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GARNER

BLACK'S
LAW DICTIONARY

SEVENTH EDITION



BOUVIER'S
LAW
DICTIONARY
UNABBREVIED

A COMPACT
ENCYCLOPEDIA
OF THE LAW

RAMSAY'S
THIRD EDITION
VOL. 1 A-K

LAW
DICTIONARY

THE
INTERPRETER
—
COV. 21

JACOBS'S
LAW
DICTIONARY

JACOBS'S
LAW
DICTIONARY

JACOB

NEW LAW
DICTIONARY

CUNNINGHAM
LAW
DICTIONARY

VOL. III

R-Z

CUNNINGHAM
LAW
DICTIONARY

VOL. I

A-E

DICTIONARIES AND THE LAW



Boston College
Law Library



DANIEL R. COUILLETTE
RARE BOOK ROOM



Fall 2019

DICTIONARIES AND THE LAW

BOSTON COLLEGE LAW LIBRARY
DANIEL R. COQUILLETTE RARE BOOK ROOM

Fall 2019

Curated by:
Laurel Davis

ACKNOWLEDGMENTS

The Law Library is deeply grateful to Professor Daniel R. Coquillette, J. Donald Monan, SJ, University Professor, for shepherding this exhibit into existence with his unflagging support and enthusiasm, as well as his past donations and generous loans of dictionaries that populate the exhibit.

Professor Coquillette also gave the great gift of connecting us with Professor Bryan A. Garner, lexicographical legend and editor in chief of Black's Law Dictionary. Professor Garner and his wife Karolyne generously loaned us three books from their personal library. In conjunction with this exhibition, Garner will visit BC Law and impart his knowledge of dictionaries and the importance of clear, precise language to the law students, lawyers, legislators, judges, and laypeople who interact with the law every day.

Many thanks to everyone who has helped with the exhibit, with special gratitude to the following: Filippa Anzalone, for her leadership and unwavering support for special collections; Helen Lacouture, for cataloging the many books in our collection, including several new acquisitions for this exhibit; Tuananh (Mo) Truong, for generously sharing his time and creativity as a photographer and providing the cover photographs, front and back; Lily Dyer, for creating our beautiful exhibit webpage; and Alex Barton, for his proofreading prowess and generous help organizing exhibit events.

DICTIONARIES AND THE LAW



The law is a profession built on words, so it is no surprise that dictionaries represent a key component of our professional literature. From John Rastell's *Termes de la Ley* in the sixteenth century to Bryan A. Garner's most recent edition of *Black's Law Dictionary*, dictionaries have helped lawyers and judges grapple with words and phrases that are often challenging and obscure. For law students, dictionaries—general or law-specific, online or in print—can help with the daunting task of learning a new professional language with old roots, often in Latin and French.

Lawyers and judges regularly cite dictionaries in briefs, oral arguments, and opinions as they endeavor to interpret the language in constitutions, cases, statutes, and regulations. These citations include both law and general dictionaries, new and old. Since definitions evolve over time, historical dictionaries are often cited as evidence of what particular terms meant at the time of drafting.

Lawyers and judges, including Supreme Court justices, have been known to pick and choose dictionaries based on which one or ones best support a given interpretation. As you will see, dictionaries are not the objective, apolitical sources that one might expect.

While courts at all levels and in all jurisdictions cite dictionaries, this exhibit often will reference citations by the U.S. Supreme Court, which first cited a dictionary in 1805. As such citations have increased dramatically in recent decades, many scholars and court watchers have observed the trend with interest—and often criticism—as justices can cherry-pick dictionaries and ignore the larger context in which a word is used.

Although the upward citation trend has been attributed to Justices Scalia and Thomas and the rise of textualism, it bears noting that law professors James J. Brudney and Lawrence Baum “found little apparent relationship between dictionary use and ideology” in their in-depth analysis of Supreme Court dictionary citation patterns. They note that Justice Breyer is one of the most frequent citers of dictionaries in his opinions (“Oasis or Mirage” 489).

We hope you enjoy this introduction to some of the dictionaries that have been consulted by law students, lawyers, and judges, and cited by courts over the past 500 years.



