The Golden Age of Legal Publishing in Massachusetts [Virtual Exhibit]

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The Golden Age of Legal Publishing in Massachusetts
This exhibit was curated by Laurel Davis, Legal Information Librarian & Lecturer in Law and curator of Rare Books at the Boston College Law Library.
The first legal texts published in Massachusetts were sources of primary law, such as statutes and case reports.
The first statutory compilation printed in colonial Massachusetts was The Book of the General Lawes and Libertyes (often referred to as the code of 1648). This compilation included much—but not all—of the legislation of the general court that was in force at the time of publication. The compilation was published by Matthew Day, son of the first American colonial printer, Steven Day, at their printing shop in Cambridge. Next up is a photo taken from a 1929 reprint of the one surviving copy of the original code. Thought lost for many years, the original surfaced in Rye, England in 1909 and ultimately landed in the Huntington Library in San Marino, California.
THE
BOOK OF THE GENERAL
LAUUES AND LIBERTYES
CONCERNING THE INHABITANTS OF THE MASSACHUSETTS
COLLECTED OUT OF THE RECORDS OF THE GENERAL COURT
FOR THE SEVERAL YEARS WHerin THEY WERE MADE
AND EStAlished,

And now revised by the same Court and disposed into an Alphabeticall order
and published by the same Authority in the General Court,
held at Boston the fourteenth of the
first month A. 1647

Ube in subection therefrom resist the power, resisteth the ordinance of God;
and they that resist receive the same damaeation. Romans 13:1.

CAMBRIDGE,
Printed according to order of the GENERAL COURT.
A 1648

And are to be sold at the shop of Job Otten.
In Cambridge.
Another early statutory compilation is called Acts and Laws, of His Majesty’s province of the Massachusetts-Bay in New-England. It was printed by S. Kneeland, in Boston, 1759, and includes the charter of William and Mary.
The Charter
Granted by their Majesties
King William and Queen Mary, to the Inhabitants of the Province of the Massachusetts-Bay in New-England.

Boston, in New-England;
Printed by S. Kereland, by Order of His Excellency the Governor, Council and House of Representatives.
MDCCLIX.
take a look at the first bit of the charter...
The CHARTER of the Province of the Massachusetts-Bay in New-England.

ILLIAM and MART, by the Grace of GOD, King and Queen of England, Scotland, France and Ireland, Defenders of the Faith, &c. To all to whom these Presents shall come, Greeting.

Whereas his late Majesty King James the first, Our Royal Predecessor, by his Letters Patents under the Great Seal of England, bearing Date at Westminster the third Day of November, in the eighteenth Year of his Reign, did give and grant unto the Council established at Plymouth in the County of Devon, for the Planting, Ruling, Ordering and Governing of New England in America, and to their Successors and Assigns, all that Part of America lying and being in Breadth from forty Degrees of Northerly Latitude, from the Equinoctial Line to the forty eighth Degree of the said Northerly Latitude, inclusively, and in Length of and within all the Breadth aforesaid throughout all the Main Lands from Sea to Sea, together also with all the firm Lands, Soils, Grounds, Havens, Ports, Rivers, Waters, Fishings, Mines and Minerals, as well Royal Mines of Gold and Silver, as other Mines and Minerals, Precious Stones, Quarries, and all and singular other Commodities, Jurisdictions, Royalties, Privileges, Franchises and Preeminences, both within the said Tract of Land, upon the Main, and also within the Islands and Seas adjoining, Provided always, that the said Lands, Islands, or any the Premises by the said Letters Patents intended or meant to be granted, were not then actually possessed or inhabited by any other Christian Prince or State, or within the Bounds Limits or Territories of the Southern Colony, then before granted by the said late King James the first, to be planted by divers of his Subjects in the South Parts: To have and to hold, possess and enjoy, all and singular the aforesaid Continent Lands, Territories, Fee, Islands, Hereditaments, and Precincts, Seas, Waters, Fishings, with all and all manner of their Commodities, Royalties, Liberties, Preeminences and Profits that should from thenceforth arise from thence, with all and singular their Appurtenances, and every Part and Parcel thereof, unto the said
And the first law passed by the general court after the charter...
Acts and Laws,
Passed by the Great and General Court or Assembly of the Province of the Massachusetts-Bay in New-England: Begun and held at Boston the eighth of June 1692, and continued by Adjournment unto the twelfth Day of October following.

CHAP. I.
An Act for building with Stone or Brick in the Town of Boston, and preventing Fire.

WHEREAS Great Desolations and Ruins have sundry Times happened by Fire breaking out in the Town of Bolton, principally occasioned by Reason of the joining and nearness of the Buildings, being mostly of Timber, and covered with Shingle:
The perpetual Laws of the commonwealth of Massachusetts, from the Establishment of its constitution in October 1780 to the last Wednesday in May 1789. Boston: Adams and Nourse, 1789.
THE PERPETUAL LAWS OF THE COMMONWEALTH OF MASSACHUSETTS,
FROM THE COMMENCEMENT OF THE CONSTITUTION,
IN OCTOBER, 1780,
TO THE LAST WEDNESDAY IN MAY, 1789.

To which are prefixed,
The Declaration of Independence, the Articles of Confederation, the Constitution of the Commonwealth, the Treaty of Peace, between Great-Britain and America, and the Constitution of the United States.

Published by Order of the General Court.

BOSTON:
PRINTED BY ADAMS AND NOURSE.
Printers to the Honourable General Court.
M.DCC.LXXIX.
Printer and patriot Isaiah Thomas published a smaller version of the perpetual Laws for the convenience of practitioners. Below are photos of the title page and Thomas's explanatory preface.
JUDGES
OF THE
SUPREME JUDICIAL COURT
OF THE
COMMONWEALTH
OF
MASSACHUSETTS:
THIS EDITION,
OF
The Perpetual Laws
OF THE
COMMONWEALTH AFORESAID,
IS MOST
RESPECTFULLY DEDICATED
By the Editor,
THEIR HONOURS VERY HUMBLE,
AND MOST OBEDIENT SERVANT,
ISAIAH THOMAS.

Worcester, May 15, 1788.
As the Statutes of this Commonwealth, made since the establishment of the Constitution, have never been printed in any well digested order, general complaint has been made for the want of such a work. This influenced the Editor, at the request of a number of very respectable gentlemen, to undertake the business. The intention of printing the Statutes in so small a volume, was to make the book convenient for the pocket, and cheap to the purchaser, that the laws might be more generally disseminated throughout the Commonwealth.

An early example of a municipal law compilation, this volume contains bylaws passed during 1785 and 1786.
THE BY-LAWS AND TOWN-ORDERS OF THE TOWN OF BOSTON, Made and passed at several Meetings in 1785 and 1786. Duly approved by the Court of Sessions

BOSTON: Printed by EDMUND FREEMAN, at his Printing Office, North side of the Town-Dock. MDCCLXXXVI.
FOOTBALL, not to be played at, or kicked through any part of the Town.

IT IS HEREBY VOTED AND ORDERED, that whosoever shall, at any time hereafter, use the exercise of playing or kicking of FOOTBALL within any of the Streets, Lanes or Alleys of this Town, shall forfeit and pay the sum of one shilling for every transgression of this By-Law, to be paid by each offender respectively; which fine or penalty shall be paid, where any offender herein shall happen to be under age, by the parent or guardian of any such offender.

AND see an all of the late province, made in the year of our Lord 1715, entitled, "An Act for preventing damage to the houses and other estate, within the several Towns of this province," and published in the same year 1715, whereby "any person or persons wilfully breaking any glass windows of any house within any Town, by throwing Stones, Snow-balls, kicking FOOTBALLS, or any other ways, are made liable to the suit of the person damaged, and to pay a fine of twenty shillings, at the least, and not exceeding Five Pounds, for the use of the poor of the Town." See Perpetual Laws.
MOURNING, to prevent Excess and vain Ex-
pense therein, &c.

IT IS HEREBY ORDERED, That in future
no scarfs, gloves or rings shall be given at any fun-
neral in this town, nor shall any wine, rum, or other
spirituous liquor, be allowed or given at, or imme-
diately before or after, any funeral in this town,
under pain that the person or persons giving, allow-
ing, or ordering the same shall respectively forfeit and
pay the sum of twenty shillings for each offence.

And it is further Ordered, That whatever male
person shall appear or walk in the procession of any
funeral in this town with any new mourning or new
black or other new mourning coat or waistcoat, or
with any other new black apparel, save and except
a black crape around one arm, or shall afterwards,
on account of the decease of any relation, or other
person or persons, put on and wear any other mourn-
ing than such piece of black crape around one arm,
shall forfeit and pay the sum of twenty shillings for e-
very day he shall put on and wear or appear in the
same.
AND no female, of whatever degree, shall put on, wear or appear at any funeral in this town, in any other mourning or new black cloaths whatever, other than a black hat or bonnet, black gloves, black ribbons and a black fan, on pain to forfeit and pay the sum of twenty shillings; and also forfeit and pay a like sum of twenty shillings for every day she shall at any time at, or after such funeral, put on, wear or appear in such new black cloaths, as or for mourning, other than black hat, bonnet, black gloves, black ribbons, and a black fan as aforesaid.

