Discovering Cases:

Year Books, Reporters & Beyond

Boston College Law Library

Daniel R. Coquillette Rare Book Room

Fall 2017

Discovering Cases:

Year Books, Reporters & Beyond

Boston College Law Library

Daniel R. Coquillette Rare Book Room

Fall 2017

Laurel Davis, Curator

Many thanks to the staff of the Boston College Law Library, particularly to Helen Lacouture for cataloguing our new acquisitions and Lily Olson for her help with the exhibition publications and webpages.

Thank you also to former curator, Karen Beck, now Manager of Historical & Special Collections at the Harvard Law School Library. Two of Karen's previous exhibitions served as inspiration for this one.

DISCOVERING CASES:
AN INTRODUCTION

Case law is a crucially important component of a modern Anglo-American law student's education and lawyer's practice. Students learn legal doctrine by reading, parsing, and discussing important cases, and lawyers build their briefs and oral arguments by researching, analyzing, and citing binding and persuasive precedent from prior court decisions.

Today, publishers and courts publish opinions of American state and federal courts in a variety of formats. They appear on court websites; in free case law databases like Google Scholar; in print reporters, official and unofficial alike; in affordable subscription databases like Fastcase and Casemaker; and in more expensive, editorially sophisticated services like Lexis and Westlaw. Textbook authors also excerpt cases in student casebooks.

The reasons for reading and studying cases have evolved over the centuries. Once primarily a source of procedural instruction, students and practitioners now largely look to cases to learn doctrine and to find precedent that will support a client's position. This exhibit examines the history of this evolution and discusses some highlights along the way.

THE YEAR BOOKS

The Year Books are the first systematic source of knowledge of medieval common law and an ancestor of the modern case reporter. They are reports of the proceedings in selected medieval cases from 1272 through 1535. Unlike the court opinions printed in modern case reporters, the focus of the cases "reported" in the Year Books was not on the legal reasoning and the holding. Indeed, the final decision often goes unreported. Neither was the point to provide lawyers with precedent to cite in future litigation. The focus, rather, especially in the earlier years, was on the complex procedural exchange between lawyers and judges.

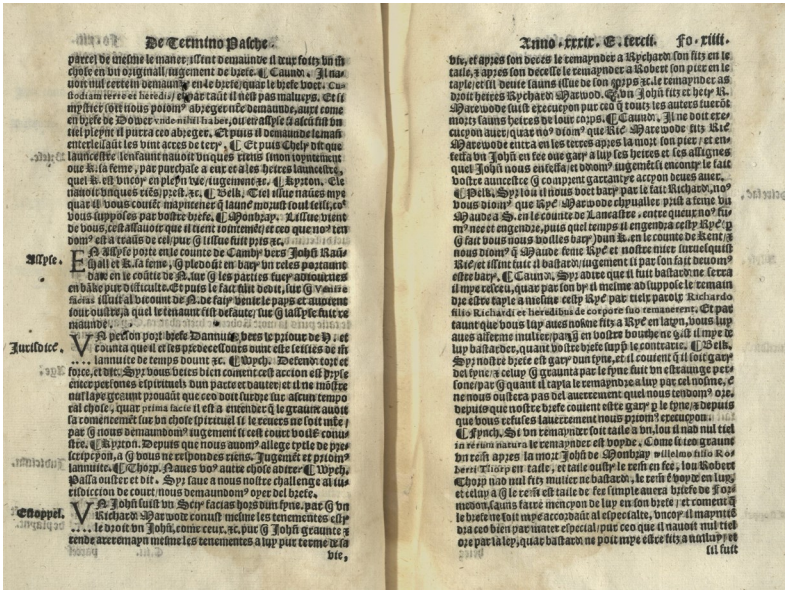
The anonymous compilers wrote the Year Books in Law French, the Anglo-Norman dialect spoken in English courts well into the 17th century. They are called Year Books because the cases were grouped by regnal year and "law term." They begin with the first year of the reign of Edward I (1272) and proceed through the twenty-seventh year of the reign of Henry VIII (1535). The four law terms coincided with the church festivals from which they took their names: the Hilary Term ran from roughly January 11 to January 31; the Paschal Term from April 15 to May 8, the Trinity Term from May 22 to June 12; and the Michaelmas Term from November 2 to November 25.

Many legal historians today believe that law students compiled the Year Books. They watched the litigation to learn, capturing in writing the important points of the exchanges between lawyers and judges. Students later circulated the best of the reports to aid in studying at the Inns of Court. Thus, the method of learning law by reading cases predates the case method developed by nineteenth-century American law professors. When a student became a barrister, these pamphlets formed the basis of a practitioner's library.

Year Book of Edward III. London, 1534.

Printed in 1534 by English printer Robert Redman from a 1366 manuscript, this Year Book covers cases from the 39th year of the reign of Edward III (reigned 1327–1377). The image below shows cases litigated during the Paschal Term ("de termino Pasche") of the 39th year of Edward III's reign ("Anno xxxix E. Tercii"). The notations in the margins (e.g., Estoppel) allow the reader to quickly determine the subject matter of the case, much like today's Headnotes.

Gift of Daniel R. Coquillette



La Premier Part de les Reports del Cases en Ley...Roy Edward le Tierce. London, MDCLXXIX (1679).