CABINET 1

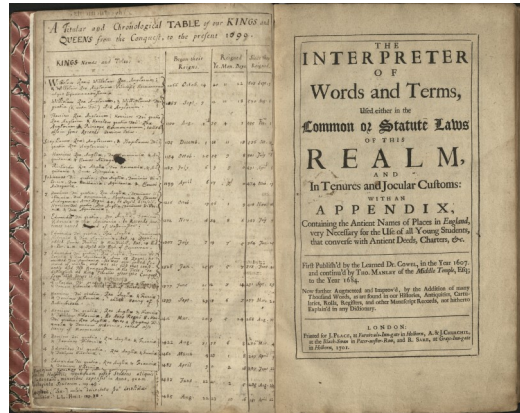
THE “BIG” ENGLISH LAW DICTIONARIES

Many early English dictionaries were physically imposing books—large folio volumes that cannot be safely opened in the tight confines of our exhibit cabinets. Before discussing the very earliest of the English law dictionaries (Rastell’s *Termes de la Ley*), we used one of the large flat cabinets at the front of the Rare Book Room to open two important examples.

John Cowell, *The Interpreter of Words and Terms*. . . London, 1701.

Cowell (1554–1611) was an English civilian lawyer and law professor. Soon after his dictionary hit the market in 1607, Cowell found himself in hot water and his book in flames. His definitions of terms like *king* and *prerogative of the king* put him in the middle of a power struggle between the king and the House of Commons that led to the book's suppression. This copy includes previous owner Samuel Burton's handwritten table of monarchs. Burton also made a list of words omitted in the dictionary. More on John Cowell in Cabinet 3.

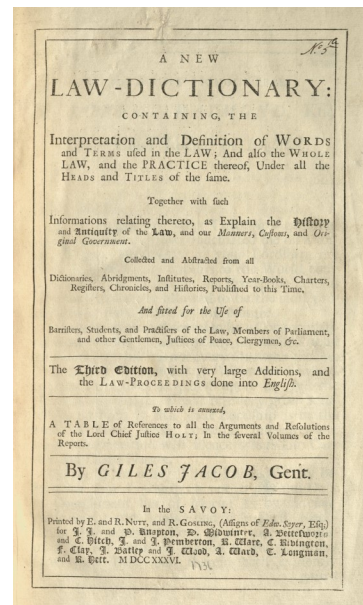
Gift of Daniel R. Coquillette



Giles Jacob, *A New Law-Dictionary*. . . London, 1736. 3d ed.

Jacob's dictionary was first printed in 1729, well over a century after the first printing of Cowell's *Interpreter*. Jacob (1686–1744) wrote a plethora of legal works—including one called *Every Man His Own Lawyer*—that helped average citizens understand their rights and obligations under the law. Understanding the meaning of legal terms was a key part of this self-education. More on Giles Jacob in Cabinet 4.

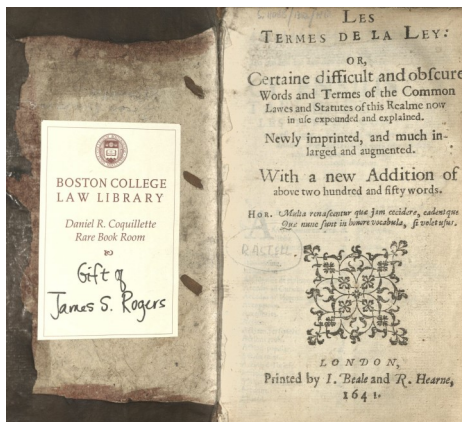
Gift of Kathryn "Kitty" Preyer



CABINET 2

JOHN RASTELL'S LAW DICTIONARY was the first English-language dictionary of any type, with its alphabetical arrangement of terms and their definitions. First published in Anglo-Norman French around 1523 as *Exposiciones Terminorum Legum Anglorum* (the title page was in Latin), it became known as *Les Termes de la Ley* ("Terms of the Law"). Rastell's son, William, a distinguished legal writer in his own right, provided the English translations and subsequent updates.

Beyond his work as a legal writer, John Rastell was a printer, barrister, mathematician, dramatist, and member of Parliament, as well as brother-in-law and friend to Thomas More (he married More's sister Elizabeth). After embracing Lutheranism and suffering some financial and political setbacks, including a dispute with Henry VIII over tithes, Rastell died impoverished in the Tower of London in 1536.



John Rastell, *Les Termes de la Ley*. . . . London, 1641.

This 1641 edition is the earliest Rastell dictionary in our collection. It represents one of over twenty-five editions in the book's printing history.

