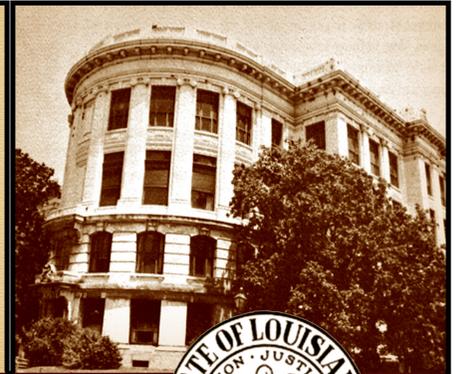




DE NOVO

The Newsletter of
The Law Library of Louisiana



Volume 3, Issue 3 Spring 2005

Serving Louisiana Since 1855

Descendants of Legal Luminaries Visit Library

by Carol Billings

The library was recently honored by visits from family members of two of the most celebrated figures in Louisiana's legal history: Edouard Edmond Bermudez, Chief Justice from 1880 to 1892; and Henry Plauché Dart, the distinguished trial lawyer, bar president, and historian who led the movement to build our courthouse at the beginning of the last century. Chief Justice Bermudez's portrait hangs in the library, and Mr. Dart's bust sits just outside the door to the courtroom.

Mrs. Mildred del Corral, the great-granddaughter of Chief Justice Bermudez, and her daughter, Mrs. Cynthia Ellington, brought with them two beautiful canes belonging to the

judge—one with a silver handle engraved with his initials. Mrs. Ellington was wearing a bracelet incorporating the judge's seal and family crest. Our visitors toured the library, viewed the exhibit on Chief Justice Bermudez assembled by Georgia Chadwick, and graciously supplied additional information about the family.

That same week we were visited by Mrs. E. Stewart Maunsell, nee Jane Dart, the granddaughter of Henry Plauché Dart. She was accompanied by her daughters, Mrs. Cathy Posey and Mrs. Beth Smith. When she was a young girl, Mrs. Maunsell knew her grandfather well. She related memories as a five year-old riding with Mr. Dart to his office in his Hupmobile while he pointed out to her locations of important events in the history of New Or-

leans. When the family gathered at his dinner table, the scholarly Mr. Dart made sure that the conversation dealt with matters of substance.

Our library history buff, Janice Shull, assembled an array of writings by and about Mr. Dart in our Rare Book Room for his descendants to see, and Mrs. Maunsell was familiar with many of them. We look forward to accepting her generous offer to show us other memorabilia about her grandfather that she has collected. The library welcomes contact from other Dart family members as well as the descendants of other judges and lawyers associated with Louisiana legal history.

Edouard Bermudez: The Creole Chief Justice

by Georgia Chadwick

Edouard Edmond Bermudez was born in New Orleans on January 19, 1832, to Joaquim Bermudez and Marie Troxler Bermudez. Edouard's father Joaquim was born in New Orleans in 1796. Edouard's grandfather, Juan Bautista Bermudez, came to New Orleans to serve as a judicial functionary under the Spanish regime and married Marie Emelia Soniat De Fossat, a member of the distinguished Soniat family. Edouard's mother, Marie Troxler, was born in Louisiana to parents of French and German descent.

Young Edouard Bermudez re-

ceived his early education at Boyer's School, which was located at 148 Conti Street between Dauphine and Burgundy. Edouard continued his education and in May of 1851 graduated with honors from Spring Hill College in Mobile, the Alma Mater of many prominent and distinguished citizens of Louisiana.

Edouard spent the summer of 1851 studying the common law under Judge Thomas B. Monroe, a United States district judge for Kentucky and a professor of law at the University of Louisiana, the predecessor of Tulane. Like many Louisiana students,

Edouard followed Monroe in the summer to his home in Kentucky to study with him. When Edouard returned from Kentucky, he entered the law school at the University of Louisiana. The course of study probably took about six months to complete, and Edouard was granted the degree of bachelor of law in 1852. Later in his life he received an honorary LLD from St. John's College at Fordham, N.Y.