This volume contains the first and second parts of the Year Books of Edward III, covering regnal years 1-39 (i.e., it includes the individual Year Book mentioned above, along with 38 other regnal years). A third part, not included here, contains

the Year Books from the last 11 years of Edward III's reign. This Sawbridge, Rawlins, and Roycroft printing of the Year Books is known as the "standard" or "Vulgate" edition. In addition to pulling together the Year Books from the reign of Edward III, the eleven part compilation includes volumes from the other monarchs who reigned from 1272-1535.

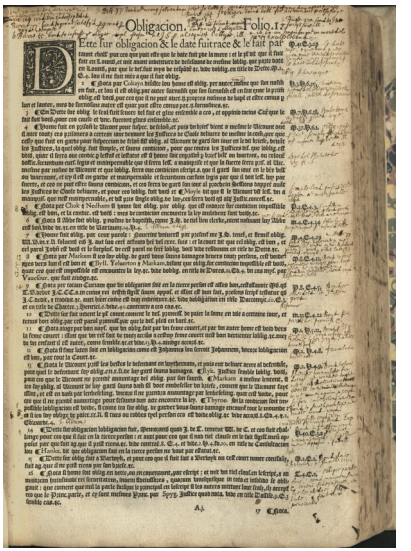
*In hoc Volumine Continentur Omnes Casus Antehac Impressi, qui Acciderunt Annis Regum Henrici Quarti, & Henrici Quinti...*London, 1605.

Beautifully printed by Thomas Wight, this volume compiles Year Books from the reigns of Henry IV (reigned 1399-1412) and Henry V (reigned 1413-1422). It has a lovely contemporary calf binding with the initials "EC" blind-stamped onto the upper and lower covers. Perhaps this volume comes from the library of the great English common lawyer, Sir Edward Coke? According to *A Catalogue of the Library of Sir Edward Coke* (Yale, 1950), Coke had three copies, all of which remain at the Holkham Library in Norfolk, England. Could this be a fourth, unrecorded copy?

YEAR BOOK ABRIDGMENTS

After centuries of cases being reported in Year Books, it became difficult for apprentices and lawyers to sift through the many volumes and find helpful cases. With centuries between themselves and the age of full-text database searching, the best options were either to create their own commonplace books or to purchase abridgments created by other industrious lawyers. The two most famous abridgments of Year Books were those by Sir Anthony Fitzherbert and Sir Robert Brooke. Both were judges who created an alphabetically arranged, subject-based system for finding relevant cases in the Year Books.

Sir Anthony Fitzherbert, *La Secounde Part du Graund Abridgement*...London, 1565.


Obligacion. Folio. 1.

Fitzherbert (1470-1538) was a legal writer and judge, and this abridgment is one of his greatest works, digesting and making accessible over 14,000 cases. Our copy is heavily annotated. The image to the right depicts the section wherein Fitzherbert points researchers to cases on the subject of "Obligacion." Fitzherbert's work includes cases beyond what can be found in the Year Books; therefore, it remains the primary source for cases that otherwise would have been lost to the ages.

Gift of Daniel R. Coquillette

Sir Robert Brooke, *La Graunde Abridgement....*London, 1576.

Brooke's work came after and built upon Fitzherbert's. Brooke added almost 150 new subject headings (or "titles") under which the cases were organized. His work covers over 20,000 cases, including many cases from the reign of Henry VIII which did not make it into Fitzherbert's abridgment. *Brooke's Abridgment* became a standard text, even appearing in Thomas Jefferson's library.

Gift of Daniel R. Coquillette

CABINET III

THE EVOLUTION FROM YEAR BOOKS TO REPORTS

By the late 1500s, the Year Books had morphed into publications called Reports, credited to a particular individual. During the early years of this transition from Year Books to "named" or "nominative" reports—roughly from 1535 until 1765 and the appearance of *Burrow's Reports*—the quality of case reporting varied wildly. Some reporters purportedly fell asleep in court; names and other basic facts often were misreported. However, there were some significant, early standouts in this period.

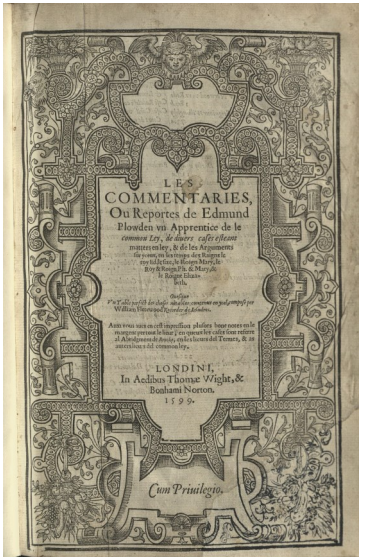
Sir James Dyer, *Les Reports des Ley...* London, 1688.

Dyer (c. 1510-1582) served as chief justice of the Court of Common Pleas at the height of his career but began reporting cases in his student days. Known for their accuracy and conciseness, Dyer's *Reports* had much in com-

mon with the Year Books. The focus was not on the reasoning or final decision of the judge but rather on the pleading of the lawyers as they tried to crystallize the issue at hand.

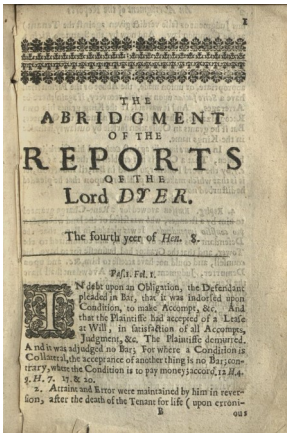
Gift of Daniel R. Coquillette

*Les Commentaries Ou Reportes de Edmund Plowden...*London, 1599.


