLORENTINO (1871), *Francis Lieber, La libertad civil y el gobierno propio*, París
- GONZÁLEZ, FLORENTINO (1981), *Escritos políticos, jurídicos y económicos*, Bogotá
- GONZÁLEZ, JOAQUÍN V. (1888), *Derecho Constitucional Americano. Las traducciones de Paschal*, La Prensa 1 september 1888, in: GONZÁLEZ, JOAQUÍN V., *Estudios Constitucionales*, II, Buenos Aires, 87–117

- GONZÁLEZ, JOAQUÍN V. (1917), Prologue, in: GONZÁLEZ CALDERÓN, JUAN A., *Derecho Constitucional Argentino*, reproduced GONZÁLEZ, JOAQUÍN V., *Estudios Constitucionales*, II, Buenos Aires, 67–85
- GRANDIN, GREG (2012), The Liberal Traditions in the Americas: Rights, Sovereignty, and the Origins of Liberal Multilateralism, in: *American Historical Review* 117, 1, 68–91
- GUTIÉRREZ, JUAN MARÍA (1864), Estadística bibliográfica de Buenos Aires correspondiente al año 1863, in: *La Revista de Buenos Aires. Historia Americana, Literatura y Derecho*, III, 272–283
- HALE, CHARLES (1989a), Political and Social Ideas, in: BETHELL, LESLIE (ed.), *Latin America. Economy and Society, 1870–1930*, Cambridge, 225–299
- HALE, CHARLES (1989b), The Transformation of Liberalism in Late Nineteenth-Century Mexico, Princeton
- HALE, CHARLES (2000), The Civil Law Tradition and Constitutionalism in Twentieth-Century Mexico: The Legacy of Emilio Rabasa, in: *Law and History Review* 18, 2, 257–279
- HALPERIN DONGHI, TULIO (1962), *Historia de la Universidad de Buenos Aires*, Buenos Aires
- HALPERIN DONGHI, TULIO et al (eds.) (1994), *Sarmiento: Author of a Nation*, Berkeley
- HORWITZ, MORTON J. (2003), “Constitutional Transplants”, *Theoretical Inquiries in Law*, 10, 2, 535–560
- HUERTAS, MARTA MARÍA MAGDALENA (2001), *El Modelo Constitucional Norteamericano en los fallos de la Corte Suprema de Justicia de la Nación (1863–1903)*, Buenos Aires
- JAKSIC, IVÁN, *The Hispanic World and American Intellectual Life, 1820–1880*, New York
- KAGAN, RICHARD L. (1996), Prescott’s Paradigm: American Historical Scholarship and the Decline of Spain, in: *American Historical Review* 101, 2, 423–446
- KAHN, PAUL W. (1999), *The Cultural Study of Law. Reconstructing Legal Scholarship*, Chicago
- KENNEDY, DUNCAN (2006), Three Globalizations of Law and Legal Thought: 1850–2000, in: TRUBEK, DAVID, ÁLVARO SANTOS (eds.), *The New Law and Economic Development. A Critical Appraisal*, Cambridge, 19–73
- LANFRANCO, HÉCTOR P. (1957), La Cátedra de Historia y de Derecho Constitucional en la Facultad de Derecho de Buenos Aires y sus primeros maestros, in: *Revista del Instituto de Historia del Derecho* 63, 63–81
- LANTERI, ANA LAURA (2010), *De lo ideal a lo posible. Dirigencia e instituciones nacionales en la Confederación (1852–1862)*, doctoral dissertation, Universidad Nacional del Centro, Tandil, Buenos Aires
- LEIVA, ALBERTO DAVID (2005), El rol de la librería internacional en la difusión de la literatura jurídica. El caso de Rosa & Bouret en el Río de la Plata, in: *Revista de Historia del Derecho* 33, 159–171