Edouard was admitted to the bar in Louisiana in 1853 when he was just 21, having met the rigorous requirements the

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Georgia Chadwick

Edouard Bermudez
Chief Justice
(1880-1892)

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The Creole Chief Justice *continued from front page*

Supreme Court had established for admission. A few days before he was admitted, Edouard and Elizabeth Amanda Maupassant were married. They had nine children, although at the time of Edouard's death only four were living. The city directory for 1853 shows that Edouard had joined his father's law practice on Royal Street, and his dwelling was on St. Philip Street.

In 1860, as support for secession grew in Louisiana, Edouard Bermudez was elected as a delegate to the special convention to consider secession. Although Edouard was part of a group which did not favor immediate secession, he did vote in favor of the final secession ordinance which was passed at the convention. When the war began, Edouard entered the Confederate Army and was sent to Mobile, where he became judge advocate of his brigade. At the end of hostilities he returned to New Orleans and was assistant city attorney until he was removed in 1867 by General Sheridan, who declared him an impediment to reconstruction. The 1866 City Directory lists Edouard's law office at 146 Royal Street and his dwelling at 72 Frenchmen Street (currently 732 Frenchmen).

New Orleans Architecture: Volume IV, The Creole Faubourgs indicates that in 1869 Edouard Bermudez acquired from his mother-in-law all the lots facing Washington Square, from what is currently known as 726 Frenchmen to the corner of Dauphine. He and his extended family lived there, the heart of the city's Creole population at the time.

Edouard had a very successful private law practice and he was counsel to important corporations and commercial firms. His office was a training ground for young attorneys who went on to distinguished legal ca-

reers, and he traveled widely in the United States and to France, where he had many friends in the judiciary.

After Reconstruction, self-government was restored to Louisiana, and a new constitution was written in 1879. Edouard Bermudez was appointed Chief Justice by Governor Wiltz, and the court organized on April 5, 1880. The new court had the arduous task of adjusting the law of the state to the new requirements of the Constitution of 1879. Henry Plauché Dart, an outstanding legal historian and member of the Louisiana bar, wrote a *History of the Supreme Court of Louisiana* for the celebration of the centenary of the court. He said the following of Edouard Bermudez: "The seventh Chief Justice was a Creole, and yielded to none in pride of race and position." He also mentions that although Bermudez was proud of his Creole heritage, he had many American friends. "The Chief Justice was in 1880 in his prime -- a big, vigorous man, with a will of iron. He was a ripe scholar in the texts of the civil law..." Edouard Bermudez served his full twelve year term, and although at the very end his health was poor, he struggled to complete his term.

Bermudez died at his home of heart disease on August 22, 1892, only a few months after the end of the court's session. Since he originated the idea of a portrait

gallery for justices, it was fitting that after his death the Bermudez family presented a lovely portrait of him to the court. Because of his initiative, the Supreme Court today has an impressive collection of portraits, which are displayed throughout the building. Edouard Bermudez's portrait hangs in the Law Library.

Justice Charles E. Fenner, who had served with Chief Justice Bermudez for twelve years, paid tribute to the late Chief Justice. In his remarks he said:

"The presidency of Edouard Bermudez, as Chief Justice of this court, is associated with one of the germinal periods of our jurisprudence. His unremitting industry and broad learning made him a great factor in its development... His personal qualities made him the idol of his family and the centre of a numerous circle of devoted friends. He lived the life of a good man, a great lawyer, an incorruptible judge. He died the death of a philosopher and Christian. His portrait is a worthy companion to those of the many eminent men which grace these walls, and as the lawyer of future days reverently reviews this assembly of illustrious portraits, there are few to which he will bow with more interest and respect than to that of the Creole Chief Justice, Edouard Bermudez." 8