LES
COMMENTARIES,
Ou Reportes de Edmund
Plowden vn Apprentice de le
LONDINI,
In Aedibus Thomæ Wight, &
Bonhami Norton.
1599.
Cum Privilegio.

Edmund Plowden (1518-1585) is recognized as the first reporter of English law, even though Dyer reported earlier cases. Plowden moved further from the Year Books than Dyer, recording the pleadings, the arguments of counsel, and the judgment. He also added very brief comments of his own but was careful to separate his observations from the opinion of the court. Both Dyer and Plowden included more citations to other cases as precedent than the Year Books.

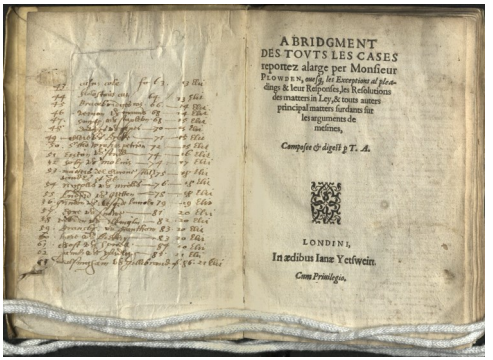
Gift of Daniel R. Coquillette


THE
ABRIDGMENT
OF THE
REPORTS
OF THE
Lord DYER.
The fourth year of Hen. 8.
Pasch. Fol. 1.
IN debt upon an Obligation, the Defendant pleaded in Bar, that it was indorsed upon Condition, to make Accompt, &c. And that the Plaintiffe had accepted of a Lease at Will, in satisfaction of all Accompts, Judgment, &c. The Plaintiffe demurred. And it was adjudged no Bar; For where a Condition is Collateral, the acceptance of another thing is no Barr contrary, where the Condition is to pay money; accord, 12 H. 4. 5. H. 7. 19. & 20.
2. Attaint and Attor were maintained by him in reversion, after the death of the Tenant for life (upon exoni-
B

Sir Thomas Ireland, *An Exact Abridgment in English of all the Reports of...Sir James Dyer...*London, 1651.

In addition to abridgments of the Year Books, lawyers also desired abridgments or digests of reports. These contain digested or condensed versions of the full cases contained within the reports. This tiny little volume digests all of the cases contained in Dyer's *Reports*, providing a portable book for lawyers to carry to court.

Gift of Daniel R. Coquillette



Abridgment des Touts les Cases Reportez Alarge per Monsieur Plowden... **London, 1597.**

This little vellum-bound abridgment takes cases that are over twenty pages long in Plowden's *Reports* and condenses them into a few short paragraphs.

CABINET IV

THE EVOLUTION CONTINUES: SIR EDWARD COKE

Known simply as "The Reports," the law reports compiled by Sir Edward Coke (1552-1634) are unparalleled in terms of use and citation. Law professor and legal historian Percy Winfield stated that despite criticisms of Coke's *Reports*, "they were constantly cited in the courts" and "used in building up the fabric of our Common Law." Coke, among other things, served as Chief Justice of the Court of Common Pleas and then Chief Justice of the King's Bench.

Coke wrote his *Reports* in thirteen "parts," covering years 1572 to 1616. Unlike Plowden, Coke added elaborate commentary to his reports that is often hard to differentiate from the court's decision. As John Baker has noted, Coke held the

common view of the time that the correctness of the doctrine surpassed in importance the accuracy and precision of the report.

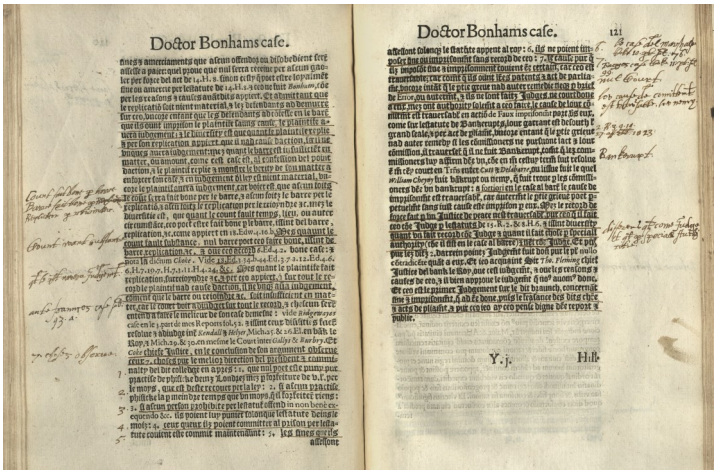
*Le Tierce Part des Reportes del Edward Coke...*London, 1602.

This first edition of the third part of the *Reports* was annotated by a prior owner.

Gift of Daniel R. Coquillette

*La Huictme Part des Reports de Sr. Edw. Coke...*London, 1611.

Written in Law French, this beautiful first edition of the eighth part of the *Reports* contains many well-known cases. It is displayed open to *Dr. Bonham's Case*, often referenced as a source of authority for judicial review of legislative acts. Our copy features extensive annotations, including underlining and marginal notes.