- LEVAGGI, ABELARDO (1980), La interpretación del derecho en la Argentina en el siglo XIX, in: *Revista de Historia del Derecho* 7, 23–121
- LEVAGGI, ABELARDO (1981), Espíritu del constitucionalismo argentino de la primera mitad del siglo XIX, in: *Revista de Historia del Derecho* 9, 239–301
- LODOLA, ANTONIO (1872), La facultad que la Constitución confiere al congreso general en su art. 67 inc. 11 de dictar para toda la República los códigos civil, comercial, penal y de minería, es contraria al espíritu de la Unión Federal, y nociva al desenvolvimiento del progreso nacional, Buenos Aires
- MARTIRÉ, EDUARDO (1984), La constitución reformada de 1860, in: *Revista de Historia del Derecho* 12, 253–301
- MELO, CARLOS R. (1969), Algunos antecedentes sobre la enseñanza del Derecho Constitucional en las universidades argentinas, in: *Investigaciones y ensayos* 6–7, 55–61
- MILLER, JONATHAN M. (1997), The Constitutional Authority of a Foreign Talisman: A Study of U.S. Practice as Authority in 19th Century Argentina and the Argentine Elite's Leap of Faith, in: *The American University Law Review* 46, 5, 1483–1572
- MIROW, M. C. (2004), *Latin American Law. A History of Private Law and Institutions in Spanish America*, Austin, Texas
- MIROW, M. C. (2007), Marbury in Mexico: Judicial Review's Precocious Southern Migration, in: *Hastings Constitutional Law Quarterly* 35, 1, 41–117
- MONTES DE OCA, JUAN JOSÉ (1877), *Introducción General al Estudio del Derecho*, Buenos Aires
- MORSE, RICHARD M. (1954), Toward a Theory of Spanish American Government, in: *Journal of the History of Ideas* 15, 71–93
- MORSE, RICHARD M. (1964), The Heritage of Latin America, in: HARTZ, LOUIS (ed.), *The Founding of New Societies*, New York, 123–172
- MYERS, JORGE (1995), *Orden y virtud. El discurso republicano en el régimen rosista*, Bernal, Argentina
- NADELMANN, KURT H. (1959), Apropos of Translations (Federalist, Kent, Story), in: *American Journal of Comparative Law* 8, 2, 204–214
- NEGRETTO, GABRIEL, JOSÉ ANTONIO AGUILAR RIVERA (2000), Rethinking the Legacy of the Liberal State in Latin America: The cases of Argentina (1853–1916) and Mexico (1857–1910), in: *Journal of Latin American Studies* 32, 2, 2000, 361–397
- PALACIO, JUAN MANUEL (2004), *La paz del trigo. Cultura legal y sociedad local en el desarrollo agropecuario pampeano 1890–1945*, Buenos Aires
- PASTORMERLO, SERGIO (2006), 1880–1899. El surgimiento de un mercado editorial, in: DE DIEGO, JOSÉ LUIS (ed.), *Editores y políticas editoriales en Argentina, 1880–2000*, México, 1–58
- PÉREZ GUILHOU, DARDO (1983), Primer debate sobre el control jurisdiccional de constitucionalidad (1857–1858), in: *Revista de Historia del Derecho* 10, 1983, 147–170

- PÉREZ-PERDOMO, ROGELIO (2006), *Latin American Lawyers. A Historical Introduction*, Stanford
- PESTALARDO, AGUSTÍN (1914), *Historia de la enseñanza de las ciencias jurídicas y sociales en la Universidad de Buenos Aires*, Buenos Aires
- PRIETO, ADOLFO (1988), *El discurso criollista en la formación de la Argentina moderna*, Buenos Aires
- QUIROGA, CLODOMIRO (1872), *Manual del Ciudadano. Testo sobre el Gobierno. Cuidadosamente anotado con numerosas definiciones y citas explicativas de la Constitución, tomadas de Jueces y Estadistas Americanos, Europeos y Arjentinos, y de otras autoridades respetables*, Buenos Aires
- QUIROGA, CLODOMIRO (1873), *Manual del ciudadano, texto abreviado para el uso de las escuelas*, Buenos Aires
- QUIROGA, CLODOMIRO (1874), *Gobierno y Derecho Constitucional o sea Un examen sobre el origen y límites de la autoridad gubernativa según la Teoría Americana por Joel Tiffany*, Buenos Aires
- QUIROGA, CLODOMIRO (1888), *La Constitución de los Estados Unidos explicada y anotada por Jorge W. Paschal, precedida de la declaración de la independencia y la Constitución de los Estados Unidos, y la declaración de la independencia y la Constitución de la Nación Argentina*, Buenos Aires
- RAVIGNANI, EMILIO (1930), *Historia Constitucional Argentina*, Buenos Aires
- RIVERA, JORGE B. (1998), *El escritor y la industria cultural*, Buenos Aires
- RODRIGUES BARBOSA, SAMUEL (2010), *Função dos media textuais na estruturação da complexidade do direito civil brasileiro pré-Codificação: Cândido Mendes e Teixeira de Freitas*, in: BITTAR, EDUARDO (org.), *Historia do direito brasileiro: Leituras de ordem jurídico nacional*, Sao Paulo, 20–33
- ROJAS, RAFAEL (2010), *Las repúblicas del aire. Utopía y desencanto en la revolución de Hispanoamérica*, Buenos Aires
- ROSANVALLON, PIERRE (2003), *Por una historia conceptual de lo político*, Buenos Aires
- ROSENKRANTZ, CARLOS F. (2003), *Against borrowings and other non-authoritative uses of foreign law*, in: *International Journal of Constitutional Law* 1, 2, 269–295
- ROWE, LEO S. (1908), *The Possibilities of Intellectual Cooperation between North and South America*, in: *American Branch of the Association for International Conciliation*, *International Conciliation* 6, 3–15
- ROWE, LEO S. (1921), *The Federal System of the Argentine Republic*, New York
- SAFFORD, FRANK (1992), *The Problem of Political Order in Early Republican Spanish America*, in: *Journal of Latin American Studies* 24, 83–97
- SALVATORE, RICARDO D., CARLOS AGUIRRE, GILBERT M. JOSEPH (eds.) (2001), *Crime and Punishment in Latin America*, Durham
- SALVATORE, RICARDO D. (2007), *Saber hemisférico y disonancias locales. Leo S. Rowe en Argentina, 1906–1919*, in: SALVATORE, RICARDO D. (ed.), *Los lugares del saber. Contextos locales y redes transnacionales en la formación del conocimiento moderno*, Rosario, Argentina, 327–367