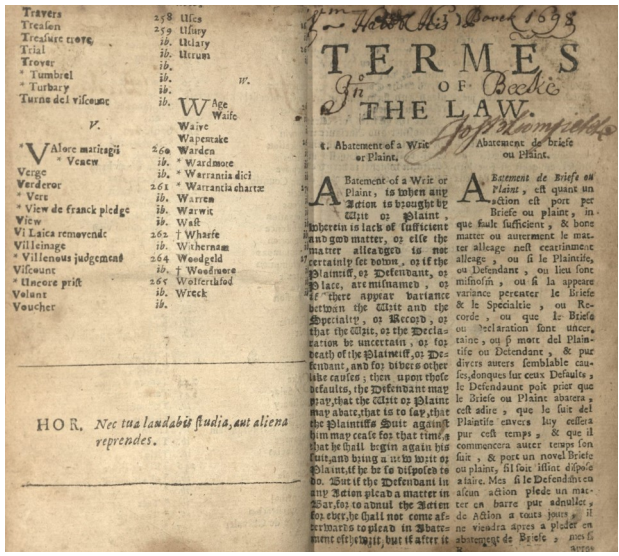
Gift of James S. Rogers

John Rastell, *Les Termes de la Ley*. . . . London, 1659.

Rastell's law dictionary, like many early dictionaries and abridgments, begins its alphabetical arrangement with *abatement* and ends with *wreck*. You can see some

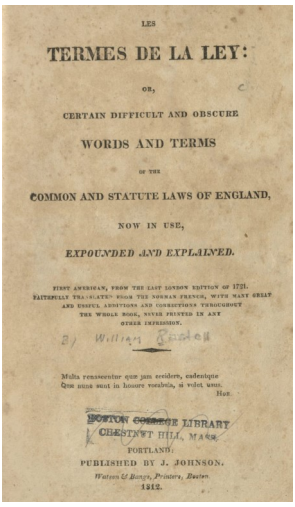
signatures of early owners and the work's dual-column layout, with the entries on the left in English and the right in Anglo-Norman French.

Gift of Frank Williams Oliver



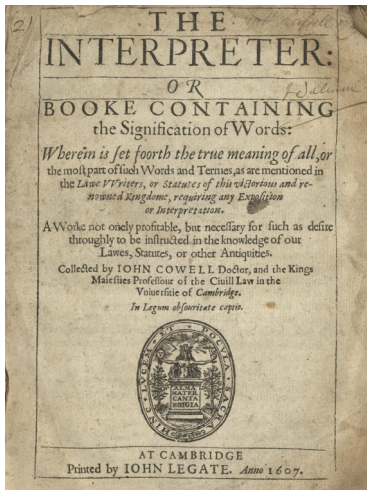
John Rastell, *Les Termes de la Ley*. . . Portland, Maine, 1812.

This is the first American edition (printed from the final London edition of 1721), proving the work's usefulness after 285 years of being in print and an ocean away from its original place of publication. Giles Jacob's *A New Law Dictionary* beat it by a mere year as the first law dictionary published in the US. This particular copy used to be part of Boston College's circulating collection before its move to the Rare Book Room; it even has a library card and pocket inside the back cover.



CABINET 3

JOHN COWELL (1554–1611) built on Rastell’s work by adding entries and discussing historical sources. Cowell’s law dictionary quickly generated controversy with its criticism of common-law hero Thomas Littleton and its definitions suggesting the absolute power of the monarch. Edward Coke spearheaded the opposition, claiming that Cowell was an enemy of the common law, though common lawyers had used other definitions in Cowell’s dictionary to support their positions in other debates. In a move that constitutional scholar Gary McDowell describes as a deft political maneuver, Coke’s enemy Francis Bacon convinced James I to suppress the dictionary via an exercise of his prerogative power. The royal proclamation banning the book and ordering all copies to be burned came down in March 1610.



John Cowell, *The Interpreter: Or Booke Contain- ing the Signification of Words*. . . London, 1607.