N. B. See Temp. Laws, 15, 16.

Though not a lawbook, Hutchinson’s history of Massachusetts-Bay includes valuable information on the colony’s early legal history. At the time of publication, Hutchinson, the great-great grandson of Anne Hutchinson, was a Lieutenant Governor of Massachusetts. He would later become Governor and was known for his belief in parliamentary supremacy. He was sent to England on a conciliatory mission and ultimately stayed for the remainder of his life, watching from abroad as his native colony became an independent state.

HISTORIA, NON OBLIGATIONI, SED SILEI, VERITATIQUE COMPOSITUR, PLIN, EPIST. L. 7. E. 53.

By Mr. Hutchinson, Lieutenant-Governor of the Massachusetts Province.

BOSTON, NEW-ENGLAND: Printed by Thomas & John Fleet, at the Heart and Crown in Cornhill, MDCCLXIV.

Published by order of the U.S. Congress, this lovely volume contains the state constitutions of the original 13 colonies, along with the Declaration of Independence, the Articles of Confederation, and several importance treaties, including the Treaty of Paris of 1783.
CONSTITUTIONS
OF THE
SEVERAL INDEPENDENT STATES
OF
AMERICA;
THE
DECLARATION OF INDEPENDENCE;
THE
ARTICLES OF CONFEDERATION
BETWEEN THE SAID STATES;
THE
TREATIES BETWEEN HIS MOST CHRISTIAN
MAJESTY AND THE UNITED STATES OF AMERICA.
AND THE TREATIES BETWEEN THEIR HIGH
MIGHTINESSES THE STATES GENERAL OF THE
UNITED NETHERLANDS AND THE UNITED STATES
OF AMERICA.
case reports were also among the earliest legal texts published. Massachusetts was the first jurisdiction to have an official reporter of decisions. The first was Ephraim Williams; the second was Dudley Tyng.
REPORTS
OF
CASES
ARGUED AND DETERMINED
IN THE
SUPREME JUDICIAL COURT,
in the
Commonwealth of Massachusetts,
FROM MARCH, 1806, TO JUNE, 1807,
both inclusive.

VOL. II

By Dudley Atkins Tyng, Esq.
Counselor at Law.

To which is added
A SUPPLEMENT,
containing some few decisions of the same court
of a prior date.

NEWBURYPORT:
PUBLISHED BY EDWARD LITTLE & CO.
Proprietors of the Copyright.
1811,

C. Norris & Co. Printers.
Justice of the peace manuals were among the earliest law books published in the American colonies. The first such manuals printed in Massachusetts were reprints of English manuals. After the Revolution, there was a need for localized manuals for justices of the peace, who played a significant role both in the administration of the government and the adjudication of cases in the new U.S., as they had in the colonies.

Hard Burn, An Abridgment of Burn’s Justice of the Peace and Officer, Boston: printed for, and sold by Joseph Greenleaf, gift of Kathryn “Kitty” Preyer.
Richard Burn, an Abridgment of Burn's Justice of the Peace and Parish Officer, Boston: Printed for, and sold by Joseph Greenleaf, 1773. Gift of Kathryn "Kitty" Preyer.

One of the most famous English manuals of this type was Burn's manual, first published in England in 1755; it became the standard manual for late-eighteenth and early-nineteenth-century magistrates. This is the first American edition, an abridgment of the original.
AN ABRIDGMENT
OF
BURN'S JUSTICE OF THE PEACE
AND
PARISH OFFICER.

To which is Added,

AN
APPENDIX,
CONTAINING
Some general rules and directions necessary to be known and observed by all justices of the peace.

BOSTON;
Printed for, and Sold by JOSEPH GREENLEAF, at his PRINTING-OFFICE,
in HANOVER-STREET, near CONCERT HALL.
M, DCC, LXXIII.
LUNATICKS.

1. Non compos mentis is of four kinds:
   First, Idiots; who are of non sane memory from their nativity, by a perpetual infirmity.
   Secondly, Those that lose their memory and understanding by the visitation of God, as by sickness, or other accident.
   Thirdly, Lunatics; who have sometimes their understanding, and sometimes not.
   Fourthly, Drunkards; who by their own vicious act for a time deprive themselves of their memory and understanding. 1 Injst. 247.

2. He who incites a madman to do a murder, or other crime, is a principal offender, and as much punishable as if he had done it himself. 1 Haw. 2.

3. But idiots and lunatics, who are under a natural disability of distinguishing between good and evil, are not punishable by any criminal prosecution. 261.

Yet drunkards shall have no privilege by their want of sound mind; but shall have the same judgment as if they were in their right senses. 1 Injst. 247.
1 Haw. 2. 1 H. & H. 32.

4. But if a person, who wants discretion, commit a trespass against the person or possession of another, he shall be compelled in a civil action to give satisfaction for the damage. 1 Haw. 2.

5. If one who hath committed a capital offence become non compos before conviction, he shall not be arraigned; and if after conviction, he shall not be executed. Hale's Pl. 10. 1 Haw. 2.

6. By the common law, if it be doubtful whether a criminal, who at his trial is found to be a lunatick, be such in truth or not, it shall be tried by an inquisition; and if it be found by them, that
Joseph Greenleaf, the printer, was an interesting character. He helped Isaiah Thomas, another printer and publisher featured in this exhibit, publish the pro-independence newspaper the Massachusetts Spy before the Revolution. Greenleaf, who was a justice of the peace in Plymouth County in addition to being a printer, was summoned before the governor in 1771 for writings in the Spy. He failed to appear and was dismissed from his duties as a justice of the peace.
TO

His Majesty’s Justices of the Peace,
in the Province of the Massachusetts-Bay,
in NEW-ENGLAND:

THIS

ABRIDGMENT

OF

Burn’s Justice of the Peace
AND

Parish Officer,
IS

INSCRIBED:

BY

Their Humble Servant,

J. GREENLEAF.
ADVERTISEMENT.
Just PUBLISHED,
And to be SOLD at
GREENLEAF'S New Printing-Office
In Hanover-Street, near Concert-Hall,
BOSTON;
A CALM and plain answer to the enquiry, Why are you a Dissenter from the Church of England? Containing some remarks on its doctrine, spirit, constitution, and some of its offices and forms of devotion. By the author of the dissenting gentlemen's answer to Dr. White.
The Case of the Dissenting Ministers, addressed to the lords spiritual and temporal. By Israel Mauditt.
England's Warning-Piece; a sermon occasioned by the untimely death of Mr. William Allen the younger, who was inhumanly murdered by an arbitrary military power, May 10th, 1768. By John Free, D. D. and Vicar of East Coker in Somersetshire, &c.
An Anniversary Sermon, being the sequel to that occasioned by the murder of Mr. William Allen the younger, on the bloody 10th of May, 1768. By the same author.
The Adulterer, a Tragedy, as it is now acted in Upper Servia, said to be wrote by a lady. Upon reading this tragedy one may be apt to think that that acted in Boston, on the 5th of March, 1770, was a realizing the same.
A Dissuasion from the Slave trade, shewing the injustice thereof. Dedicated to the governor, council, and house of representatives, of this province.
This is an example of a later manual aimed specifically at Massachusetts justices of the peace.

Rodolphus Dickinson, *A Digest of the common Law, the statute Laws of Massachusetts, and of the united states, and the Decisions of the supreme Judicial court of Massachusetts, Relative to the powers and Duties of Justices of the Peace, to which is subjoined an Extensive Appendix of Forms.* Deerfield, MA: published by John Wilson. 1818.

John Wilson’s printing office produced a number of items typical of a printer of his day, including reprints of popular works and broadsides. Rodolphus Dickinson was his brother-in-law and partner at the printing press.
A

DIGEST

OF THE

COMMON LAW, THE STATUTE LAWS OF MASSACHUSETTS, AND
OF THE UNITED STATES, AND THE DECISIONS OF THE
SUPREME JUDICIAL COURT OF MASSACHUSETTS,
RELATIVE TO

THE

POWERS AND DUTIES

OF

JUSTICES OF THE PEACE,

TO WHICH IS SUBJOINED AN EXTENSIVE

APPENDIX OF FORMS.

13656

BY RODOLPHUS DICKINSON,
Attorney at Law, Compiler of a Work upon the Duties of Sheriffs, &c,

DEERFIELD;
PUBLISHED BY JOHN WILSON.
1818.
LARCENY, ROBBERY AND CHEATS.

The offence of feloniously taking and carrying away the personal property of another is denominated larceny, where the act is accomplished secretly, or by surprize or fraud, or robbery, where accomplished by circumvention of evidence, theft, or force, to the person deprived.

Any person who shall feloniously steal, take and carry away, the personal property of another, any money, goods or chattels, of any value, shall be guilty of larceny.

Punishment or penalties. - Whoever shall be convicted of stealing, or being accessories after the fact, to stealing, any personal property of another, and shall steal or attempt to steal, any such property, shall be punished by imprisonment in the common jail, for a term not exceeding five years, and shall, in every such case, and in every such case as aforesaid, be liable to the same punishment, and shall, in every such case, be liable to the same punishment, and shall be liable to the same punishment, and shall be subject to the same proceedings in every such case, as aforesaid, and shall be subject to the same proceedings as aforesaid, and shall be subject to the same proceedings, as aforesaid, and shall be subject to the same proceedings, as aforesaid, and shall be subject to the same proceedings as aforesaid.