- SARMIENTO, DOMINGO F. (1867), Discurso del Ministro argentino, D.F. Sarmiento, en la reunión de la Asociación de Superintendentes de Escuelas, y Asociación Nacional de Maestros, Indianápolis, agosto de 1866, in: *Ambas Américas. Revista de Educación, Bibliografía i Agricultura*, bajo los auspicios de D.F. Sarmiento, I, New York
- SARMIENTO, DOMINGO FAUSTINO (1879), Comentario sobre Ensayo Histórico de la Constitución Argentina de Adolfo Saldías, in: *El Nacional*, 1 March
- SARMIENTO, DOMINGO F. (1953), *Obras Completas de Sarmiento*, Buenos Aires
- SCHJOLDEN, LINE (2002), *Suing for Justice: Labor and the Courts in Argentina, 1900–1943*, Ph. D Dissertation, University of California, Berkeley
- SEXTON, JAY (2011), *The Monroe Doctrine. Empire and Nation in Nineteenth-Century America*, New York
- SHEININ, DAVID (ed.) (2000), *Beyond the Ideal. Pan Americanism in Inter-American Affairs*, Westport, CN
- SKINNER, QUENTIN (1988), Some problems in the analysis of political thought and action, in: TULLY, JAMES (ed.), *Meaning & Context. Quentin Skinner and his Critics*, Cambridge, 97–118
- SKOWRONEK, STEPHEN (1982), *Building a New American State: The Expansion of National Administrative Capacities, 1877–1920*, Cambridge
- STRUCK, BERNHARD, KATE FERRIS, JACQUES REVEL (2011), Introduction: Space and Scale in Transnational History, in: *The International History Review* 33, 4, 573–584
- TIFFANY, JOEL (1867), *A Treatise on Government*, Albany, New York
- TERNAVASIO, MARCELA (2006), ¿Política municipal o municipios apolíticos? Un debate en la Revista Argentina de Ciencias Políticas, in: ROLDÁN, DARÍO (ed.), *Crear la democracia. La Revista Argentina de Ciencias Políticas y el debate en torno a la República Verdadera*, Buenos Aires, 137–186
- TORRES CAICEDO, J. M. (1868), El Doctor Don Florentino González, in: *La Revista de Buenos Aires*, XVI, 299–320, 416–432
- URIBE, VICTOR M., *Honorable Lives: Lawyers, Families, and Politics in Colombia, 1780–1850*, Pittsburgh
- VARELA, LUIS V. (1876), *La democracia práctica. Estudio sobre todos los sistemas electorales propuestos para dar representación proporcional a las mayorías y minorías*, Buenos Aires
- VÉLIZ, CLAUDIO (1980), *The Centralist Tradition of Latin America*, Princeton
- WARNER, MICHAEL (1990), *The Letters of the Republic. Publication and the Public Sphere in Eighteenth-Century America*, Cambridge, Mass
- WATSON, ALAN (2006), *Legal Transplants and European Private Law*, <http://www.alanwatson.org/legaltransplants.pdf>
- WIARDA, HOWARD J. (1971), Law and Political Development in Latin America: Toward a Framework for Analysis, in: *American Journal of Comparative Law* 19, 434–463