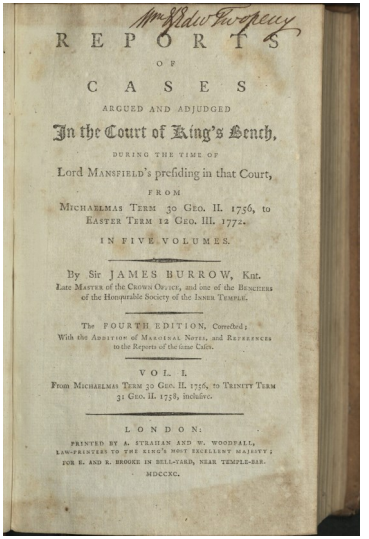
*An Exact Abridgment in English of the Eleven Books of Reports of the Learned Sir Edward Coke, Knight...*London, 1651.

This abridgment digests cases from the first eleven parts into one handy volume.

Gift of Daniel R. Coquillette

ENTERING THE AGE OF THE MODERN REPORTER

In the century or so following Coke's death, the quality of case reports largely stayed in the range from bad to unremarkable. In the 1750s, the situation improved, particularly with regard to King's Bench cases, but also for the Court of Common Pleas (jurisdiction over civil actions not concerning the king), Chancery (equity cases), and Exchequer (also equity cases). The job of reporting increasingly was professionalized. This culminated in the establishment of the Council of Law Reporting, which began producing the *Law Reports* in 1865. That series is still published today.

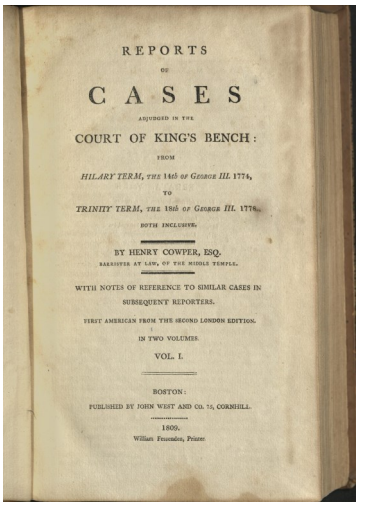

REPORTS
OF
CASES
ARGUED AND ADJUDGED
In the Court of King's Bench,
DURING THE TIME OF
Lord MANSFIELD's presiding in that Court,
FROM
MICHAELMAS TERM 30 GEO. II. 1756, to
EASTER TERM 12 GEO. III. 1772.
IN FIVE VOLUMES.
By Sir JAMES BURROW, Knt.
Late MASTER of the CROWN OFFICE, and one of the BENCHERS of the Honourable Society of the INNER TEMPLE.
The FOURTH EDITION, Corrected;
With the ADDITION of MARGINAL NOTES, and REFERENCES to the Reports of the same Cases.
VOL. I.
From MICHAELMAS TERM 30 GEO. II. 1756, to TRINITY TERM 31 GEO. II. 1758, inclusive.
LONDON:
PRINTED BY A. STRAHAN AND W. WOODFALL, LAW-PRINTERS TO THE KING'S MOST EXCELLENT MAJESTY;
FOR E. AND R. BROOKE IN BELL-YARD, NEAR TEMPLE-BAR.
MDCCXC.

Sir James Burrow, *Reports of Cases Argued and Adjudged in the Court of King's Bench, During the Time of Lord Mansfield's Presiding in that Court...* London, 1790. 5 volumes.

Burrow (1701-1782) reported cases decided by the King's Bench from 1756-1772. The publication of the first volume of his reports in 1765 marks an important moment in the history of law reporting. Compiled with an eye toward publication, Burrow's *Reports* was accurate and well organized, with clear demarcation between facts, arguments of counsel, and judgment of the court. Burrow's *Reports* would be more familiar to the modern eye than any mentioned thus far.

Henry Cowper, *Reports of Cases Adjudged in the Court of the King's Bench...* Boston, 1809. 2 vols.

Cowper succeeded Burrow and published his reports of King's Bench cases covering four years from the reign of George III (1774-1778). John Baker notes that Cowper and his own successor, Sylvester Douglas, maintained Burrow's high standards and ended the era of haphazard law reporting. Displayed here is the first American edition—many English case reporters were printed in colonial and early America.


REPORTS
OF
CASES
ADJUDGED IN THE
COURT OF KING'S BENCH:
FROM
HILARY TERM, THE 14th OF GEORGE III. 1774,
TO
TRINITY TERM, THE 18th OF GEORGE III. 1778,
BOTH INCLUSIVE.
BY HENRY COWPER, ESQ.
BARRISTER AT LAW, OF THE MIDDLE TEMPLE.
WITH NOTES OF REFERENCE TO SIMILAR CASES IN
SUBSEQUENT REPORTERS.
FIRST AMERICAN FROM THE SECOND LONDON EDITION.
IN TWO VOLUMES.
VOL. I.
BOSTON:
PUBLISHED BY JOHN WEST AND CO. 75, CORNHILL.
1809.
William Fessenden, Printer.

CABINET VI

CASE LAW IN EARLY AMERICA

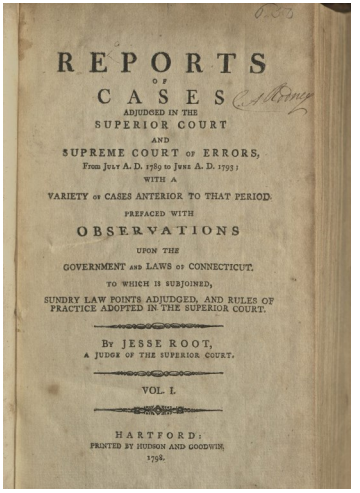
Prior to the American Revolution, colonial lawyers relied on English reports and manuscript opinions from local courts. Even after the Revolution, English reports commonly sat on the shelves of lawyers' libraries, either imported or printed in American editions. Toward the very end of the eighteenth century, American reporters began to report opinions from their own courts, following in the footsteps of Dyer, Plowden, Coke, and Burrow.