Mrs. Mildred del Corral and Mrs. Cynthia Ellington

Henry P. Dart: Louisiana Legal Historian

by Janice Shull

On March 9 Jane Dart Maunsell, the granddaughter of Henry Plauché Dart, and her daughters, Beth Maunsell Smith and Cathy Maunsell Posey, visited the law library and the Supreme Court Room. The family was especially interested in the many publications authored by Henry P. Dart which are in the library collection and the bust of Henry P. Dart which is on display outside of the courtroom. A significant number of books were donated to the library by the Dart & Dart Law Firm several years ago and constitute some of the library's most unusual and rare items. An article about the Dart Collection was published in DeNovo (Vol. 1, issue 5, Nov./Dec. 2002, p.5; http://www.lasc.org/law_lib&legal_res/DeNovoNovDecember2002.pdf)

Henry Plauché Dart was one of the luminaries in Louisiana history and exerted profound influence on our state. He was born February 5, 1858 at Fort St. Philip in Plaquemines Parish, where his father was Superintendent of Construction.

Virtually self-taught, Dart's formal education ended with grammar school in New Orleans and one term in the Jefferson City High School. In the straitened circumstances of Reconstruction, young Henry emancipated himself and served an apprenticeship as office clerk while reading law in the well-known law firm of Cotton & Levy. He passed the examination for bar admission in 1879, with the advantage of grounding in both legal scholarship and the practical work of the lawyer. He married Mary Lytle Kernan, of Clinton, Louisiana, in 1882. They were to become the parents of four sons and three daughters.

Dart opened his own law office with meager resources except for his library, which encompassed all of the necessary tools for the practice of law and his expanding arenas of interest. His practice grew and in association with his brother-in-law, Benjamin Wall Kernan, the firm of Dart & Kernan became one of the busiest in New Orleans. Henry Dart was eventually regarded by his colleagues as the foremost trial lawyer of the Louisiana bar.

While Dart was maintaining his active and wide-ranging civil law practice, he also exerted leadership in many areas of civic, professional and historical interest. His accomplishments are too many to list in this brief account, but of special significance for the Supreme Court were his dedication as president of the Court House Commission to the construction of a suitable building for the court at 400 Royal Street, and his valuable contributions to the field of legal and judicial history in Louisiana.

Dart's singular attention to the endangered condition of the French and Spanish archives in Louisiana brought them public notice and ensured their preservation. In 1913 he compiled and wrote the centennial history of the Supreme Court of Louisiana, a resource still used. As editor of the Louisiana Historical Quarterly from 1920-1934, Dart exerted great influence on the developing interest in Louisiana history by contributing over 125 articles, reviews and notes to the Quarterly. He accentuated the need for preservation of historic artifacts in his position as president of the Board of Curators for the Louisiana State Museum.

Henry Plauché Dart died on September 27, 1934, but his memory and his monumental achievements live on. The library staff was delighted to welcome his granddaughter and great-granddaughters to the court building which Mr. Dart played such an instrumental part in realizing, and Mrs. Maunsell regaled us with many stories about her grandfather.



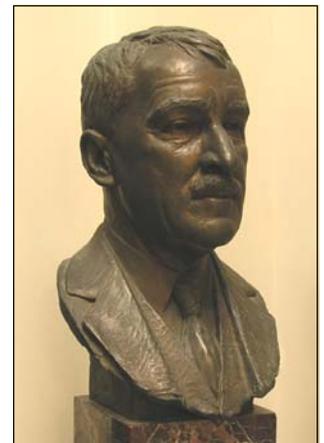
Janice Shull

GETTING TO KNOW US

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Cathy Maunsell Posey, Jane Dart Maunsell & Beth Maunsell Smith