- WIARDA, HOWARD J. (1973), *Toward a Framework for the Study of Political Change in the Iberic-Latin Tradition: The Corporative Model*, in: *World Politics* 25, 206–235
- WEINER, MARK S. (2011), *Domingo Sarmiento and the Cultural History of Law in the Americas*, in: *Rutgers Law Review* 63, 3, 1001–1015
- ZAVALÍA, CLODOMIRO (1920), *Historia de la Corte Suprema de Justicia de la República Argentina*, Buenos Aires
- ZEBALLOS, ESTANISLAO (1886), *Libros de Calvo. A propósito de las traducciones de autores americanos*, in: *La Prensa*, 11 de septiembre
- ZIMMERMANN, EDUARDO (1995), *Los liberales reformistas. La cuestión social en la Argentina, 1890–1916*, Buenos Aires
- ZIMMERMANN, EDUARDO (1998), *El Poder Judicial, la construcción del estado, y el federalismo: Argentina, 1860–1880*, in: POSADA, EDUARDO (ed.), *In Search of a New Order: Essays on the Politics and Society of Nineteenth-Century Latin America*, London, 131–152
- ZIMMERMANN, EDUARDO (ed.) (1999a), *Judicial Institutions in Nineteenth Century Latin America*, London
- ZIMMERMANN, EDUARDO (1999b), *The education of lawyers and judges in Argentina's Organización Nacional (1860–1880)*, in: ZIMMERMANN (1999a) 104–123
- ZIMMERMANN, EDUARDO (2010), *‘Die Härten des Krieges mildern’ Die Rolle der argentinischen Bundesjustiz bei den Provinzaufständen 1860–1880*, in: *Rechtsgeschichte* 16, 166–189
- ZIMMERMANN, EDUARDO (2011), *Libéralisme et conservatisme dans la pensée politique d’Alberdi*, in: QUATROCCHI-WOISSON, DIANA (ed.), *Juan Bautista Alberdi et l’indépendance argentine. La force de la pensée et de l’écriture*, Paris, 236–254
- ZORRAQUÍN BECÚ, RICARDO (1976), *La recepción de los derechos extranjeros en la Argentina durante el siglo XIX*, in: *Revista de Historia del Derecho* 4, 325–359
- ZORRAQUÍN BECÚ, RICARDO (1988), *Las fuentes de la constitución de 1853*, in: *Revista de Historia del Derecho* 16, 209–247

Table 1
Argentine Translations of “the American Model,” 1860–1890

AUTHOR	TITLE	YEAR	TRANSLATED BY	TITLE IN SPANISH	PRINTING PRESS	YEAR
Joseph Story	<i>Commentaries on the Constitution of the United States</i>	1833	Nicolás Calvo	<i>Comentario sobre la Constitución Federal de los Estados Unidos</i>	La “Reforma Pacífica”	1860
Joseph Story	<i>The constitutional class book: being a brief exposition of the constitution of the United States</i>	1834	José María Cantilo	<i>Breve exposición de la constitución de los Estados Unidos para el uso de las escuelas superiores de las clases comunes</i>	Imprenta del Siglo	1863
Joseph Story	<i>Commentaries on the Constitution of the United States (Book III)</i>	1833	José María Cantilo	<i>Poder Judicial de los Estados Unidos de América. Su organización y atribuciones</i>	Imprenta del Siglo	1863
James Kent	<i>Commentaries on American Law</i>	1854	Alejandro Carrasco Albano	<i>Del gobierno y jurisprudencia constitucional de los Estados unidos</i>	Imprenta de Buenos Aires	1865
George Ticknor Curtis	<i>History of the Origin, Formation, and Adoption of the Constitution of the United States</i>	1854	José María Cantilo	<i>Historia del origen, formación y adopción de la constitución de los Estados Unidos</i>	Imprenta del Siglo	1866
Alexander Hamilton, James Madison, John Jay	<i>The Federalist Papers</i>	1788	José María Cantilo	<i>El Federalista</i>	Imprenta del Siglo	1868