Ephraim Kirby, *Reports of Cases Adjudged in the Superior Court of the State of Connecticut, from the Year 1785, to May 1788.* Litchfield, Conn., 1789.

Kirby was probably the first American reporter of cases. He based his *Reports* on notes he took for his own use; he eventually was persuaded to expand and publish them. Since 1785, Connecticut superior court judges had been required by law to provide written reasons for their opinions. Kirby used this to his advantage,

summarizing the judge's reasoning and judgment. He also concisely stated the pleadings and the arguments of counsel.

Gift of Kathryn Preyer


REPORTS
OF
CASES
ADJUDGED IN THE
SUPERIOR COURT
AND
SUPREME COURT OF ERRORS,
FROM JULY A. D. 1789 TO JUNE A. D. 1793;
WITH A
VARIETY OF CASES ANTERIOR TO THAT PERIOD.
PREFACED WITH
OBSERVATIONS
UPON THE
GOVERNMENT AND LAWS OF CONNECTICUT.
TO WHICH IS SUBJOINED,
SUNDRY LAW POINTS ADJUDGED, AND RULES OF
PRACTICE ADOPTED IN THE SUPERIOR COURT.
By JESSE ROOT,
A JUDGE OF THE SUPERIOR COURT.
VOL. I.
HARTFORD:
PRINTED BY HUDSON AND GOODWIN.
1798.

Jesse Root, *Reports of Cases Adjudged in the Superior Court...*Hartford, 1798.

Root—like Dyer, Plowden, and Coke before him—was a judge who created reports from his own notes.

Gallison's Reports. Boston, 1815. 2 volumes.

These represent the first reports of cases out of the First Circuit, which at the time was primarily a trial-level court. The judges rode circuit hearing cases. Gallison served as Reporter of the First Circuit from 1812-1815. Most opinions in these volumes were rendered by Justice Joseph Story and involved questions of admiralty and prize law.

CABINET VII

OFFICIAL REPORTERS IN EARLY AMERICA

In 1804, Massachusetts became the first state to create a position for an official reporter. Around the same time, New York appointed its own reporter, George Caines, and actually was the first state to publish a volume of official reports. In 1817, the U.S. Supreme Court appointed its first official reporter, Henry Wheaton. The responsibilities of the reporters included preparing headnotes, summarizing facts and arguments of counsel, and accurately relaying the judicial opinion and final judgment.

*Reports of Cases Argued and Determined in the Supreme Judicial Court, in the Commonwealth of Massachusetts...*Newburyport, MA, 1811.

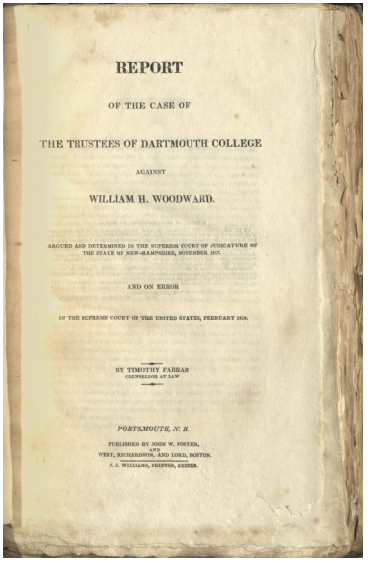
This is the second volume of what is now known as the *Massachusetts Reports.* When released, it was called *Tyng's Reports* for the reporter at the time—Dudley Atkins Tyng. For this reason, you may see parallel citations like this: *Benson v. Swift*, 2 Mass. (1 Tyng) 50 (1806). The first Massachusetts reporter, Ephraim Williams, took down oral opinions; by Tyng's tenure, the court had transitioned to written opinions.

United States Reports, Volume 17 (4 Wheat.) (1819).

Appointed in 1817, Henry Wheaton served as the first official reporter of the U.S. Supreme Court. Alexander James Dallas and William Cranch preceded him in a less official capacity. You can see evidence of a dual citation structure for early U.S. Supreme Court cases on the spine of the book. This is the 17th volume of the *U.S. Reports* but the 4th volume from Wheaton's tenure. This volume contains the famous Supreme Court case on corporate law, *Dartmouth College v. Woodward.*

Timothy Farrar, *Report of the Case of the Trustees of Dartmouth College Against William H. Woodward.* Portsmouth, N.H., [1819].

This untrimmed book in a simple publisher's binding is an example of a separate printing of a Supreme Court decision. Reporters themselves or other entrepreneurs would offer the decision in a standalone volume for cases of particular interest. Here, Timothy Farrar (son of one of the Dartmouth College plaintiffs and counsel in the case) compiled this volume containing the opinion, the lower court decisions, the statute at issue, various pleadings, and other supplemental material.



REPORT

OF THE CASE OF

THE TRUSTEES OF DARTMOUTH COLLEGE

AGAINST

WILLIAM H. WOODWARD.

ARGUED AND DETERMINED IN THE SUPERIOR COURT OF JUDICATURE OF THE STATE OF NEW-HAMPSHIRE, NOVEMBER 1817.