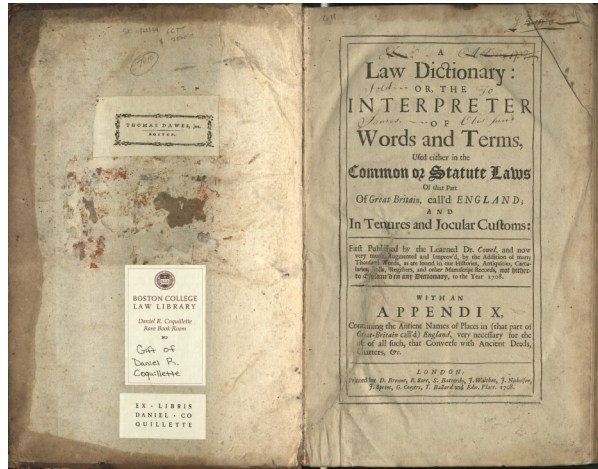
This is our prized first edition—a fair number of copies survived the suppression and burning order. The front cover has detached from the book over the course of its life. Two of the major definitions at issue in Cowell’s work: *king* (“him that hath the highest power & absolute rule over our whole Land. . . . [H]e is above the law by his absolute power”) and *prerogative of the king* (“that especiall power, preeminence, or privilege that the King hath in any

kinde, over and above other persons, and above the ordinarie course of the common law, in the right of his crowne”).

Gift of Daniel R. Coquillette

John Cowell, *A Law Dictionary: Or, the Interpreter of Words and Terms Used Either in the Common or Statute Laws. . . .* London, 1708.

This copy of Cowell's dictionary was once owned by famous patriot and lawyer James Otis Jr. (1725–1783) and later by Thomas Dawes Jr. (1757–1825), justice of the Supreme Judicial Court of Massachusetts and member of a well-known, Revolution-era family.



Gift of Daniel R. Coquillette

CABINET 4

GILES JACOB (1686–1744) was a prolific English legal writer whose major works include his *New-Law Dictionary* (London, 1729), which both Jefferson and Adams owned; *The Student's Companion* (London, 1725), a guide to studying the law; and *Every Man His Own Lawyer* (London, 1736), a legal self-help manual aimed at providing ordinary people a working knowledge of the law. In that vein, his definitions tilt in a more Lockean “consent of the governed” direction than Cowell’s. For example, Jacob’s definition of the term *king* includes the reminder that the king takes an oath “to govern the People of this Kingdom, according to the Statutes in Parliament agreed on, and the Laws and Customs of the same.”

Jacob, *A New Law-Dictionary*. London, 1729.

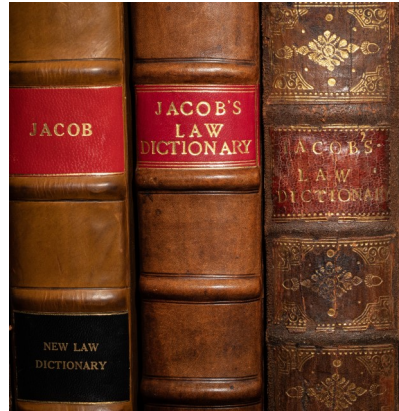
Gift of Kathryn “Kitty” Preyer

Jacob, *A New Law-Dictionary*. London, 1732.

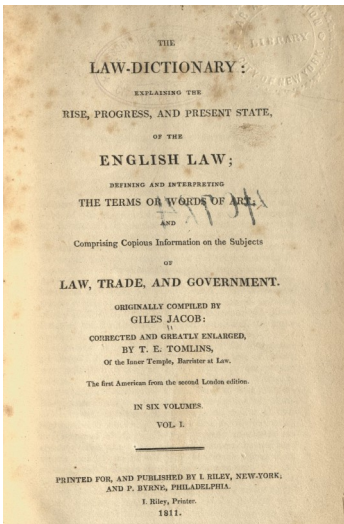
Gift of Daniel R. Coquillette

Jacob, *A New Law-Dictionary*. London, 1762.

Gift of James S. Rogers



These three volumes represent the first, second, and eighth editions of Jacob’s influential dictionary. Our friends at Lawbook Exchange explain that Jacob carefully omitted obsolete terms and added commentary that was both more detailed and more concise than that in earlier dictionaries. Jacob cited cases, statutes, and historical sources, making it a hybrid law dictionary and abridgment.



Giles Jacob and T.E. Tomlins, *The Law-Dictionary: Explaining the Rise, Progress, and Present State, of the English Law; Defining and Interpreting the Terms or Words of Art. . . .* New York, 1811. 6 vols.

This is the first American edition of Jacob’s dictionary and the first law dictionary published in the U.S. T.E. Tomlins took over the publication in the late eighteenth century. His additions made the work more of an encyclopedia than a concise dictionary, with long entries expounding on the state of the law. This and other editions of Jacob’s work have been cited seven times by the U.S. Supreme Court, most

recently by Justice Scalia in 2012 and Justice Thomas in 2011.