The Supreme Judicial Court shall have exclusive jurisdiction of all larcenies, where the money, goods, or other article or articles stolen, shall exceed in amount or value the sum of one hundred dollars; and the said Supreme Judicial Court, the Courts of Common Pleas within their respective counties, and the

LARCENY, ROBBERY AND CHEATS.

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in addition to justice of the peace manuals, American printers and publishers would reprint English and continental legal texts. Editors would often add annotations to American cases and statutes in order to make the works more useful to their readers.
After its initial publication in England in 1765, William Blackstone's commentaries were widely imported and sold throughout the American colonies. A pre-revolution Philadelphia edition from printer Robert Bell was so well received that Isaiah Thomas, a famous Boston and Worcester printer, published the first post-revolution American edition from his Worcester shop in 1790.
COMMENTARIES ON THE LAWS OF ENGLAND.
IN FOUR BOOKS.

BY
SIR WILLIAM BLACKSTONE, KNT.
ONE OF THE LATE JUSTICES OF HIS MAJESTY'S COURT OF COMMON PLEAS.
IN FOUR VOLUMES.

THE FIRST WORCESTER EDITION,
Carefully revised from the last London edition.
CONTAINING,
THE LAST CORRECTIONS OF THE AUTHOR,
THE ADDITIONS BY RICHARD BURK, LL.D.,
AND CONTINUED TO THE PRESENT TIME,
BY JOHN WILLIAMS, ESQ.

VOL. I.—BOOK I.

PRINTED AT WORCESTER, MASSACHUSETTS,
BY ISAIAH THOMAS,
FOUNDED AT HIS EXPENSE TO WORCESTER, AND BY HIM AND HIS HEIRS IN EIGHTH EDITION.
MDCCXC.
BY

SIR WILLIAM BLACKSTONE, Knt.

ONE OF THE LATE JUSTICES OF HIS BRITANNICK MAJESTY'S COURT OF COMMON PLEAS.

IN FOUR VOLUMES.

THE FIRST WORCESTER EDITION,

Carefully reprinted from the last London Edition.

CONTAINING,

THE LAST CORRECTIONS OF THE AUTHOR,

THE ADDITIONS BY RICHARD BURN, LL.D.

AND CONTINUED TO THE PRESENT TIME,

BY JOHN WILLIAMS, Esq.

VOL. I.—BOOK I.

PRINTED AT WORCESTER, MASSACHUSETTS,

BY ISAIAH THOMAS,

SOLD AT HIS BOOKSTORE IN WORCESTER, AND BY HIM AND COMPANY IN BOSTON.
TO
THE PRACTITIONERS OF THE LAW,
IN THE UNITED STATES,
THIS AMERICAN EDITION
OF
Judge Blackstone's Commentaries
ON THE
LAWS OF ENGLAND,
IS
MOST RESPECTFULLY INSCRIBED,
BY THEIR MOST OBEIDENT,
AND VERY HUMBLE SERVANT,
ISAIAH THOMAS,
WORCESTER, MASSACHUSETTS.
one of my favorite features of Blackstone's work is a Table of Descent, showing how the property of one John Stiles would be distributed upon his death.
In case John Stiles was not himself the purchaser, but the estate in fact came to him by descent from his father, mother, or any higher ancestor, there is this difference, that the blood of that line of ancestors, from which it did not descend, can never inherit; as was formerly fully explained. And the like rule, as is there exemplified, will hold upon descents from any other ancestors.

The student should also bear in mind, that, during this whole process, John Stiles is the person supposed to have been last actually seised of the estate. For if ever it comes to vest in any other person, as heir to John Stiles, a new order of succession must be observed upon the death of such heir; since he, by his own seisin, now becomes himself an ancestor or f soit, and must be put in the place of John Stiles. The figures, therefore, denote the order, in which the several classes would succeed to John Stiles, and not to each other: And before we search for an heir in any of the higher figures, (as No. 8) we must be first assured that all the lower classes (from No. 1 to No. 7) were extinct, at John Stiles's decease.

CHAPTER

First published in England in 1781, this work became an indispensable guide on its subject matter well into the 19th century and greatly influenced Joseph Story's later work on the law of bailments. Jones himself was a fascinating individual and true polymath. He was the greatest linguist of his age, mastering 28 languages. During the American Revolution, he was outspoken in his criticism of English policy in the American colonies and was a great friend and correspondent of Benjamin Franklin. From 1783 until his death, Jones was a justice on the Bengal Supreme Court in India. A sampling of his other achievement includes pioneering the western study of Sanskrit and translations of Hindu poetry into English and Latin.
ESSAY
ON THE
Law of Bailments.

BY WILLIAM JONES, Esq.,
OF THE MIDDLE TEMPLE.

From the Press of Samuel Etheridge,
FOR JOHN WEST. No. 759
Corahill, BOSTON.
1796.
It is far from my intent to speak in derogation of the great commentator on Littleton; since it may truly be asserted of him, as Quintilian said of Cicero, that an admiration of his works is a sure mark of some proficiency in the study of the law; but it must be allowed, that his profuse learning often ran wild, that he has injured many a good case by the vanity of thinking to improve them.

The pleader, who drew the replication in the case of Price v. Price, was equally

chief justice Holt.

This is the first American edition of Kyd’s text.
A TREATISE
ON THE
LAW
OF
BILLS OF EXCHANGE
AND
PROMISSORY NOTES.

BY
STEWART KYD, OF THE MIDDLE TEMPLE, ESQ.,
BARRISTER AT LAW.

The First American,
From the Third London, Edition,
WITH CONSIDERABLE ADDITIONS.

Boston:
Printed by Manning & Loring,
For S. Hall, W. Spotswood, J. White,
Thomas & Andrews, D. West,
E. Larkin, W. P. & L. Blake,
and J. West.
1798.
BY

STEWARD KYD, OF THE MIDDLE TEMPLE, ESQ.
BARRISTER AT LAW.

The First American,
WITH CONSIDERABLE ADDITIONS.

BOLTON:
Printed by Manning & Loring.
For S. Hall, W. Spotswood, J. White,
Thomas & Andrews, D. West,
E. Larkin, W. P. & L. Blake,
and J. West.

1798.

Montesquieu was an 18th century French political thinker and social commentator famous for his articulation of the theory of separation of powers. *The Spirit of Laws* was his most famous work and greatly influenced the drafters of the Massachusetts Declaration of Rights and the United States Constitution.
THE
SPIRIT
OF
LAWS.
TRANSLATED FROM THE FRENCH OF
M. DE SECONDAT,
BARON DE MONTESQUIEU,
FIRST AMERICAN FROM THE FIFTH LONDON EDITION.
IN TWO VOLUMES.—VOL. I.

PRINTED AT WORCESTER,
BY ISAIAH THOMAS, JUN.
Sold by him, and by Mathew Carey, Philadelphia; also by the various Book-sellers throughout the United States.
JULY—1803.
FIRST AMERICAN FROM THE FIFTH LONDON EDITION.

IN TWO VOLUMES.—VOL. I.

PROLEM SINE MATRE CREATAM.

PRINTED AT WORCESTER.

BY ISAIAH THOMAS, JUN.

Sold by him, and by Matheux Carey, Philadelphia; also by the various Booksellers throughout the United States.

JULY—1809.
THE SPirit OF LAws.

BOOK XX.

OF LAws IN RELATION TO COMMERCE CONSIDERED IN ITS NATURE AND DISTINCTIONS.

CHAP. I.

Of Commerce.

HE following subjects deserve to be treated in a more extensive manner: But the nature of this work will not allow it. Fain would I glide down a gentle river; but I am carried away by a torrent.

Commerce is a cure for the most destructive prejudices; for it is almost a general rule, that wherever we find agreeable manners, there commerce flourishes; and that wherever there is commerce, there we meet with agreeable manners.
Isaiah Thomas was an ardently pro-independence printer, and before the Revolution, he published the patriot newspaper The Massachusetts Spy. The offices for the spy were rumored to be a meeting place of the sons of Liberty. In addition to his accomplishments as a printer and patriot, Thomas also founded the American Antiquarian Society. He printed the Montesquieu and Blackstone volumes seen above.
Isaiah Thomas was the leading publisher in the decades following the Revolutionary War. His printing, publishing, and bookselling business was centered in Worcester but included a major publishing enterprise in Boston under the name of Thomas and Andrews and many retail bookstores across New England and the Middle Atlantic states. Portrait in pastel, attributed to Gerrit Schipper, ca. 1804. Courtesy of the American Antiquarian Society.
THE
Massachusetts Spy
Or, Thomas's Boston Journal.

Do thy Great LIBERTY inspire our Souls—And make our Lives in thy Protection happy—Or, our Deaths glorious in thy Just Defence.

Vol. IV.) THURSDAY, JULY 7, 1774. (Numb. 179.

THE GREAT DEMAND for this paper, has oftenoccasioned many good customers being disappointed, for which the publisher is very sorry: He would, if possible, endeavor to prevent any thing of the like kind happening, so long as he may have the honour of being an hand-servant to the public.

The speedy progress of public affairs, at present, in this mortal capital, has occasioned some peeling Demands upon him, which, with great reluctance he is bound to obey his customers, he can by no means answer without their kind assistance: He is bound to trouble them with a "dunning" advertisement, but his affairs make it necessary: His clergy, in this province, and others in the other colonies, he hopes will take proper notice of it, and consider there is no possibility, (especially for a young beginner) in carrying on business without regular payments.