AND ON ERROR

IN THE SUPREME COURT OF THE UNITED STATES, FEBRUARY 1818.

BY TIMOTHY FARRAR
COUNSELLOR AT LAW

PORTSMOUTH, N. H.

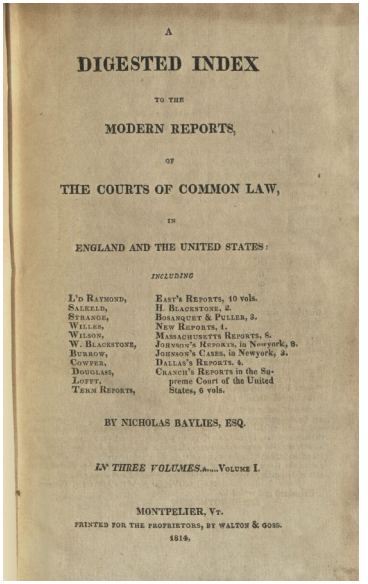
PUBLISHED BY JOHN W. FOSTER,
AND
WEST, RICHARDSON, AND LORD, BOSTON.
J. J. WILLIAMS, PRINTER, EXETER.

CABINET VIII

THE "SWELLING VOLUMES" OF LAW

"Ask thou, why in such swelling volumes law do flow? The cause is in the need; fraud in the world doth grow." Edward Coke, Twyne Case, 3 Coke 80

In 1810, there were 18 volumes of American case reports. By 1848, there were nearly 800. By 1885, a comprehensive law library held 3,800 volumes of American reports. After 1885, West's National Reporter System, still published today, expanded into new regions, so that number soon ballooned. As printing became cheaper, it became possible to access the body of case law in a way that previously was inconceivable. Commercial publishers jumped on the opportunity to sell lawyers timely reporters full of potentially useful precedent.


A

DIGESTED INDEX

TO THE

MODERN REPORTS,

OF

THE COURTS OF COMMON LAW,

IN

ENGLAND AND THE UNITED STATES:

INCLUDING

L'D RAYMOND, SALKELD, STRANGE, WILLES, WILSON, W. BLACKSTONE, BURROW, COWPER, DOUGLASS, LOFFT, TERM REPORTS, — EAST'S REPORTS, 16 vols. H. BLACKSTONE, 2. BOSANQUET & PULLER, 3. NEW REPORTS, 1. MASSACHUSETTS REPORTS, 8. JOHNSON'S REPORTS, in Newyork, 9. JOHNSON'S CASES, in Newyork, 3. DALLAS'S REPORTS, 4. CRANCH'S REPORTS in the Supreme Court of the United States, 6 vols.

BY NICHOLAS BAYLIES, ESQ.

IN THREE VOLUMES.—VOLUME I.

MONTPELIER, VT.
PRINTED FOR THE PROPRIETORS, BY WALTON & GOSS.
1814.

Nicholas Baylies, *A Digested Index to the Modern Reports of the Courts of Common Law in England and the United States...*Montpelier, 1814.

Even as early as 1814, American lawyers needed help sifting through existing American and English case law. In this early digest, Baylies created an subject-based index (from Abatement to Writ of Right) to 77 volumes of English and American reports, including the *Massachusetts Reports,* Supreme Court decisions reported by Dallas and Cranch, and Burrow's and Cowper's reports.

Gift of Daniel R. Coquillette

The Northwestern Reporter, Volume 1...Saint Paul, MN, 1879.

Its origins go back to 1876, but this first volume of the *Northwestern Reporter* marks the beginning of John West's National Reporter System as we know it today. The *Federal Reporter* followed in 1880, along with other regional reporters for state cases.

The Northeastern Reporter, Volume 1...Saint Paul, MN, 1885.

Covering cases from the courts of Massachusetts, Ohio, Indiana, Illinois, and New York, the *Northeastern Reporter* is now in its 3rd series. Digests for the cases reported in the national reporter system soon followed.

CABINET IX

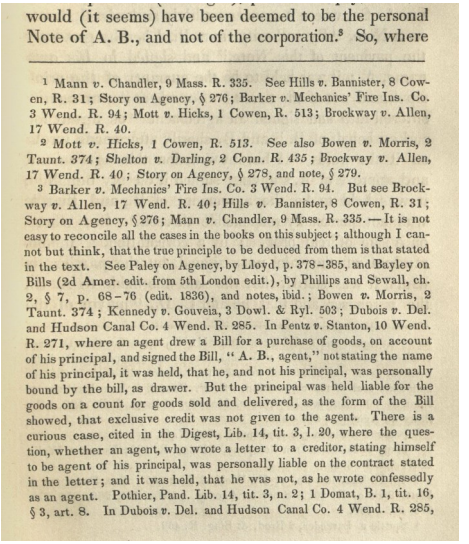
THE MORE THINGS CHANGE

Much has changed since the era of the Year Books—and even from the days of the early American reports. The idea of citing case law as binding precedent evolved and solidified. Cases now are available both in print and online, often in an overwhelming number of places. The sheer volume of opinions available would stun Plowden, Coke, or Wheaton. Reporters no longer sit in court, frantically taking notes about the arguments of counsel and capturing the judge's oral decision. One constant, however, has been the lawyer's ability discover important case law through the writings of experienced jurists. In fact, in modern legal research classes, one of the first things we teach students is to find relevant cases (and statutes, regulations, etc.) through respected secondary sources.

James Kent, *Commentaries on American Law.* New York, 1826-1830. 4 vols.

