Noteworthy Publications Related to EARLY ENGLISH LAW

August 6, 2020
Thomas Lund

The Creation of the Common Law
The Medieval Year Books Deciphered

In this modern compilation and commentary, the most important medieval cases are paraphrased and analyzed, making this interesting and entertaining litigation accessible to everyone. Although Maitland’s classic History of English Law ends at Henry III’s death, until now no one has explained in clear modern language the transformative events that followed. After Edward I became king, Chief Justice Bereford took charge of the legal system, and created law in accord with his own sense of justice. The book puts his innovations into the context of contemporary American and English law.

THOMAS LUND, a Professor at the S. J. Quinney College of Law, University of Utah, was educated at Horace Mann School, Harvard College, and Columbia Law School. His Oxford University D. Phil. thesis was published as American Wildlife Law (1980). An Environmental Affairs review described Lund as “probably the leading authority on the history of wildlife law.” Lund has written about medieval law for many years.

xx, 371 pp.
Hardcover 2015
Talbot Publishing
ISBN 9781616195045
$75.

It is a staple of popular fiction — The Da Vinci Code is a prominent recent example — for a scholar, after inspired and painstaking work, to reveal hidden mysteries encoded in ancient manuscripts that alter our understanding of ourselves and our civilization. Remarkably, the legal scholar Thomas Lund, has, in real life, done just that. Here, after hundreds of years, is a readable, brilliant, and deep study of the sources of the basic principles of the Anglo-American Legal System still in use today — the medieval Year Books — until now utterly inaccessible except to a few specialists in the most arcane legal history. This amazing and delightful book will be of profound interest to anyone who has ever believed that the rule of law is about more than the arbitrary machinations of politicians. Simply stated, Thomas Lund has given us one of the most important works on law in this generation.

Stephen B. Presser
Raoul Berger Professor of Legal History
Northwestern University School of Law
c-o-author of Law and Jurisprudence in American History (8th ed. 2013)

The goal of Thomas Lund’s Creation of the Common Law is to render a selection of material from the Year Books accessible to an educated lay audience, which wants to understand how medieval English law actually worked. He has performed his task with a clarity and economy that are admirable—and with a certain beguiling whimsy. The book is altogether a stunning achievement and will be especially valuable for the light it throws on subjects dear to the hearts of medievalists who are not in themselves legal specialists, indeed, who have tended to avoid the linguistically forbidding Year Books.

William Chester Jordan
Princeton University

An innovative invitation to the fascinating world of the medieval English Year Books. Professor Lund opens this vast range of law reports to the scrutiny of students of modern as well as medieval law. Within his book, Chief Justice Bereford and Christopher Columbus Langdell meet to provide a highly original schooling in the early Common Law.

John Hudson
University of St Andrews

Modern lawyers and laypeople are often daunted by the inaccessibility of the early sources... It is for just this reason that this masterful compilation and commentary by Professor Thomas Lund offers such a great contribution to the study of the history and evolution of our legal culture.... On topic after topic, reading the colloquies at the bench, we can see all the players jockeying for rhetorical advantage.... One of the great joys of Lund’s writing is that he casts these materials as part of a complex narrative, organized by topic. Beautifully encapsulated in paraphrase, the cases preserve the urgency and spontaneity of the arguments.... Treat the book as a series of connected episodes that can be read in large or small chunks. Open up to any page or section, read for amusement and enlightenment, and then return to the larger text on some future day. These materials are rich, and they will richly reward those who are willing to work their way through them.

Foreword
Richard Epstein
New York University School of Law
"An Excellent Repertory Or Table for the Year Books"
With a New Introduction by one of the foremost scholars of early English law,
David J. Seipp
Professor of Law, Boston University

Robert Brooke [Brook]
La Graunde Abridgement
Collecte & Escrie per le Judge Tresreverend Syr Robert Brooke Chivaler,
Nadgairs Cheife Justice del Common Banke

Originally published: [London]: In Aedibus Richardi Tottelli, 1573. Cum privilegio. [iv], 360 ff.

[And]
La Secounde Part du Graunde Abridgement....