A work of this kind, is well known is attended with great expense, and he begs leave to mention, that the Massachusetts Spy is as liable to alterations and changes in price as much News, as any in this regular Journal, and is the cheapest on the globe.

I. Thomas.

JULY 7, 1774.
The cartoon shown below the masthead on the spy was based on Paul Revere's early patriotic cartoon.
JOIN, or DIE.

Another example of an American reprint of an English favorite--this is the first American edition of Marshall's popular work.

This is an American reprint of Abbott’s well-known treatise on maritime law, which went through many editions in both the U.S. and Great Britain. This is a classic example of the trend of “Americanizing” English law books. Here, Joseph Story served as the American editor and provided copious annotations to the relevant cases in the U.S. court system.
A TREATISE
OF THE
LAW
RELATIVE TO
MERCHANT SHIPS AND SEAMEN:
IN FOUR PARTS:
I. OF THE OWNERS OF MERCHANT SHIPS;
II. OF THE PERSONS EMPLOYED IN THE
NAVIGATION THEREOF;
III. OF THE CARRIDGE OF GOODS THEREIN;
IV. OF THE WAGES OF MERCHANT SEAMEN.

By CHARLES ABBOTT,
of the Inner Temple, Barrister-at-Law.

The Second American, from the Third London Edition,
WITH ANNOTATIONS

By JOSEPH STORY, Esq.,
COUNSELLOR AT LAW.

NEWBURYPORT:
PUBLISHED BY EDWARD LITTLE & CO.

CHARLES MORRIS & CO. PRINTERS.

1810.
In preparing the present edition, the object of the editor was to collect cases and principles which have been discussed or settled in the courts of the United States, relative to the law of shipping. Sometimes he has contented himself with a bare statement of the point; at other times he has stated the facts and the opinions of the court at large. The importance of the question, or the ability with which it has been investigated, have been his general guides in this particular. Generally the foreign authorities quoted have been stated as he found them in the Reports. In a few instances, however, he has recurred to the originals within his reach, in which he includes Valin, Emerigon and Straccha. He aspires to no other claim than that of an accurate selection from the labors of others. He wishes to be con-
Notice editor Joseph Story's annotations to American cases...
There is indeed a decision of the Court of King's Bench, upon the construction of a charter-party, which may properly be mentioned in this place. A ship, chartered for a voyage to the East-Indies and back, sprung

(1) In the case of Walden v. Leroy, 2 Caine's New-York Rep. 263., the court decided that if a vessel be from sea-damage, as by springing a leak, &c., obliged to bear away to a port of necessity in order to refit, the wages and provisions from the moment of bearing away to the period of sailing on her voyage after refitting, constitute a subject of general average. From this decision Mr. Justice Livingston in a very able and learned argument dissented and adopted the doctrine laid down in this section by Abbot. In the case of Breed v. Ship Venus, (cited ante, 160, note,) Judge Davis said "the modern and approved doctrine on this subject appears to be, that when a ship is obliged to go into port to repair, it is considered for the benefit
Toward the end of the 18th century, a native base of legal literature began appearing in the United States. While reprints of English and continental texts continued to be popular (Joseph Chitty's works, for example, were reprinted in the U.S. throughout the 19th century), American jurists and theorists began to create their own works, based on the distinct traditions and needs of the new nation. Joseph Story, James Kent, and Simon Greenleaf were three of the most important figures in establishing this canon of American legal literature, but other, perhaps less familiar names were also great contributors.

Freeman wrote this early Massachusetts probate manual while he was serving as a Register of Probate in Maine (then still a part of Massachusetts). It is a collection of laws related to the estates of testators, intestates, and wards. Freeman created an alphabetical index for the work and included forms for the use of probate courts. Published first as *The Probate Auxiliary*, it was later retitled *The Probate Directory*. 
THE PROBATE AUXILIARY;
OR, A DIRECTOR AND ASSISTANT TO
Probate Courts, Executors, Administrators and Guardians.

BEING THE LAWS OF THE COMMONWEALTH OF
MASSACHUSETTS, RESPECTING THE ESTATES
OF TESTATORS, INTESTATES AND
WARDS.

CAREFULLY COLLECTED.

TOGETHER WITH A COMPREHENSIVE ALPHABETICAL INDEX TO THE SAME.

TO WHICH ARE ADDED,

A VARIETY OF FORMS, FOR THE USE OF PROBATE COURTS, AND OF SUCH PERSONS AS
MAY HAVE BUSINESS TO TRANSACT THEREIN.

By Samuel Freeman, Esq.
Register of Probate for the County of Cumberland.

[With the Privilege of Copy Right.]

PORTLAND: (MASSACHUSETTS) PRINTED BY
BENJAMIN TITCOMB, JUN.

1793.
ETICAL INDEX TO THE SAME,

TO WHICH ARE ADDED,

A VARIETY OF FORMS, FOR THE USE OF PROBATE COURTS, AND OF SUCH PERSONS AS MAY HAVE BUSINESS TO TRANSACT THEREIN.

By Samuel Freeman, Esq.
Register of Probate for the County of Cumberland.

[With the Privilege of Copy Right.]

PORTLAND: (Massachusetts) PRINTED BY
Benjamin Titcomb, Jun.

1793.
PREFACE.

If we except the influence of religion upon the hearts of men, perhaps nothing conduces so much to the peace and order of a well governed community, as a strict observance of its Laws. — That the laws may be thus observed; a knowledge of them is absolutely necessary. For want of this, how many bring themselves into difficulty by steps which they would not otherwise have taken; or expose themselves to injuries from those who may take advantage of their ignorance.

To say nothing of other contentions in the law, which disturb the happiness of men, how often do we see the Heirs of deceased persons involved in the most violent disputes, and their estates wasted by expensive law-suits. A prudent attention to the operation of the law respecting such estates, by those who have estates
CONTENTS

The Laws.

1. For establishing Probate Courts
2. Prescribing the manner of devising Estates
3. For filing and recording Wills proved without the government
4. Respecting the Descent and Partition of Estates
5. Settlement and Sale of Estates
6. Appointment of Guardians
7. Dismissing of Guardians
8. Distribution of insolvent Estates
9. Commissioners to require an oath of Creditors
10. Respecting Executors and Administrators who live without the Commonwealth
11. Authorizing Courts of Law to enter judgment against the Estates of deceased persons
12. Regulating the proceedings on Probate Bonds
13. Act in addition thereto
14. Authorizing Executors and Administrators to sell Real Estate mortgaged, or taken in Execution
15. For limiting the time for prosecuting Executors and Administrators, and for perpetuating notice of sale, &c.
16. For settlement of the claims of Executors and Administrators by Reserves

Property law was a dominant concern in the new nation, and several of the earliest American texts focused on the subject. One of the photos below shows the portion of the preface in which Sullivan discusses the need for American law books, as opposed to relying on English legal scholars.
THE HISTORY
OF LAND TITLES
IN MASSACHUSETTS.

By JAMES SULLIVAN, LL.D.
Attorney General of that Commonwealth.

In quo breviter expositum est, quod antea ostinaret, et quod praebendi et quo desuetudine fuit innumeratum.

Printed at BOSTON,
By I. THOMAS and E.T. ANDREWS,
FOR THE AUTHOR.

AUGUST, 1801.
This provision seemed to carry with it an inhibition to the receiving any authorities from cases to be after that time decided in any other country, and to urge the necessity of a description of those Laws, which had been adopted and practiced upon. As there have been no accurate reports of adjudged cases, we have had no guide in this point, excepting what was derived from the recollection of men, conversant in Courts of Justice, and the records containing the pleadings in actions.

The idea of our having adopted legal maxims and principles from that nation, of which we have lately been a part, is a very honorable one to our country.

But having imported the seed, and sown it in our own soil, it would, in some measure, be relinquishing our independence, to be under a necessity for new importations. Could we fix our attention upon principles, which had been in use here before, risen from us, and with the mention of our us, as the pendent to that is an original sea shore, given in a

The fact that reduce the estates in the attempt, yet I have, in good one to the days to render th
here before the Revolution, find their connexion with our own usages, which have arisen from the peculiarity of our situation, and with the positive Laws of the State, we might thence raise a System on a foundation of our own; at least as peculiar to us, as the Jurisprudence of Great Britain is to that nation: For though Littleton is an original there, yet he wrote on the tenures which were brought from other countries. It is not becoming an independent nation to repair ordinarily to the sea shore, to listen for opinions recently given in a foreign realm.

The following Treatise is intended to reduce the principles which govern real estates in this Commonwealth, to an easy and concise System. However deficient the attempt may eventually appear to be, yet I have confidence that the plan is a good one; and that by a proper attention to the decisions of your Bench, for a few years to come, a second edition may render the attempt complete and useful.
Author Sullivan served as a member of the provincial congress of Massachusetts (1774-1775), a member of the general court (1775-1776), justice of the Massachusetts supreme judicial court (1776-1782), Massachusetts Attorney General (1790-1807), and governor of Massachusetts (1807-1808). He was admitted to the bar in 1782, after already serving six years in the state's supreme court. During his service as Massachusetts Attorney General (1790-1807), he authored a series of books on finance and history, in addition to legal issues. He was one of the founders of the Massachusetts Historical Society and the namesake of Sullivan Square in Charlestown. He died in 1808 while serving as governor.