AUTHOR	TITLE	YEAR	TRANSLATED BY	TITLE IN SPANISH	PRINTING PRESS	YEAR
John Norton Pomeroy	<i>An Introduction to the Constitutional Law of the United States</i>	1868	Luis V. Varela	<i>Poderes Ejecutivos del Gobierno de los Estados Unidos</i>		1869
Francis Lieber	<i>On Civil Liberty and Self-Government</i>	1853	Juana P. Manso	<i>Sobre la libertad civil y el gobierno propio</i>	Americana	1869
State Constitutions	State Constitutions		Florentino González	<i>Constituciones de algunos estados de la Unión Americana</i>	Imprenta del Siglo	1870
Frederick Grimke	<i>Considerations upon the nature and tendency of free institutions</i>	1856	Florentino González	<i>Naturaleza y tendencia de las instituciones libres</i>	Librería de Rosa y Bouret	1870
Francis Lieber	<i>On Civil Liberty and Self-Government</i>	1853	Florentino González	<i>La libertad civil y el gobierno propio</i>	Librería de Rosa y Bouret	1871
O. M. Wilson	<i>A Digest of Parliamentary Law</i>	1867	Augusto Belín Sarmiento	<i>Digesto de la Ley Parlamentaria</i>	Imprenta de La Tribuna	1877
Joel Tiffany	<i>A Treatise on government</i>	1867	Clodomiro Quiroga	<i>Gobierno y derecho constitucional o sea un examen sobre el origen y límites de la autoridad gubernativa según la Teoría Americana</i>	Imprenta de la Unión	1874
Andrés Carnegie	<i>Triumphant Democracy</i>	1886	Clodomiro Quiroga	<i>La democracia triunfante o sea La Marcha de la República en Cincuenta Años</i>	Félix Lajouane, editor	1888

Table 1
Argentine Translations of “the American Model,” 1860–1890
(continued)

AUTHOR	TITLE	YEAR	TRANSLATED BY	TITLE IN SPANISH	PRINTING PRESS	YEAR
Joseph Story	<i>Commentaries on the Constitution of the United States</i>	1833	Nicolás Calvo	<i>Comentario sobre la constitución de los Estados Unidos</i>	Imprenta “La Universidad,” de J.N. Klingelfuss	1888
Luther Stearns Cushing	<i>Lex Parliamentaria Americana: Elements of the Law and Practice of Legislative</i>	1856	Nicolás Calvo	<i>Ley y Práctica de las Asambleas Legislativas de los Estados Unidos de América</i>	Buenos Aires	1886/7
Orlando Bump	<i>Notes of Constitutional Decisions: Being a Digest of the Judicial Interpretations of the Constitution of the United States</i>	1878	Nicolás Calvo	<i>Decisiones constitucionales de los Tribunales Federales de los Estados Unidos</i>	Imprenta y Librería de Mayo	1886, 1887
George W. Paschal	<i>The Constitution of The United States defined and carefully annotated</i>	1868	Nicolás Calvo	<i>Digesto de derecho federal. Anotaciones a la Constitución de los Estados Unidos</i>	J. Peuser	1888-1890
George W. Paschal	<i>The Constitution of the United States defined and carefully annotated</i>	1868	Clodomiro Quiroga	<i>La constitución de los Estados Unidos explicada y anotada</i>	Felix Lajouane, Biblioteca Constitucional Americana	1888
Joseph Story	<i>Commentaries on the conflict of laws</i>	1834	Clodomiro Quiroga	<i>Comentario sobre el conflicto de leyes</i>	Buenos Aires	1891

AUTHOR	TITLE	YEAR	TRANSLATED BY	TITLE IN SPANISH	PRINTING PRESS	YEAR
Thomas M. Cooley	<i>The General Principles of Constitutional Law in the United States of America</i>	1891	Julio Carré	<i>Principios Generales de Derecho Constitucional en los Estados Unidos de América</i>	Jacobo Peuser	1898
Frank J. Goodnow	<i>Municipal Home Rule</i>	1895	Julio Carré	<i>Autonomía Municipal. Estudio sobre su administración</i>	Imprenta de M. Biedma e Hijo	1900
Frank J. Goodnow	<i>Municipal Problems</i>	1897	Julio Carré	<i>Problemas Municipales</i>	Imprenta de M. Biedma e Hijo	1901

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