Bust of Henry Dart outside the fourth floor courtroom



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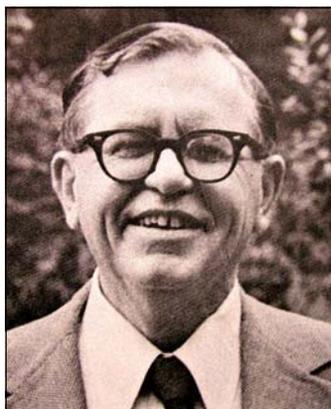
A Fruitful Partnership

by Warren M. Billings

In 1976, Justice Albert Tate and I negotiated an agreement whereby the Supreme Court designated the University of New Orleans as the depository of the Court's records that accumulated between 1813 and 1921. Thereby the Court gained much-needed assistance in preserving its most ancient archives, while the University assumed responsibility for the care and use of the collection. This unique partnership assured greater access to what was once the largest untapped source of Louisiana history. Accessibility, in turn, attracted researchers worldwide who have made imaginative and varied uses of the collection's manifold riches-producing, at last count, a combined total of well over three hundred, papers, theses, dissertations, articles, and books. Foremost among those researchers is a loosely-knit circle who created the New Louisiana Legal History.

The New Louisiana Legal History originated in graduate seminars that I offered at UNO soon after the collection opened to researchers and the Court appointed me as its historian. Those classes attracted bright, energetic students who eagerly burrowed into the records in search of subjects that would deepen their understanding of Louisiana's distinctive legal heritage. Independent of these budding historians, others rummaged the records with a similar purpose in mind. The ties that bound the two together were a commitment to thorough research, a quest for

inventive approaches to the study of legal history, and a determination to bring Louisiana into the larger fields of American legal history, southern history, and general American history. Together, they revitalized a branch of legal studies that had stagnated for decades.



Justice Albert W. Tate, Jr.

A sampling of their work is included in the appended select bibliography. The Supreme Court Collection itself is available to researchers. For details, contact Dr. Florence M. Jumonville, Head of Special Collections in the Earl K. Long Library at UNO, at fjumonvi@uno.edu or 504.280.6543.

SELECT BIBLIOGRAPHY OF THE NEW LOUISIANA LEGAL HISTORY

[All titles are in the Law Library of Louisiana, and most are still in print.]

Warren M. Billings and Mark F. Fernandez, eds. *A Law Unto Itself? Essays in the New Louisiana Legal History*. Baton Rouge, 2001.

Warren M. Billings and Judith

Kelleher Schafer, eds. *An Uncommon Experience: Law and Judicial Institutions in Louisiana, 1803-2003*. Lafayette, La., 1997.

Warren M. Billings and Edward F. Haas, eds. *In Search of Fundamental Law: Louisiana's Constitutions, 1812-1974*. Lafayette, La., 1993.

Warren M. Billings, ed. *Historic Rules of the Supreme Court of Louisiana, 1813-1879*. Lafayette, 1985.

Mark F. Fernandez. *From Chaos to Continuity: The Evolution of Louisiana's Judicial System, 1712-1862*. Baton Rouge, 2001.

Edward F. Haas, ed., *Louisiana's Legal Heritage*. Pensacola, Fla., 1983.

Judith Kelleher Schafer. *Slavery, the Civil Law and the Supreme Court of Louisiana*. Baton Rouge, 1994.

Judith Kelleher Schafer. *Becoming Free, Remaining Free: Manumission and Enslavement in New Orleans, 1846-1862*. Baton Rouge, 2003.

N.B., Readers will also find numerous articles on a variety of subjects in journals such as *Louisiana History*, *Law Library Journal*, and the *American Journal of Legal History*.

Warren M. Billings is Distinguished Professor of History at UNO and Historian of the Supreme Court of Louisiana. **δ**

De Novo Spotlight: Supreme Court Records

As a court of record, the Supreme Court maintains an archive of material both for its own reference and for the reference of parties outside the court that may need access to older cases. The primary in-house duties of the records department involve providing all the justices and their staff with records needed to prepare for conferences and cases on the docket, as well as fulfilling a variety of requests from other departments. A patron of the Law Library, for instance, may ask for a case held in the archives in order to conduct personal research.