Joseph Story was one of the most influential legal thinkers of his age and indeed in American legal history. This was the first book published under his name, though it is generally accepted that he anonymously wrote an early American form book, American precedents of declarations. Story was a practitioner in Salem when this volume was published. In the preface, he mentions the need for an American book on special pleading.
STORY'S CIVIL PLEADING
A SELECTION OF PLEADINGS IN CIVIL ACTIONS, SUBSEQUENT TO THE DECLARATION.

WITH OCCASIONAL ANNOTATIONS ON THE LAW OF PLEADING.

By JOSEPH STORY.

Salem:
PUBLISHED BY BARNARD B. MACANULTY.

JAN. 1805.
PREFACE.

The design of the following selection is to facilitate to the American student the practice of special pleading. A variety of English books on this subject are at once elaborate and learned. Yet such is the difference of our customs, statutes, and common law, that they will be found, in many instances, inadequate to supply the necessities of our own juridical practice. The compilations of Raffall, Coke, Thompson, Herne, and Brownlow, however valuable for the conciseness and precision of their forms, are profuse in ancient lore, applicable to special jurisdictions, or obsolete with feudal doctrines; and those of Mallory, Lilly, Morgan, and Wentworth, though highly useful, abound with matter calculated only for an English forum. These considerations, added to the high price of foreign books, suggested the present compilation.

In the arrangement of the pleadings method has been pursued, so far as it was deemed advantageous for facility of reference; but as portions only of the pleadings are occasionally selected, where the whole seemed unnecessary,
note story's references to Massachusetts cases...
REAL ACTIONS.

GENERAL ISSUES.

Plea. And the said D. comes and defends his right when, &c. and says, that he did not disaffire the said Demandants, as they by their writ and declaration aforesaid above suppose; and of this he puts himself upon the country.

Rost. Ent. 272. b. 275. b. 278. a.

Plea. Nul dissimulation.

Plea. And the said D. comes and defends, &c. when, &c. and, the former pleadings being waved, faith, he is not guilty of disaffire the Demandant, in manner and form as he hath above thereof declared against him; and thereof puts himself upon the country.

Ivers v. Hooper, Essex S. J. C. 1801.

T. Parsons.

Note.

These pleas are the proper general issues in writ of entry at the common law in England. The forms of the real actions in this state, have never been settled in exact conformity with those writs of entry; but have partaken partly of the nature of defence and novel Disjunction. "Nul guilty in manner and form, &c." was till lately in the most general use, and perhaps is not exceptional. Where the Defendant claims title, there seems to be no special plea in bar in our real actions. Everything may be given in evidence under the general issue.

Plea. By vouches.

Plea. And the said D., as tenant by his warranty, defence of his rights.

Plea. By vouches.

This work was quite popular and would ultimately go through four editions. Friend to Nathaniel Hawthorne and brother-in-law to Joseph Story, Oliver practiced law in Boston and wrote a number of books, mostly on the law. In the preface to this work, Oliver discusses the need for a work on this topic aimed specifically at American practitioners (a common sentiment expressed in the early American law texts). It was later described by legal bibliographer J. C. Marvin as “undoubtedly the best American manual upon conveyancing and use.”
PRACTICAL
CONVEYANCING,
A
SELECTION OF FORMS
OF
GENERAL UTILITY,
WITH
NOTES INTERSPERSED.

By Benjamin Lynde Oliver Jun.
COUNSELOR AT LAW.

BOSTON:
PUBLISHED BY CUMMINGS AND HILLIARD, NO. 1, CORNHILL.
Cambridge...Printed by Hilliard & Metcalf.
1816.
PREFACE AND ADVERTISEMENT.

The compiler thinks it incumbent upon him to make a few prefatory observations, as well by way of apology for the publication of the following sheets, as to apprise the reader of the nature and design of them.

Every gentleman of the profession of law in the practice of conveyancing, is frequently under the necessity of consulting some book of precedents. The works to which recourse is generally had on such occasions, are those which have been introduced into this country from England. These, from the excessive prolixity of the draughts contained in them, are either very bulky or very voluminous, and of course proportionally expensive. Besides, some of the titles of conveyancing contained in them, and many of the forms under the others, from the difference of laws, customs, and practice, are absolutely useless here. Nor is this all, most of those forms, which it may be useful to consult, no one thinks of following verbatim. Their great length, as well as the quantity of useless matter usually contained in them, would render the adoption of any such course very inconvenient. Much therefore still remains for the conveyancer

Massachusetts born and educated, Phillips was an insurance law practitioner and later was president of the New England Mutual Life Insurance Company. This represents one of the earliest American treatises on insurance law; five editions were ultimately published. Phillips authored several other legal works, including The Law of Patents for Inventions (1837), an early American intellectual property treatise.

One of the photos shows Phillips discussion of the risks covered when ships are insured. Notice the marginal notes which reference American cases, including opinions from the U.S Supreme Court and Massachusetts Supreme Judicial Court.
Treatise

ON THE

LAW OF INSURANCE.

BY WILLARD PHILLIPS.

Boston:

PUBLISHED BY WELLS AND LILLY, NO. 98, COURT-STREET.

Treadwell's Power Press.

1823.
Section 3. An Agreement for Insurance.

It is often desirable to conclude an agreement for insurance immediately, lest some intelligence should induce one party or the other to recede. Accordingly it is the practice with some of the English insurers, on agreeing upon a risk, to subscribe a slip, or short memorandum of the proposed insurance,(5) which, according to the statement of one of a special jury, and so probably a man practically acquainted with the course of business, is considered to be binding on the parties; but Lord Kenyon held that it was not legally binding for want of a stamp, (6) and Lord Ellenborough gave, in effect, the same opinion. (7) The reason here given why this slip, signed by the insurer, is not a valid agreement in England, shows that it would be so in the United States, while they have no stamp act, provided it contained the terms of the contract sufficiently expressed. It is not the general practice in the United States for insurers to subscribe any slip, though a memorandum of the contract is sometimes subscribed previously to executing the policy. The terms of the insurance being agreed upon, and nothing remaining but to make out the policy, the parties consider the risk to be assumed and the premium due, from that time. (a) But it does not appear that the parties

(a) The President of an insurance company in Providence, giving his testimony, said, 'in effecting or settling a policy, the assent of the parties to doing a thing, is in all respects as binding as the thing done, according to the usage and practice among underwriters.' And the practice and understanding of insurers generally, is according to this statement.

At Marseilles instead of a slip signed by the insurer, the broker made out a note containing an abstract of the risk and terms, and the underwriter subscribed to the policy in blank, leaving it to be filled up by the broker according to the note. But this note constituted no part of the contract, nor could it be used to correct any mistake in the policy. Signing policies in blank is contrary to the French

During the 1820s, two works sought to create an American version of Blackstone by analyzing the entire body of American law. The first was this nine volume work by Nathan Dane. It was an extremely important work, though it was ultimately eclipsed by the other effort—James Kent's commentaries on American Law. Royalties from the sale of Dane's magnum opus were used to found the Dane professorship at Harvard Law School—a position later occupied by none other than Joseph Story. Indeed, Story dedicated the first edition of his commentaries on the Law of Bailments (displayed in this exhibit) to Nathan Dane.
A
GENERAL ABRIDGMENT
AND
DIGEST OF AMERICAN LAW,
WITH OCCASIONAL
Notes and Comments.

BY NATHAN DANE, LL. D.
COUNSELLOR AT LAW.

IN EIGHT VOLUMES

1823
VOL. I.

BOSTON:
PUBLISHED BY CUMMINGS, HILLIARD & CO.
1823.
INTRODUCTION.

It is the intention in this introduction, concisely to state the object and plan of the work, the manner in which it has been formed, and the reasons for now publishing it.

At the close of the American revolutionary war, when the United States being an independent nation, it was very material to inquire and to know what was law in them, collectively and individually; also to examine, trace, and ascertain, what were the political principles, on which their system was founded; and their moral character, so essential to be attended to in the support and administration of this system; especially in selecting from the English laws, in force in a monarchy, once feudal, those parts of them adopted here, and remaining in force in our republic. With such impressions the author early turned his attention to these subjects, and in good earnest engaged in collecting materials upon them; and the more readily, as such a pursuit perfectly accorded with his professional and political employments, in which he engaged in the spring of 1782. He early found there was in the United States nothing like one collected body of American Law, or one collected system of American Politics; but all was found in scattered fragments. Scarce any native American Law was in print, but the colony statutes, charters, and some of the constitutions. No judicial decisions, made in America, of any importance, had been published, and but very few forms. The law enacted here was found separately published in many States, in Colony, Province, and State statutes. Our law labored under another material disadvantage; most of it was found only in English books; these were written and published to be used in England, not in America; a large part of which was of no real use here. No measures had ever been taken to ascertain, with any accuracy, what part of English law our ancestors had adopted in the colonies or provinces. The result was, our ablest lawyers were often unable to decide what parts of the English laws were in use here; and our students at law, often studied as laboriously the useless, as the useful parts of those laws. No one had attempted to embody our laws or po-

gould was an American jurist and early professor and administrator at the Litchfield Law School in Connecticut, the first law school in the states. Displayed closed is the first edition of his work on civil pleading—four more would be published in the 19th century.
TREATISE
ON THE
PRINCIPLES OF PLEADING,
IN CIVIL ACTIONS.