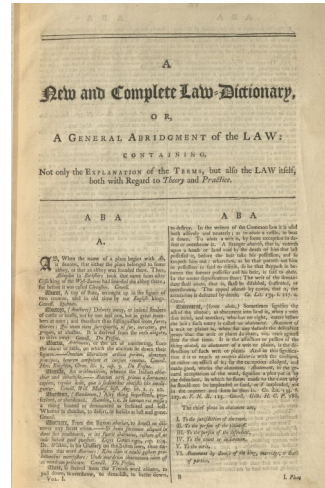
CABINET 5

TIMOTHY CUNNINGHAM AND RICHARD BURN were two well-known legal writers who compiled their own law dictionaries in the decades following Jacob's work. Cunningham (1718?-1789) likely was born in Ireland; he was a member of Middle Temple and lived for decades at Gray's Inn in London. Burn (1709-1785) was an English justice of the peace and legal scholar best known for his *Justice of the Peace and Parish Officer* (London, 1775), which went through twenty editions.

Timothy Cunningham, *A New and Complete Law-Dictionary, or General Abridgment of the Law. . . .* London, 1771. 2d ed. 2 vols.

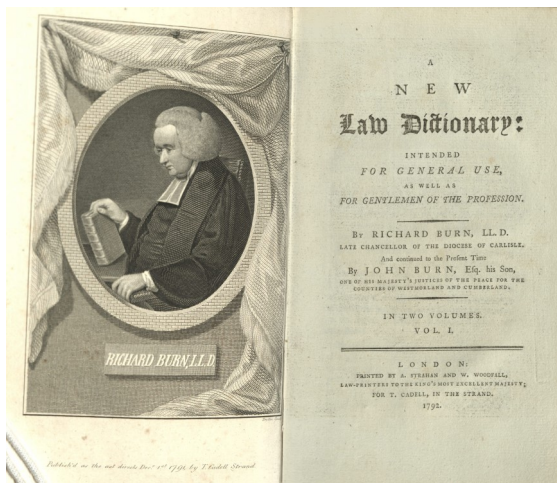
In his introduction to the 2003 reprint of Cunningham's dictionary, Bryan A. Garner, editor in chief of *Black's Law Dictionary*, explains that Cunningham produced this work to compete with Giles Jacob's dictionary. Due to the popularity of Jacob's relatively compact one-volume work, Cunningham's law dictionary simply could not compete. However, it remains a work of historical importance. The Supreme Court has cited it around ten times, including a 2008 citation in *District of Columbia v. Heller*.

Gift of Daniel R. Coquillette



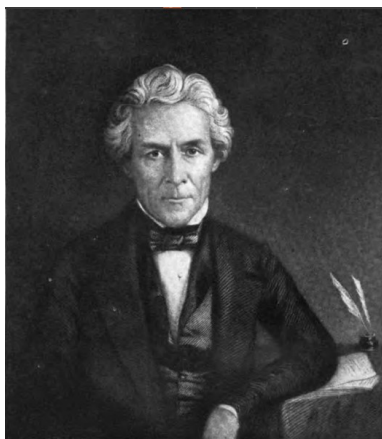
Richard Burn and John Burn, *A New Law Dictionary: Intended for General Use, as Well as for Gentlemen of the Profession.* London, 1792. 2 vols.

After Richard Burn's death, his son John completed his manuscript and submitted it for publication. In his preface, John Burn proudly writes that his father created this work himself, not merely copying and updating earlier dictionaries. He



writes that his father prepared the dictionary “for the use and information of those who wish to have a rational knowledge of matters relating to their lives, properties, and other essential interests.” Burn also stripped out obsolete Law-French definitions, making room for new, more detailed entries. Justice Alito cited this dictionary in 2019 for the definition of the word *offence*.