Requests by outside parties may arrive by way of other departments, but just as often come directly to Records itself. Some of the most

common requests come from groups ranging from indigent defenders to district attorneys from around the country, making the duties of the records department of potential service to any member of the court or the public. Eddie Gonzales, Deputy Clerk and Records Manager since 1987, with his staff facilitates access to any records on appeal as needed to Federal Courts, mostly involving *habeas corpus* writs for the incarcerated, but also covering appeal work on civil matters.

Even genealogical researchers ask the Supreme Court Records Department for material, which is made available if possible. Confidential material is not available to the public, including any juvenile matters, bar matters and attorney re-

ords of a personal nature, but the Records Department provides access to any researcher for records that are open to the public for viewing.

The court holds records in paper form in-house from 1937 to the present, and is in the process of microfilming what we hold in paper. Material from 1921 to 1937 is stored at the LSU Law Library in Baton Rouge in paper form, which is kept in duplicate here in microfilm. As mentioned in the previous article, records prior to 1921 are stored in the Archives and Special Collections at the University of New Orleans Earl K. Long Library.

Eddie Gonzales and the records department can be reached directly at 504 310 2310. δ

Do you have any
 De Novo questions?
 Or suggestions?
 Story ideas, comments?
 Something you would
 like to see included?
 Please feel free to email
 them to:
 Jason Kruppa at
 jkruppa@lasc.org

Records Department Staff Members

Eddie Gonzales
Deputy Clerk and
Records Manager

George Garrett
Asst. Records Clerk

Julie Haydel
Asst. Records Clerk

Angela Johnson
Archives Clerk

Cheri Arena
Archives Clerk

Memorial Books
 If you are interested
 in memorializing a
 family member,
 friend, or colleague
 by purchasing a
 book for the
 library's collection
 please contact
 Carol Billings at
 504-310-2401



Deputy Clerk and Records Manager Eddie Gonzales, in the records storage area in the Supreme Court Basement

Special Libraries Association to Meet at Courthouse

On Saturday, April 30, at 10:30 a.m. the Louisiana/Southern Mississippi Chapter of the Special Libraries Association will hold its spring meeting at the Law Library of Louisiana. Both members and other interested librarians are encouraged to attend. The program will include a tour and informational talk on the library by Director Carol Billings. Please email SLA chapter president Kelly Blessinger at kblessi@lsu.edu if you plan to attend.



Third graders from the St. George's School listen as Miriam Childs (left) and Carol Billings (in the hat) read the story of Marshall the Courthouse Mouse. The students toured the Court on March 9, 2005.



Miriam Childs

Congressional Confirmation Hearings

by Miriam Childs

The recent speculation of the possible nomination of a new justice to the U.S. Supreme Court provides an excellent opportunity to examine the Senate confirmation process. The process begins with a nomination in writing from the President. The Constitution states that the Senate provides the "Advice and Consent" function for all presidential nominees (Art. II, Sect. 2).

The nomination is then read on the Senate floor, and it receives a number. Next, each nomination is referred to the appropriate committee. In the case of judicial nominations, the committee is the Senate Judiciary Committee. The committee then holds hearings on the nominee. These hearings give committee members the oppor-

tunity to question the nominee to determine his/her fitness for the position. Depending on the position being filled, nominees may undergo intense scrutiny.

After the hearing, the committee decides to report the nomination favorably, unfavorably, without recommendation, or to take no action. If the committee reports favorably, the nomination goes to the full Senate for debate.

Nominations can be debated for an unlimited time period. After debating the nomination, the Senate votes on the nomination. The Senate can either confirm, reject, or take no action on the nomination, and a simple majority is required for confirmation. Once the Senate has acted, the resolution of

either confirmation or rejection is sent to the President.