BY JAMES GOULD.

"It is one of the most honorable, laudable, and profitable (useful) things in our law, to have the
science of well pleading, in actions, real and personal."

ORDINE PLACITUDE SERVATO, SERVATOR ET JUS.

"The Law itself speaks by good pleading"—"as if pleading were the living voice of the Law itself."

BOSTON:
PUBLISHED BY LILLY AND WAIT
1832.

Jackson served as a justice of the supreme judicial court and was a member of the 1820 Massachusetts constitutional convention. He notes in the preface the paucity of American materials on the real action of ejectment and states that he endeavored to provide a digest of law and manual of pleadings adapted to American jurisprudence.
A TREATISE ON THE
PLEADINGS AND PRACTICE
IN REAL ACTIONS;
WITH PRECEDENTS OF PLEADINGS.

BY CHARLES JACKSON.

Quis denique adstrictis istis et compositisimis Actionum, Exceptionum, atque totius Judicii ordinandi peragendique formulis, multo celerius felicissime, quam hodierna illa in foro garririendi licentia, terminatas esse liceat non fatetur.

Prefat. ad Brissanum, de Formulis.

BOSTON:
PUBLISHED BY WELLS & LILLY.
1828.
The action of ejectment has never been in common
use in this part of our country; the writ of entry on
lasseisin being found a more convenient and effectual
remedy, and being maintainable in every case in which
ejectment would lie. When the claimant has lost his
right of entry, so that he cannot maintain ejectment,
is his only remedy, in England as well as in this country,
which might guide the researches and abridge the
bure of students and practitioners.

Several occasions the inconvenience

Luther Stearns Cushing was a prolific writer on Roman law and lectured at Harvard Law School on the subject for years; this was one of his few works on other topics. He served as Reporter for the Massachusetts Supreme Judicial Court from 1848-1853.
A PRACTICAL TREATISE
ON THE
TRUSTEE PROCESS,
OR
FOREIGN ATTACHMENT,
OF THE LAWS OF
MASSACHUSETTS AND MAINE;
WITH AN
APPENDIX,
CONTAINING THE STATUTES OF
MASSACHUSETTS, CONNECTICUT, RHODE ISLAND,
NEW HAMPSHIRE, VERMONT, AND MAINE,
ON THAT SUBJECT.

By L. S. CUSHING.

CAMBRIDGE:
BROWN, BAYLISS AND CO.
BOOKSELLERS TO THE UNIVERSITY.
BOSTON:
HILLIARD, GRAY AND CO.

1833.
Joseph Story (1779-1845) is one of the most important jurists and legal scholars in American legal history. A practitioner, supreme court justice, and Harvard Law professor, Story wrote widely on the law, legal topics as conflict of laws, equity, and bailments. Many of the works in this exhibit were either edited by him, written by him, or written by people (such as Simon Greenleaf) who were greatly influenced by his writings and teachings.

Often hailed as Story’s most important work, this three-volume treatise was the first major text on American constitutional law. Here, Story provides an extensive and comprehensive analysis of the U.S. Constitution and provides an intellectual basis for his judicial nationalism. He dedicated the work to his friend and colleague on the Supreme Court, Chief Justice John Marshall.
THE CONSTITUTIONAL CLASS BOOK:
BEING A BRIEF EXPOSITION OF THE CONSTITUTION OF THE UNITED STATES.

DESIGNED FOR THE USE OF THE HIGHER CLASSES IN COMMON SCHOOLS.

BY JOSEPH STORY, LL. D.

Base Professor of Law in Harvard University.

The unity of government, which constitutes you one People, is also dear to you. It is in harmony with the unity of your soul; and the safety of your own independence, the influence of your country in its relations, and your power of self-government, are all of your unity; and the unity of the People of the United States.

BOSTON:
HILLIARD, GRAY & COMPANY.
1834.

This treatise, the first of Story's commentaries and the first of his series of treatises on commercial law, was written while Story was an associate justice of the United States Supreme Court and the Dane Professor Law at Harvard Law School. The work is dedicated to his friend and the benefactor of his professorship, Nathan Dane. Nine editions of this treatise would eventually be published.
COMMENTARIES
ON THE
LAW OF BAILMENTS,
WITH
ILLUSTRATIONS
FROM
THE CIVIL AND THE FOREIGN LAW.

BY
JOSEPH STORY, LL.D.,
BACHE-PROFESSOR OF LAW IN HARVARD UNIVERSITY.

Leges autem a me edentur non perfectae (nam casaeq. infinitum), sed ipsae
summe rerum, atque sententiae. — Cic. de Legibus.

CAMBRIDGE:
HILLIARD AND BROWN,
BOOKSELLERS TO THE UNIVERSITY.

1832.
TO THE
HONORABLE NATHAN DANE, LL. D.,
DISTINGUISHED ALIKE
FOR PURITY, SIMPLICITY, AND DIGNITY
IN HIS PRIVATE LIFE;
FOR
TALENTS, LEARNING, AND FIDELITY
IN HIS PROFESSION;
AND FOR
PUBLIC LABOURS IN THE STATE AND NATIONAL COUNCILS,
WHICH
HAVE CONFERRED ON HIM AN IMPERISHABLE
FAME
AS A STATESMAN AND PATRIOT:—
THIS WORK,
THE FIRST FRUITS OF THE PROFESSORSHIP
FOUNDED BY HIS BOUNTY,
IS RESPECTFULLY DEDICATED
BY HIS OBLIGED FRIEND AND SERVANT,
THE AUTHOR.

Dedicated to James Kent, this first edition (seven more would follow) was the first systematic treatise on the topic of conflict of laws. It was widely acclaimed, and Story’s son, William, deemed it his father’s best work.
COMMENTARIES
ON THE
CONFLICT OF LAWS,
FOREIGN AND DOMESTIC,
IN REGARD TO
CONTRACTS, RIGHTS, AND REMEDIES,
AND ESPECIALLY IN REGARD TO
MARRIAGES, DIVORCES, WILLS, SUCCESSIONS, AND JUDGMENTS.

By Joseph Story, LL. D.,
Dane Professor of Law in Harvard University.

'Il semble donc toujours entre les nations une contradictoire perpétuelle de loi; peut-Être
s'enfermera-t-Êle perpétuellement entre nous sur base des rÈgles. Doit la nécessite de
d'utilisation des rÈgles, et des principes, qui pourront nous conduire dans le dÈcision des
questions, que cette variÈte peut faire naissance."

Beauvais, Treat de la PersonnalitÈ, §§, des Lois, Proclus.

BOSTON:
HILLIARD, GRAY, AND COMPANY.
1834.
TO THE

HONORABLE JAMES KENT, LL. D.

It affords me very sincere satisfaction to have the opportunity of dedicating this work to you. It belongs to a branch of international jurisprudence, which has been long familiar to your studies, and in which you have the honor of having been the guide and instructor of the American youth. I can trace back to your early labors in expounding the civil and the foreign law the motive and encouragement of my own far more limited researches. I wish the present work to be considered as a tribute of respect to a distinguished Master from his grateful pupil.

About thirty-six years since you began your judicial career, you have occupied the same seat of authority in the same State for the equal term of years. In the exercise of the Province of that function you have acquired a name, a character, which is not confined to your own Region, but which has extended over the whole Union. It has been the lot of the Federal legislators to introduce a number of alterations to the fundamental Constitution of the country, which have been made with your approbation, and which have not, in any degree, operated to diminish the respect entertained for your wisdom and integrity. These alterations, however, have produced a great number of cases, which have called for a judicial determination, in which you have been engaged. In the execution of these functions you have been always in your usual state of tranquillity; your mind has been at ease, your judgment has not suffered from the struggle.
shall diligently consider these questions, will not find them without serious embarrassment. They are incidentally treated in the Scottish decisions already alluded to; and the reasoning on each side is worthy of an exact perusal. The attempt to engraft foreign remedial justice upon domestic institutions has always been found extremely difficult; and, as we shall hereafter see, has led to the conclusion, that the safest and best rule is, to give remedies only to the extent, and in the manner, which the lex loci justifies and approves.

§ 228. In America, questions respecting the nature and effect of foreign divorces upon domestic marriages, and vice versa, have, as might be expected, been under discussion in our courts. In Massachusetts, in some early cases, the Supreme Court refused to interfere, and grant a divorce, where the parties lived in another state at the time the adultery was charged to have been committed, and the libellant had since that time removed into the state. These decisions seem mainly to have proceeded upon the construction of the local statutes, which conferred jurisdiction upon the Court in matters of divorce; but it was admitted, that the state to which the parties belonged had jurisdiction.
COMMENTARIES
ON THE
LAW OF AGENCY,
AS A BRANCH OF
COMMERCIAL AND MARITIME JURISPRUDENCE,
WITH OCCASIONAL ILLUSTRATIONS
FROM THE
CIVIL AND FOREIGN LAW.

BY JOSEPH STORY, LL.D.,
DANE PROFESSOR OF LAW IN HARVARD UNIVERSITY.