Originally published: [London]: In Aedibus Richardi Tottelli, 1573. [i], 2-338 ff.

Reprint of first edition. Sir Robert Brooke [d.1558] was renowned for his great learning and probity as a judge. His Abridgement is based on Fitzherbert’s Abridgement, but it contains much new material. In all, Brooke abridged nearly 21,000 cases and digested them alphabetically under 404 headings. It abridges fully the Year Books of Henry VII and Henry VIII. Brooke proceeded with great care and accuracy, and is believed to have had access to the original records of the Year Books. Coke calls the Abridgement "a worthy and painful work and an excellent repertory or table for the Year Books of the Law" (cited in Marvin’s Legal Bibliography 151-152).

With New Introductory Notes and Tables in Each Volume Naming all Justices and Serjeants,
and Listing Calendar Years of Law Terms,
by David J. Seipp
with Carol F. Lee of the District of Columbia Bar

The Year Books
Or Reports in the Following Reigns,
with Notes to Brooke and Fitzherbert’s Abridgments


Reprint of the Vulgate edition, with new detailed introductions that address the history, content and significance of the Year Books, and tables that list all justices and sergeants, as well as calendar years of law terms.

It is difficult to overestimate the importance of The Year Books. As Marvin put it in his Legal Bibliography (1847), these were the “venerable books” from which Littleton, Hobart, Hale and Coke drew “so much valuable ore, melting it into ingots and refining and sending it abroad as the correct coin of the common law” (756). As a series of notes on debates and points of pleadings they are primary sources for our knowledge of medieval common law.

The origin of The Year Books is unknown. Maitland believed that the earliest volumes were notes taken by law students in court copied for the use of pleaders in later cases. Holdsworth maintained that The Year Books, like other law reports, were records of cases made by lawyers for their own private use with no thought toward subsequent publication. Though it is not known when the first volumes were compiled, it is clear that the earliest cases date from 1268; the printed series continues to 1535. The first Year Books were printed in 1481-1482 by William de Machlinia. The Vulgate edition was published between 1678 and 1680; it remains the standard edition.
Selected Titles

Featuring New Introductions by David J. Seipp

**The First Treatise on English Law**

**Henry De Bracton**

*De Legibus et Consuetudinibus Angliae, Libri Quinque*

In *Varios Tractatus Distincti, Ad Diversorum et Vetustissimorum Codicum Collationem... Proxima Pagina Demonstrabit*

Originally published: London: Typis Milonis Flesher & Roberti Young, 1640. xii (v-xii new Introduction), [xxx], 444 [i.e. 442] fol. (916 pp.)

Reprint of the 2nd edition, which was a reissue of the 1st edition (1569). Text in Latin, Introduction in English. In Maitland’s words, it is “the crown and flower of English medieval jurisprudence” and “by far the greatest of our medieval law books.” Maitland, *Collected Works* II:43.

**William Hughes**

*The Grand Abridgment of the Law Continued*

Or, A Collection of the Principal Cases and Points of the Common-Law of England...

Published in the Twelfth Year of the Reign of Our Soveraign Lord Charles the Second, King of England, Scotland, France, and Ireland, &c.

Originally published: London: Printed by J.S. for Henry Twyford, George Sawbridge, Thomas Dring, and John Place, 1660-1662. 3 Volumes; with Appendix, in 3 books. Main text in double columns. XX (III-XX new Introduction), [47], 758, [86]; [50], 759-1576, [86]; [32], 1577-2132, [65], [36], 2133-2418, [64] pp.

Reprint of sole edition. Hughes, a barrister of Gray’s Inn, conceived this abridgment as a continuation of Robert Brooke’s *Graunde Abridgment* (1573).

“These volumes embrace but a short period, and the work is a mere supple-
ment to the earlier Abridgments, but it is a good authority.”

J.G. Marvin, *Legal Bibliography* (1847) 402

**Anthony Fitzherbert**

*La Graunde Abridgement Collecte par le judge Tresreverend Monsieur Anthony Fitzherbert... Cy Ensuit la Table pur Trover les Titles*

Originally published: London: Richard Tottell, 1577. 1 Volume. xxiii (iii-xxiii new Table of Contents, Introduction and Tables), [ii], 342 [i.e. 341]; [ii], 265; [ii], 66 ff. First and second parts of abridgment have title pages.