Hearings can take up to a year to be published. They are indexed in the CIS Index (KF 49 .C62), and some hearings are available online. The Senate floor debates are published in the *Congressional Record*. The index of the *Congressional Record* lists the names of all nominees for a calendar year. Next to the nominee's name is the *Congressional Record* page numbers on which the text of the floor debate can be found. The Law Library has current *Congressional Record* issues on microfiche. For the most up to date *Congressional Record* information, go to GPO Access at <http://www.gpoaccess.gov/crecord/index.html>. 8



De Novo restaurant review: The Pelican Club

By Cathy Lemann

Find yourself in the Library in the evening and wondering about dining nearby? Try the Pelican Club, 312 Exchange Place, 504-523-1504. The restaurant describes their cuisine as Modern Creole-Acadian / International. My recent meals there suggest that is an apt description.

The ingredients include many types of seafood, from Maine lobster to gulf fish. You will find beef, pork, veal and lamb on the menu along with inter-

esting vegetarian options. Many of the items have an Asian feel, such as Clay Pot Barbecued Shrimp, or Shrimp, Scallop and Veal Potstickers. Try the Cajun Jambalaya which is an elegant, modern rendition of a traditional New Orleans dish.

Appetizers and salads run from \$7 - \$9, and entrees are generally in the \$25 - \$30 range. The service is competent and friendly. I found the kitchen to be very accommodating when one of my guests had a particular request as a

result of an allergy. Twenty-three wines are available by the glass and there are 350 wines available by the bottle. There is also a good selection of single malt scotches and premium bourbons.

The Pelican Club may not be as well known as some of the other nearby restaurants, but they consistently serve up delicious food in a comfortable atmosphere. Definitely consider giving it a try the next time you're hungry after 5:00 p.m. δ



Cathy Lemann

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May 1: Law Day

Conducted annually since 1958, Law Day is designed to expand the American public's awareness and appreciation of our justice system, legal heritage, and the role of law in our society. A special theme is identified annually to help guide programming for Law Day. For 2005, the theme is "The American Jury: We The People in Action." State and local bar associations and other legal and court groups conduct hundreds of Law Day programs throughout the country. For more information, visit the ABA Law Day website at <http://www.abanet.org/publiced/lawday/>



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MEMORIAL DONATION

In memory of Philip B. Watson, Sr., an original copy of the 1808 *Digest of the Civil Laws Now in Force in the Territory of Orleans* has been donated to the library by Mr. and Mrs. Philip B. Watson, Jr. and Mr. and Mrs. William W. Watson, all of St. Joseph, Louisiana. We are grateful for this valuable addition to our rare book collection.

Access the library's
online catalog
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This public document was printed at a total cost of \$500. 1000 copies of this document were published by the Law Library of Louisiana, 301 Loyola Ave., New Orleans, LA, as the quarterly newsletter of the Law Library of Louisiana under the authority of the Judicial Budgetary Control Board.

Louisiana Constitutions

By Cathy Lemann

Louisiana's current Constitution became effective at midnight on December 31, 1974. To determine intent, the first resource is *Records of the Louisiana Constitutional Convention of 1973*, KFL 401 1974 .A2. There is an index which breaks down when each section of the Constitution was discussed by the delegates. The text of the current Constitution is available at <http://senate.legis.state.la.us/Documents/Constitution/Default.htm>.

At the end of the page there is a chart listing amendments by date and amend-

ments by section with links to any information on the Legislature's web site.

Through 2004, the voters have passed 127 of 189 proposed amendments over the past 30 years. Because the amendments originate as bills in the Louisiana Legislature, refer to information on Legislative History research as a place to begin. Often, there will also be analyses of proposed amendments by the Public Affairs Research Council, www.lapar.org, the League of Women Voters, <http://www.lwv-la.org/> or in Louisiana newspapers.

West's Louisiana Statutes Annotated and LexisNexis Louisiana Annotated Statutes have

notes of cases interpreting sections of the constitution and references to law review articles. Use these sources to see how articles have been interpreted. There should also be notes referring to where a topic was located in earlier constitutions.

Volume 3 of the West Constitution contains the text of all earlier constitutions. We also have separate publications for many of the earlier constitutions and records of constitutional conventions for some of them. Check our catalog at <http://207.67.203.47/L20013/> for additional information. **δ**