"The maritime law is not the Law of a particular country." — Lord Mansfield.
"If Law be a Science, and really deserve so sublime a name, it must be founded on principle,
and claim an exalted rank in the Empire of Reason." — Sir William Jones.
CIVIL AND FOREIGN LAW.

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"The maritime Law is not the Law of a particular country." — LORD MANFIELD.

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and claim an exalted rank in the Empire of Reason." — SIR WILLIAM JONES.

BOSTON:
CHARLES C. LITTLE AND JAMES BROWN.
M.DCCC XXXIX.
The present volume is the commencement of a series of Commentaries, which, in pursuance of the original scheme of the Dane Professorship, it is my design, if my life and health are prolonged, to publish upon the different branches of commercial and maritime jurisprudence. The task is truly formidable, and full of difficulties; and I approach it with a diffidence proportionate to the public sense of its importance, and to my own consciousness, that its perfect execution will require a leisure, and learning, and ability, which are very far beyond my reach. So various are the topics to be discussed, and so numerous the authorities to be consulted, that a whole life might well be spent in collecting and mastering the materials. Even when these should be brought together, the labor of analyzing the principles, and reducing them to a text of a moderate length, and to practical illustrations, necessary to explain and
Little, Brown was one of the most prolific publishers in America in the 19th century. It was founded in 1837 by Charles Little and James Brown; the company (and its progenitors Cumings & Hilliard and then Hilliard, Brown & Co.) published all of Justice Story's works.
Thanks to chuck whiting at bibliophemera.com for sharing this photo of an early Little, Brown invoice:
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COMMENTARIES
ON THE
LAW OF PARTNERSHIP,
AS A BRANCH OF,
COMMERCIAL AND MARITIME JURISPRUDENCE,
WITH OCCASIONAL ILLUSTRATIONS
FROM THE
CIVIL AND FOREIGN LAW.

By JOSEPH STORY, LL.D.,
ONE OF THE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES,
AND FOUNDER PROFESSOR OF LAW IN HARVARD UNIVERSITY.

BOSTON:
CHARLES C. LITTLE & JAMES BROWN.

LONDON:
A. MAXWELL, 32, BELL YARD, LINCOLN'S INN,


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"In Scotto Comitiis Comitiis Fidelis estiamur." - Com. Lib. 3, l. 32, 5, 5.


"Gornus potest juris ad resurrectio sacramentum; Majorumque baptizic adhibitam SOLIBII." -

Civ. 4, Legibus, Lib. 9, ch. 50.
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CHAPTER IV.
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CHAPTER V.
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CHAPTER VI.
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Notice the variety of sources cited by story—from Roman law to James Kent's commentaries on American Law.
CHAPTER III.

PARTNERSHIP BETWEEN THE PARTIES — COMMUNITY OF INTERESTS.

§ 15. In the next place, every partnership presupposes, that there must be something brought into the common stock or fund by each party.¹ But it is not necessary, that each should contribute or contract to contribute money, goods, effects, or other property, towards the common stock; for one may contribute labor or skill, and another may contribute property, and another may contribute money, according as they shall agree.² And for this there is good reason; and it is well put in the Roman law; Plerumque enim tanta est industria socii, ut plus societati conferat, quam pecunia. Item, si solus naviget, si solus perigrinetur, pericula subeat solus.³ Sometimes it happens, that each partner contributes only skill or labor, or services for the common benefit; as, for example, housewrights, or shipbuilders, or riggers, who are partners; or commission merchants, brokers, or other agents, whose partnership only extends to the profits of their business, and who have no capital.

¹ 3 Kent, Comm. Lect. 43, p. 24, 25, 4th edit.
² Colyer on Partn. B. 1, ch. 1, § 1, p. 10, 3d edit.; Peacock v. Peacock, 16 Ves. 49; Reid v. Hollinshead, 4 Barn. & Cresw. 878; Meyer v. Sharpe, 5 Taunt. 74; Waugh v. Carver, 2 H. Bl. 235, 246; 2 Bell, Comm. B. 7, ch. 1, p. 614, 5th edit.; 1 Stair, Inst. B. 1, tit. 16, § 2; Domat, B. 1, tit. 8, § 1, art. 7; Dob v. Halsey, 16 John. R. 34.
³ Dig. Lib. 17, tit. 2, l. 29, § 1; Pothier, Pand. Lib. 17, tit. 2, n. 3; Inst. Lib. 3, tit. 26, § 2; 1 Domat, B. 1, tit. 8, § 1, art. 7.

story dedicated this work to his friend and colleague Simon Greenleaf.
COMMENTARIES
ON THE LAW OF
BILLS OF EXCHANGE,
FOREIGN AND INLAND,
AS ADMINISTERED IN
ENGLAND AND AMERICA;
WITH
OCCASIONAL ILLUSTRATIONS FROM THE COMMERCIAL LAW OF
THE NATIONS OF CONTINENTAL EUROPE.

By JOSEPH STORY, LL.D.
ONE OF THE ASSOCIATES OF THE SUPREME COURT OF THE UNITED STATES,
AND LLACH PROFESSOR OF LAW IN YANKEE UNIVERSITY.

"Prohibition ergo et non seque strigas ad non potestias, quam habet ministrum, per
oom Legatum legati Ostuniae," Bucchisoni, De Origine, cap. 2, 3.
"Quemvis non est Suentius Cranioteropognus Legum Carioli non pot est sens, non
arn quam sensum similem commissus." Ibid. cap. 1, § 54.

BOSTON:
CHARLES C. LITTLE & JAMES BROWN.

LONDON:
A. MAXWELL & SON, 32, BELL YARD, LINCOLN'S INN,
Late Bookstellers to his late Majesty;
T. CLARK, EDINBURGH; MILLIKEN & SON, DUBLIN.

M. DCCCLIII.
TO

SIMON GREENLEAF, Esq., LL. D.

ROYALL PROFESSOR OF LAW IN HARVARD UNIVERSITY.

My dear Sir,

It was my original intention to dedicate to you the entire collection of my Juridical Works, when my labors in the Dane Professorship should be completed. But advancing years admonish me, that the term of my life may not be so far prolonged, as to enable me to reach the full consummation of my purposes. I avail myself, therefore, of the opportunity of dedicating this work to you, as a memorial of our long, uninterrupted, and confidential friendship. We have been coadjutors in the instructions

This was Story's last work—he died in September 1845. He had planned to write his next work on insurance law.
STORY ON PROMISSORY NOTES
COMMENTARIES
ON THE LAW OF
PROMISSORY NOTES,
AND
GUARANTIES OF NOTES,
AND
CHECKS ON BANKS AND BANKERS,
WITH
OCCASIONAL ILLUSTRATIONS FROM THE COMMERCIAL LAW OF
THE NATIONS OF CONTINENTAL EUROPE.

By JOSEPH STORY, LL. D.,
ONE OF THE JUDGES OF THE CIVIL COURT OF THE UNITED STATES,
AND PROFESSOR OF LAW IN HARVARD UNIVERSITY.

"Item in hic constitutione alteri obligatur de eo, quod alterius ab eo foret ut
muyr presentatur sequestrat."—Decr. Lib. 44, tit. 7, i. X. 8. B.
"Thin rigidus tamen obligaturus parceque est incognito, ut Mecenas caveat utique dixit
alteram aequi posse."—Horatian, De Cumb., cap. 6, 6 7.

BOSTON:
CHARLES C. LITTLE & JAMES BROWN.

LONDON:
A. MAXWELL & SON, 22, BELL YARD, LINCOLNS INN,
Law Booksellers and Publishers.

M DECE XLY.
law on this subject; and the decisions there made have acquired a commanding influence and interest throughout the commercial world.

In no one branch of the law is more fulness in the statement and exposition of principles required, than in that of Promissory Notes. I have endeavoured, therefore, to bring within the text all the leading principles, with such illustrations as might serve to explain and confirm them. In the notes, many of the authorities will be found collected, with such auxiliary comments, and citations from the opinions of learned judges and jurists, as might give more free and ample information, than the text could properly supply. I have borrowed largely from the able writers, who have preceded me, and have also borrowed some materials from my own former works upon kindred subjects. The latter course was indispensable in order to make the present work, as is its design, entirely independent in its structure and completeness from them. Upon a close examination, however, the learned reader will find, that few passages have been introduced into the text, which did not require
There were other influential legal texts that came out of Harvard Law besides those written by Story. Two of his associates were Simon Greenleaf and Theophilus Parsons. Greenleaf was a law professor and indeed succeeded Joseph Story as Harvard’s Dane Professor of Law. Parsons wrote widely on contracts, commercial law and maritime law and was a critically and commercially successful legal scholar.

Greenleaf’s evidence treatise is one of the most famous and enduring legal texts of the 19th century and is the foundational text of the law of evidence in the U.S. The work went through 16 editions. John Henry Wigmore edited and annotated the final edition and would go on to write *Wigmore on Evidence,* also published by Little, Brown in Boston. This lovely first edition, still in its original binding, belonged to Joseph Story and was inscribed to him by Greenleaf.
To

The Hon. Joseph Story
with the affectionate
regards of

J. Greenleaf

Another Dane professor of Law at Harvard, Parsons wrote several successful treatises, including *Law of Contracts*, *Law of Promissory Notes and Bills of Exchange*, *A Treatise on Maritime Law*, and the text displayed here. His father, also Theophilus Parsons, served as chief justice of the supreme judicial court.
LAWS OF BUSINESS
FOR
BUSINESS MEN,
IN ALL THE STATES OF THE UNION.