Reprint of the 2nd Tottell edition. Arguably one of the most imposing volumes in the history of English law, it was the first serious attempt to set the law down in systematic shape. A standard work in Great Britain, it was equally important in the American colonies. Thomas Jefferson owned a copy of this edition.

**Nicholas Statham**

*Abridgement of Cases*

Originally published: [Rouen: Guillaume Le Talleur, for Richard Pynson, c. 1490]. XVIII (V-XVIII new table of contents and introduction), vi, 188 ff. (total 402 pages).

The only English translation of the first book of its kind, enhanced by Professor Seipp’s detailed Table of Contents demonstrating the exhaustive scope of the work, followed by his new introductory essay. Statham’s Abridgment was originally published circa 1490. Drawn from the Year Books and arranged alphabetically, it contains 258 titles and about 3,700 notes on cases and points of law.

Facsimile of a Rare First Edition of the First Printed Abridgment

**Nicholas Statham**

*[Abridgement of Cases]*

Originally published: [Rouen: Guillaume Le Talleur, for Richard Pynson, c. 1490]. XVIII (V-XVIII new table of contents and introduction), vi, 188 ff. (total 402 pages).

Facsimile reprint of original in Harvard Law Library.

The first printed abridgement of English cases, this important text is now reprinted for the first time since 1490. This volume reproduces a facsimile of a rare first edition from the Harvard Law Library, which includes the later two-leaf index included in some copies. Generally attributed to Nicholas Statham, this abridgement covers cases from the reigns of Edward I to Henry VI. As Holdsworth notes in *A History of English Law*, it contains “some long reports that are not to be found in the Year Books” (II:543-44).

Hardcover 2013

10” x 14”

ISBN 9781616192419

$195.
Sir Francis Bacon
The Elements of the Common Laws of England Branched into a Double Tract
The One Contayning A Collection of Some Principal Rules and Maximes of the Common Law, With Their Latitude and Extent. Explicated for the More Facile Introduction of Such as are Studiously Addicted to That Noble Profession. [With] The Other: The Use of the Common Law, for the Preservation of our Persons, Goods, and Good Names. According to the Laws and Customs of this Land

With a new introduction by Steve Sheppard
University of Arkansas School of Law

Sir Edward Coke
The Reports of Sir Edward Coke, Knt.

Sir Edward Coke
The First Part of the Institute of the Laws of England
Or, A commentary upon Littleton... The Eighteenth Edition, Corrected

Sir Edward Coke
The Second Part of the Institutes of the Laws of England
Containing the Exposition of Many Ancient and Other Statutes

Sir Edward Coke
The Third Part of the Institutes of the Laws of England
Concerning High Treason, and Other Pleas of the Crown and Criminal Causes

Sir Edward Coke
The Fourth Part of the Institutes of the Laws of England
Concerning The Jurisdiction of the Courts

Bacon [1561-1626], one of the great intellectuals of the age, held the posts of Solicitor General, Attorney General and Lord Chancellor during the reign of James I. The Elements of the Common Laws of England is the general title for a work that is comprised of two different treatises: A Collection of Some Principal Rules and Maximes of the Common Laws of England and The Use of the Law, Provided for the Preservation of Our Persons, Goods and Good Names. The first contains twenty-five maxims, or regulae. They are remarkable for their stylistic vigor, intellectual rigor, meticulousness and clarity. The second treatise is a review of the history and practical application of criminal law, estate law, personal property law and the law of slander.


Hardcover 2011
ISBN 9781584772392
$595.

“The best and last [edition], which has superseded all older ones, is in English; the whole thirteen Parts in 6 vols. 8vo. London, 1826.” John W. Wallace, The Reporters (1882) 194-195. This edition is noteworthy for the inclusion of Coke’s complete prefaces. Sir Edward Coke [1552-1643] was considered to be the greatest legal practitioner of his day. Written between 1572 and 1616, The Reports are not reports in the conventional sense but highly detailed anthologies of precedents organized according to the cases they consider. A work of immense authority, it was often cited as The Reports, there being no need to mention the author’s name.