America's answer to William Blackstone, James Kent reworked his lectures as a law professor at Columbia into this four volume work on American law. Kent cites

tremendous numbers of English and American cases in his discourse on the law of nations, property, domestic relations, and beyond.



would (it seems) have been deemed to be the personal Note of A. B., and not of the corporation.[3] So, where

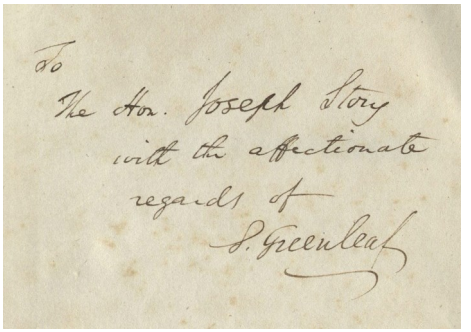
[1] Mann *v.* Chandler, 9 Mass. R. 335. See Hills *v.* Bannister, 8 Cowen, R. 31; Story on Agency, § 276; Barker *v.* Mechanics' Fire Ins. Co. 3 Wend. R. 94; Mott *v.* Hicks, 1 Cowen, R. 513; Brockway *v.* Allen, 17 Wend. R. 40.

[2] *Mott v. Hicks, 1 Cowen, R. 513.* See also Bowen *v.* Morris, 2 Taunt. 374; Shelton *v.* Darling, 2 Conn. R. 435; Brockway *v.* Allen, 17 Wend. R. 40; Story on Agency, § 278, and note, § 279.

[3] Barker *v.* Mechanics' Fire Ins. Co. 3 Wend. R. 94. But see Brockway *v.* Allen, 17 Wend. R. 40; Hills *v.* Bannister, 8 Cowen, R. 31; Story on Agency, § 276; Mann *v.* Chandler, 9 Mass. R. 335. — It is not easy to reconcile all the cases in the books on this subject; although I cannot but think, that the true principle to be deduced from them is that stated in the text. See Paley on Agency, by Lloyd, p. 378–385, and Bayley on Bills (2d Amer. edit. from 5th London edit.), by Phillips and Sewall, ch. 2, § 7, p. 68–76 (edit. 1836), and notes, ibid.; Bowen *v.* Morris, 2 Taunt. 374; Kennedy *v.* Gouveia, 3 Dowl. & Ryl. 503; Dubois *v.* Del. and Hudson Canal Co. 4 Wend. R. 285. In Pentz *v.* Stanton, 10 Wend. R. 271, where an agent drew a Bill for a purchase of goods, on account of his principal, and signed the Bill, "A. B., agent," not stating the name of his principal, it was held, that he, and not his principal, was personally bound by the bill, as drawer. But the principal was held liable for the goods on a count for goods sold and delivered, as the form of the Bill showed, that exclusive credit was not given to the agent. There is a curious case, cited in the Digest, Lib. 14, tit. 3, l. 20, where the question, whether an agent, who wrote a letter to a creditor, stating himself to be agent of his principal, was personally liable on the contract stated in the letter; and it was held, that he was not, as he wrote confessedly as an agent. Pothier, Pand. Lib. 14, tit. 3, n. 2; 1 Domat, B. 1, tit. 16, § 3, art. 8. In Dubois *v.* Del. and Hudson Canal Co. 4 Wend. R. 285,

Joseph Story, *Commentaries on the Law of Promissory Notes...*Boston, 1845.

Story served as an associate justice of the U.S. Supreme Court; helped save a young, struggling Harvard Law School; and wrote nine commentaries on different areas of the law, including this one on promissory notes. In this work, as in the others, Story provides references to copious English and American cases and attempts to sift through the sometimes conflicting authority.



To
The Hon. Joseph Story
with the affectionate
regards of
S. Greenleaf

Simon Greenleaf, *A Treatise on the Law of Evidence.* Boston, 1842. 2 vols.

In his famed evidence treatise, Harvard Law professor Greenleaf points his readers to many cases as he lays out the law surrounding relevance, hearsay, and more. In the footnotes, you will see citations to *Cowper's Reports*, *Gallison's Reports*, and *Pickering's Reports*, just to name a few. Our copy of this treatise belonged to Joseph Story and was inscribed to him by Greenleaf. When Story died in 1845, Greenleaf was the only remaining professor at Harvard Law School.

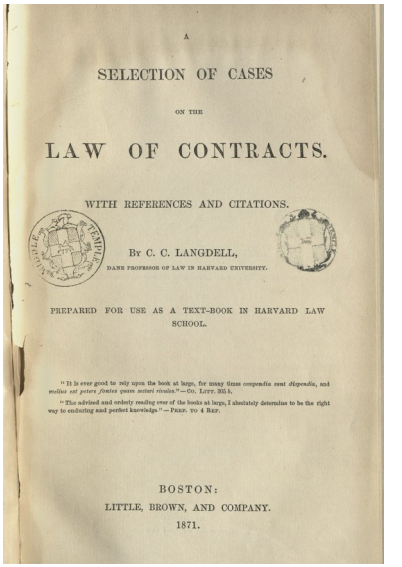
LEARNING THROUGH CASES

Modern law students typically first encounter case law via their first year casebooks, textbooks designed to teach legal doctrine through excerpts from important judicial opinions. These students usually only delve into the case reporters previously discussed when the time comes for their first research assignments. The idea of learning the law through real cases harkens back to the role of the Year Books. Instead of focusing on pleading and procedure, however, the modern casebook is designed to teach doctrine.