WITH
FORMS FOR MERCANTILE INSTRUMENTS, DEEDS,
LEASES, WILLS, &c.

BY THEOPHILUS PARSONS, LL.D.
PROFESSOR OF LAW IN THE UNIVERSITY AT CAMBRIDGE.

COMPILED BY THE AUTHOR PRINCIPALLY FROM HIS TREATISES ON THE LAWS OF
CONTRACTS, AND ON THE ELEMENTS OF COMMERCIAL LAW.

BOSTON:
LITTLE, BROWN, AND COMPANY.
1857.
THE

LAWS OF BUSINESS

FOR

BUSINESS MEN.

CHAPTER I.

OF THE PURPOSE AND USE OF THIS BOOK.

The title of this work indicates, to some extent, its purpose and character; but, as they are in certain respects peculiar, it is thought that some remarks respecting them may make the volume more useful.

Eight years ago, I accepted the office of Dane Professor in the Law School of Harvard University. I have employed whatever leisure the duties of that office have left me, in preparing a series of text-books on Commercial Law. I have already published three volumes, and I have others in preparation; and the manner in which those I have published have been received by my brethren, calls for my most grateful acknowledgments. The last of those works was entitled “The Elements of Mercantile Law,” and was intended as a general
writers less famous than story, greenleaf, and parsons also contributed to the growing lists of American legal treatises...
LEGAL AND POLITICAL HERMENEUTICS,
OR PRINCIPLES
OF INTERPRETATION AND CONSTRUCTION
IN LAW AND POLITICS,
WITH REMARKS
ON PRECEDENTS AND AUTHORITIES.
ENLARGED EDITION.

BY FRANCIS LIEBER.

BOSTON:
CHARLES C. LITTLE AND JAMES BROWN.
MDCCCXXXIX.
A PRACTICAL TREATISE;
OR, AN
ABRIDGMENT OF THE LAW
ATTENDING TO THE OFFICE OF
JUSTICE OF THE PEACE;
AND ALSO RELATING TO THE PRACTICE IN
JUSTICES' COURTS,
IN CIVIL AND CRIMINAL MATTERS,
WITH APPROPRIATE FORMS OF PRACTICE.

IN THREE PARTS.

BY E. HAMMOND, ESQ.,
COUNSELLOR AT LAW.

WEST BROOKFIELD:
PUBLISHED BY C. A. MIRICK & CO.
1841.
AMERICAN
CRIMINAL TRIALS.
BY PELEG W. CHANDLER.

VOLUME 1

BOSTON:
CHARLES C. LITTLE AND JAMES BROWN.
LONDON:
A. MAXWELL, 70 BELL TAND, LINCOLN’S INN.
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Trials of certain Negroes and others before the Supreme Court of New York, for a conspiracy to burn the city and murder the inhabitants, 1741, 211
TREATISE
ON
MARITIME LAW.

BY
HENRY FLANDERS.

BOSTON:
LITTLE, BROWN AND COMPANY.
1852.
§ 158. The ships of an enemy and the ships of a neutral engaged in transactions not permitted by the law of nations to the neutral character, such as violation of blockade, trading in contraband and interposition in the war, are subject to the right of capture.\(^1\) The property in a prize belongs originally to the sovereign of the captor. His grant alone vests it in others. When the capture is made by a public armed ship of a belligerent power, the condemnation is to the government. But the proceeds, by the general usage of nations, are distributed among the captors.\(^2\) The courts of a belligerent sovereign may be empowered to condemn directly to the captors. Thus by the act of 26th June, 1812, in cases of privateers duly commissioned for the capture, condemnation is to the owners, officers, and crew of the privateer.

§ 159. It was formerly held, that as between enemies when the *spes recuperandi* was gone, and the captors had actual possession of the prize, or when they had brought it to
TREATISE
ON THE
LAW OF HIGHWAYS,

BY
JOSEPH K. ANGELL, AND THOMAS DURFER.

BOSTON:
LITTLE, BROWN AND COMPANY.
1837.
The exhibit closes with a few notable works published before the rise of the west publishing empire in Minnesota. John B. west founded his company in 1872; it quickly became very successful and the company began buying up local and regional publishers. Little, Brown is one of the few that survived and thrived, but Massachusetts would not long remain one of the hubs of legal publishing.

This beautiful two volume set features a contemporary three-quarter calf binding over marbled boards and gilt spines with raised bands and lettering pieces. It begins with an early history of bondage and its construction in natural and positive law, then traces the effect of international law on freedom and bondage. Turning to the U.S., Hurd outlines the evolution of slavery under English law and the Constitution.
THE LAW
OF
FREEDOM AND BONDAGE
IN THE
UNITED STATES.

JOHN CODMAN HURD,
COUNSELLOR AT LAW.

IN TWO VOLUMES.
VOL. I.

BOSTON:
LITTLE, BROWN & COMPANY.
NEW YORK:
D. VAN NOSTRAND.
M.DCC.LVIII.
1786, June 22, c. 3. Act for the orderly solemnization of marriage. Sec. 7. "No person authorized to marry shall join in marriage any white person with any negro, Indian, or mulatto, under penalty of fifty pounds; and all such marriages shall be absolutely null and void."

1788, Mar. 25, c. 11. An act to prevent the slave-trade, and for granting relief to the families of such unhappy persons as may be kidnapped or decoyed away from this Commonwealth. Enacts that "No citizen of this Commonwealth, or other person residing within the same," shall import, transport, buy, or sell, any of the inhabitants of Africa as slaves."

appears to have been decided, that the issue of a female slave, though born prior to the Constitution, was free; 2 Kent's Comm. 205. If this be so the Constitution has received an interpretation which goes to divest the title of the master to break the bonds of the slave and to annul the condition of servitude. It emancipates and sets free by its own force and efficacy, and does not wait the enforcement of its principles by judicial decision. It is more operative than the common law and more resembles the effect of our statute, declaring free all slaves imported contrary to law. But this depends upon the construction of the Constitution of Massachusetts by its courts, which we would of course respect and follow, if we were sufficiently advised of them. But, without their reports here, we should perhaps venture too far to rest our decision upon the Massachusetts Constitution. It is not deemed

This small catalog remains in good condition with its original sewn wraps. The first 34 pages list law books for sale, while the remainder of the catalog is devoted to imported English and French books, including law journals. Most of the entries are accompanied by descriptions and often excerpts from reviews.
CATALOGUE

OF

LAW AND MISCELLANEOUS BOOKS

PUBLISHED BY

LITTLE, BROWN AND COMPANY,

LAW AND FOREIGN BOOKSELLERS.

BOSTON:
110 WASHINGTON STREET.

Christopher Columbus Langdell was the dean of Harvard Law School from 1870-1895 and pioneered the case method of teaching law students, which is still in use today. This text revolutionized legal instruction and is the model for the casebooks used by modern law students. It includes many cases, such as Adams v. Lindsell, which would be familiar to 1L contracts students even today.
A SELECTION OF CASES ON THE LAW OF CONTRACTS.

WITH REFERENCES AND CITATIONS.

By C. C. Langdell,

SANE PROFESSOR OF LAW OF HARVARD UNIVERSITY.

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

"It is your good to open the book at large, for many times comparinda nonem comparanda, and quidem et quod non esse quaevis minus visus."—Cic. Lett. 68.

"Your printed and orally reading one of the books at large, a absolutely deserve to be the right way to excel without and perfect knowledge."—Toods, on a key.

BOSTON:
LITTLE, BROWN, AND COMPANY.

1871.
A

SELECTION OF CASES

ON THE

LAW OF CONTRACTS.

WITH REFERENCES AND CITATIONS.

BY C. C. LANGDELL,

DAmE PROFESSOR OF LAW IN HARVARD UNIVERSITY.

PREPARED FOR USE AS A TEXT-BOOK IN HARVARD LAW
SCHOOL.
Charles Almy and Horace Fuller, *The Law of Married Women in Massachusetts*. Boston: George B. Reed, 1878.

Almy and Fuller were members of the Suffolk County Bar Association, and, in this book, they dissect the contemporary state of the law as it pertains to married women in the areas of contractual powers, real estate, criminal liability, divorce, child custody, wills and intestacy and many others.
THE

LAW OF MARRIED WOMEN

IN

MASSACHUSETTS.

BY

CHARLES ALMY, JR., AND HORACE W. FULLER.

OF THE SUFFOLK BAR.

BOSTON:
PUBLISHED BY GEORGE B. REED.
1878.
CHAPTER IV.

CRIMINAL LIABILITY.—TORTS.—ARREST.

CRIMINAL LIABILITY.

If a wife commits a criminal act in the presence of her husband, she is presumed to have acted, not of her own will, but under his coercion, and she will not be liable for it, but he will.¹ But she can be convicted by a rebuttal of this presumption, showing that she was not coerced.² There is no presumption of coercion if the criminal act is committed in the absence

² This exemption of the wife seems to extend at com.
Much of the information in this exhibit comes from the following sources:


Please come visit the physical exhibit, which will be on display in the Rare Book Room into spring 2012!