Sir Edward Coke
The Reports of Sir Edward Coke, Knt.


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Sir Edward Coke
The Reports of Sir Edward Coke, Knt.


Hardcover 2011
ISBN 9781584772392
$595.
Selected Titles

With New Introductions by Thomas Garden Barnes [1931-2010]
Professor of History & Law, University of California, Berkeley

[Richard] Crompton
Star Chamber Cases
Showing What Cases Properly Belong to the Cognizance of that Court. Reprinted from the Edition of 1630 or 1641
The Court of Star Chamber was established by the Crown in 1487 to try offences dealing with the safety of the state before a council. Its scope expanded over time to include a wider array of criminal matters and a limited number of civil matters, such as suits between corporations and prize cases. In its final years the court was infamous for cruelty, arbitrary nature and illegal extensions of power. It was abolished in 1641. Reprint of 2nd edition.

Hardcover 2008
ISBN 9781584778950
$95.

John Hawarde
Les Reportes del Cases in Camera Stellata, 1593 to 1609
From the Original MS. of John Hawarde
The Court of Star Chamber was established by the Crown in 1487 to try offences dealing with the safety of the state before a council. Its scope expanded over time to include a wider array of criminal matters and a limited number of civil matters, such as suits between corporations and prize cases. In its final years the court was infamous for cruelty, arbitrary nature and illegal extensions of power. It was abolished in 1641.

Hardcover 2008
ISBN 9781584779001
$195.

William Hudson
A Treatise of the Court of Star Chamber As Taken from Collectanea Juridica
Consisting of Tracts Relative to the Law and Constitution of England, Volume the Second
Reprint of the first edition. “This publication is intended to supply, in some degree, a repository for the preservation of such portions of scattered literature as relate to [the English] Constitution and form of government, the theory and practice of law, the jurisdiction of the several courts, and of such authorities and determinations of the courts as have wholly escaped the attention of our reporters, or which are but slightly or imperfectly recorded in their books; with other special arguments and opinions in cases of difficulty and importance.”: Preface.

Hardcover 2008
ISBN 9781584778943
$150.

Sir John Fortescue
De Laudibus Legum Angliae
A Treatise in Commendation of the Laws of England
With Translation by Francis Gregor. Notes by Andrew Amos and a Life of the Author by Thomas (Fortescue) Lord Clermont
Written in 1470, De Laudibus was intended for the instruction of Edward, Prince of Wales. Written in the form of a dialogue, this book contains one of the earliest sketches of the English legal system.

Hardcover 1999
ISBN 9781584770190
$40.

Sir John Fortescue
The Works of John Fortescue, Knight, Chief Justice of England and Lord Chancellor to Henry the Sixth
Now First Collected and Arranged by Thomas (Fortescue) Lord Clermont
Reprint of a privately printed original which was limited to 120 family copies, and consisting of two handsome, illustrated volumes. A majestic set, collected and arranged by Lord Clermont, a direct descendant. Fortescue [c. 1397 - c. 1479] was Chief Justice of the King’s Bench and later appointed Chancellor of England by Henry VI. His celebrated works are considered to be a masterly vindication of the laws of England and are essential to the student of the common law.

Hardcover 2009
10” x 14”
ISBN 9781584779582
$295.
Selected Titles

With a new introduction by Steve Sheppard
University of Arkansas School of Law

Abraham Fraunce
The Lawiers Logike
Exemplifying the Praecepts of Logike by the Practice of the Common Lawe
Originally published: London: William How, 1588. xxxvii (iii-xxi) new introduction; [xvii], [151] leaves (total 364 pp.).
Written in 1588, The Lawiers Logike is the first legal treatise to apply the tools of logic to legal argument. This was a controversial and new concept at the time because its thesis contrasts with common law and its unmethodical and disorganized approach to law. Its influence is still felt. It is a unique work in which Fraunce castigates "lazy lawyers" and mixes illustrations from poetry and prose with often quite technical illustrations from law treaties and case reports. In his introduction, Steve Sheppard points out that this "work informs three fields of American law: the study of legal analysis and argument, the intersection of law with other disciplines, and the moral justification of law itself." (Introduction, iii).