Christopher Columbus Langdell, *A Selection of Cases on the Law of Contracts*...Boston, 1871.

Langdell (1826-1906) created this book—the very first law school casebook—while a professor at Harvard Law. He excerpted important contracts cases to facilitate students' access to cases in class and at home, when it was not convenient to consult books in the law library. Reflecting his belief that law is a branch of science, Langdell expected students to read cases and make their own inductions about what the law is. Langdell's case method remains popular in law schools today.

Gift of Daniel R. Coquillette


A

SELECTION OF CASES

ON THE

LAW OF CONTRACTS.

WITH REFERENCES AND CITATIONS.

By C. C. LANGDELL,

DANE PROFESSOR OF LAW IN HARVARD UNIVERSITY.

PREPARED FOR USE AS A TEXT-BOOK IN HARVARD LAW SCHOOL.

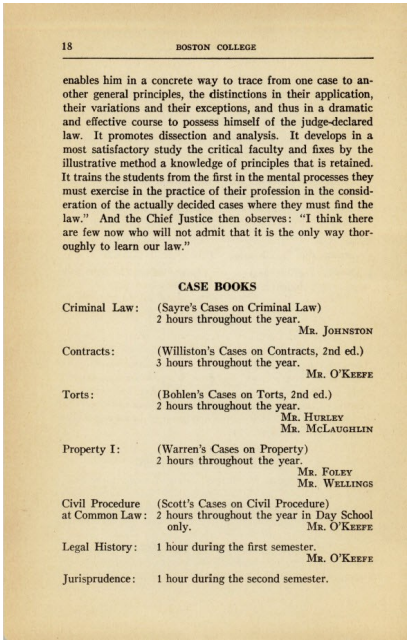
"It is ever good to rely upon the book at large, for many times compendia *sunt dispendia*, and *melius est petere fontes quam sectari rivulos*."—Co. Litt. 305 b.

"The advised and orderly reading over of the books at large, I absolutely determine to be the right way to enduring and perfect knowledge."—Prec. to 4 Rep.

BOSTON:

LITTLE, BROWN, AND COMPANY.

1871.



18 BOSTON COLLEGE

enables him in a concrete way to trace from one case to another general principles, the distinctions in their application, their variations and their exceptions, and thus in a dramatic and effective course to possess himself of the judge-declared law. It promotes dissection and analysis. It develops in a most satisfactory study the critical faculty and fixes by the illustrative method a knowledge of principles that is retained. It trains the students from the first in the mental processes they must exercise in the practice of their profession in the consideration of the actually decided cases where they must find the law." And the Chief Justice then observes: "I think there are few now who will not admit that it is the only way thoroughly to learn our law."

CASE BOOKS

Criminal Law:	(Sayre's Cases on Criminal Law) 2 hours throughout the year. MR. JOHNSTON
Contracts:	(Williston's Cases on Contracts, 2nd ed.) 3 hours throughout the year. MR. O'KEEFE
Torts:	(Bohlen's Cases on Torts, 2nd ed.) 2 hours throughout the year. MR. HURLEY MR. MCLAUGHLIN
Property I:	(Warren's Cases on Property) 2 hours throughout the year. MR. FOLEY MR. WELLINGS
Civil Procedure at Common Law:	(Scott's Cases on Civil Procedure) 2 hours throughout the year in DAY SCHOOL only. MR. O'KEEFE
Legal History:	1 hour during the first semester. MR. O'KEEFE
Jurisprudence:	1 hour during the second semester.

Samuel Williston, *A Selection of Cases on the Law of Contracts.* Boston, 1937.

Williston's contracts casebook, which was modeled on Langdell's, was assigned to the first class of 1Ls at Boston College Law School (see image at left, from the 1929-30 issue of *Boston College Bulletin, Law*). This is the 4th edition of Williston's casebook; the first class would have used the 2nd edition.

Edward H. Warren, *Select Cases...on the Law of Property.* Cambridge, 1928.

This casebook was the assigned property text for the first BC Law class. Like many modern ones, this casebook begins with *Pierson v. Post*, the famous New York case which held that being in "hot pursuit" does not give one private property rights in a wild animal.

SOURCES

Baker, J. H. *An Introduction to English Legal History.* 4th ed. Oxford: Oxford University Press, 2007.

Beck, Karen, and Susan Sullivan. *The History of the Casebook*. Boston College Law School, Rare Book Room Exhibition, Summer 2001.

Beck, Karen. *A Brief History of Anglo-American Case Reporting, 1272-1885.* Boston College Law School, Rare Book Room Virtual Exhibition, 2007.

Cohen, Morris L., and Sharon Hamby O'Connor. *A Guide to the Early Reports of the Supreme Court of the United States.* Littleton, CO: Fred B. Rotham, 1995.

Coquillette, Daniel R. *The Anglo-American Legal Heritage: Introductory Materials.* 2nd ed. Durham: Carolina Academic Press, 2004.

Surrency, Erwin C. *A History of American Law Publishing*. New York: Oceana Publications, 1990.

Widener, Mike. *Landmarks of Law Reporting*. Lillian Goldman Law Library, Yale Law School, Rare Book Exhibition, 2009.

Winfield, Percy H. *The Chief Sources of English Legal History.* Cambridge: Harvard University Press, 1925. Reprint, Buffalo: William S. Hein, 1983.

BC LAW LIBRARY