Frederic William Maitland
Francis C. Montague
A Sketch of English Legal History
Edited with Notes and Appendices by James F. Colby
In this work Professor Colby has gathered, annotated and arranged into a sequential history of English law numerous essays by Maitland and Montague.

The First History of the Common Law

[Sir Matthew Hale]
The History and Analysis of the Common Law of England
Originally published: [London]: Printed by J. Nutt, 1713. [iii, 264; [xvii], 173 pp.
Published anonymously, this highly respected work was the first history of the common law. Reprint of the first edition.

Fascinating Royal Wills from William the Conqueror to Henry the 7th

[John Nichols, Richard Gough]
A Collection of all the Wills Now Known to Be Extant, of the Kings and Queens of England, Princes and Princesses of Wales, and every Branch of the Blood Royal
From the Reign of William the Conqueror, to that of Henry the Seventh Exclusive. With Explanatory Notes and a Glossary
These wills are in their original language and often have brief introductions, annotations and postscripts. With a Glossary and "Additional Observations and Corrections."

"The ornament of the Common Law, and the most perfect and absolute work that ever was written in any humane science"
—Sir Edward Coke

Sir Thomas Littleton
T[omas] E[dyne] Tomlins, Editor
Lyttleton, His Treatise of Tenures, in French and English
A New Edition, Printed From the Most Ancient Copies, And Collated With the Various Readings of the Cambridge MSS.
This venerable work is a considered a landmark because it renounced the principles of Roman law in favor of a set of guidelines and doctrines drawn from the Year Books, and when necessary, hypothetical cases. With index. Parallel text in Law-French and English.

Incomparable Overview of British Law in the Medieval Era

Francis Morgan Nichols
Britton
The French Text Carefully Revised with an English Translation, Introduction and Notes
Probably originally compiled by John le Breton around 1290, it is the oldest English law book in French. Consisting of French text with parallel English translation and a glossary of French terms, this edition edited and translated by Nichols is considered the "standard edition." Along with Fleta, Britton is one of two significant law books produced during the reign of Edward I [1272-1307]. The origins of Britton may be traced to a project of Edward I to produce a digest of the English law in the spirit of Justinian’s Institutes.
Selected Titles

**Theodore F.T. Plucknett**

*A Concise History of the Common Law*


Reprint of the fifth, final and best edition.

**Sir Frederick Pollock**

*The Genius of the Common Law*


Holdsworth praised the eight lectures as a discussion of “…critical studies of aspects and characteristics of the common law which only an accomplished legal historian, a master of the modern law, and a professor of jurisprudence could have written.” Holdsworth, Some Makers of English Law 287.

**Sir Frederick Pollock and Frederic William Maitland**

*The History of English Law Before the Time of Edward I.*

Second Edition


The first systematic history based on modern historical methods, it addresses the period before the Norman Conquest in 1066, but deals primarily with the creation and establishment of the common law, a process initiated in the reign of Henry II (1154-1189) and concluded in the reign of Edward I (1272-1307). The first volume traces this history. The second volume treats the doctrines of the common law, including tenure, the law of personal condition, status and estate, and the jurisdiction and communities of the land. Gracefully written and enriched with countless references, this is an essential book.

**Reginald Lane Poole**

*The Exchequer in the Twelfth Century*


The English Exchequer of the twelfth century developed sophisticated notarial and administrative skills and was an important precursor to the modern centralized state. Poole examines its history, organization and primary documents, including the pipe rolls and red and black books, and demonstrates that its reorganization during the reigns of Edward I and II had a decisive influence on the institutional systems of the king’s continental possessions.
Selected Titles

“His great intellectual qualities justify us in regarding him both as the pioneer of the select band of English legal historians, and one of the most eminent of its representatives.”

William S. Holdsworth, The Historians of Anglo-American Law 50-51

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With New Introductions and Scholarly Materials by David J. Seipp, Professor of Law

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