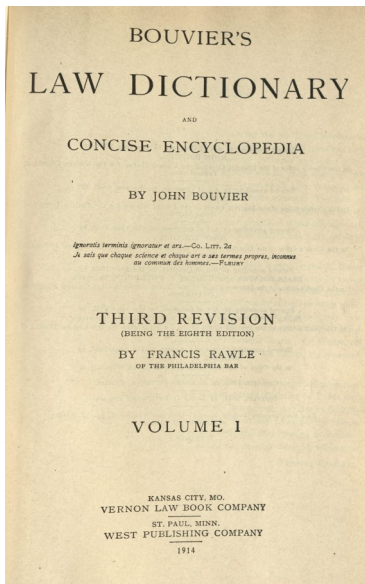
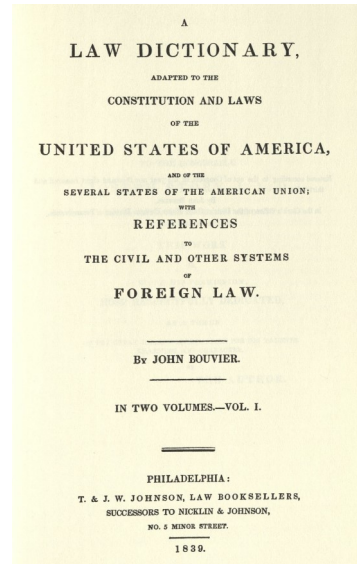
CABINET 6



JOHN BOUVIER (1787–1851) wrote the first dictionary based on American law. It was the preeminent American law dictionary until *Black’s Law Dictionary* surpassed it in the early to mid-twentieth century. Although Giles Jacob’s British law dictionary was published in New York in 1811 and Noah Webster’s general dictionary became available in 1828, we were without an American law dictionary until 1839 when Bouvier, a French immigrant and Philadelphia lawyer and judge, published his work. Over the last 180 years, Bouvier’s dictionary has gone through multiple editions and editors. In 2012, after a long hiatus, it was revised and brought back into publication as *The Wolters Kluwer Bouvier Law Dictionary*. It has been cited about 150 times by the U.S. Supreme Court.

John Bouvier, *A Law Dictionary Adapted to the Constitution and Laws of the United States of America*. . . . Philadelphia, 1839 (1993 reprint by Lawbook Exchange).

In the preface to the first edition, Bouvier writes of the frustration he experienced with existing dictionaries. He explains that they—including those written by Rastell, Cowell, Jacobs, Cunningham, and Burn—“were written for another country possessing laws different from our own, and it became a question how far [these dictionaries] were or were not applicable here. . . . And there is a great portion which, though useful to an English lawyer, is almost useless to the American student.” To address that gap, Bouvier created a concise law dictionary specifically for an American audience with citations to U.S. law.



John Bouvier and Francis Rawle (ed.), *Bouvier's Law Dictionary and Concise Encyclopedia*. Kansas City and St. Paul, 1914.

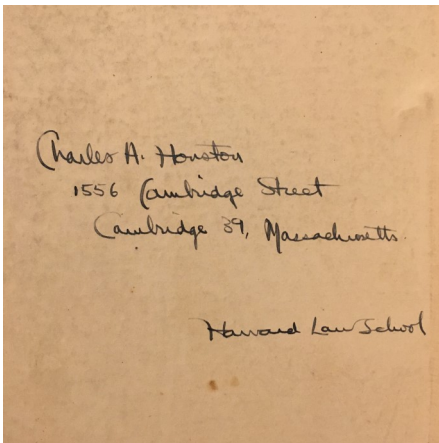
After Bouvier's death, Philadelphia lawyer Francis Rawle revised and updated his dictionary, going through three revisions as editor. Bryan A. Garner explains that Rawle “rejected [Bouvier's] concise approach and moved once again more toward an overdeveloped encyclopedic treatment.” He believes that this is why Bouvier's work ultimately faded away. Rawle was an overseer of Harvard University and a founder of the American Bar Association.

On generous loan from Daniel R. Coquillette

CABINET 7

BLACK'S LAW DICTIONARY is an iconic title in American legal literature. Pennsylvania lawyer and legal scholar Henry Campbell Black (1860–1927) wrote his *Dictionary of Law* with the aim of creating the first comprehensive law dictionary. It was a direct competitor to *Bouvier's Law Dictionary* and eventually eclipsed it, becoming the standard. Black himself edited the first two editions but died before the publication of the third edition. *Black's Law Dictionary* is now in its eleventh edition; its editor in chief is **Bryan A. Garner**, famed lexicographer and grammarian, author of *Garner's Modern English Usage* and many other titles, founder and President of LawProse Inc., Distinguished Research Professor of Law at Southern Methodist University, and book collector.

Henry Campbell Black, *A Dictionary of Law*. . . . St. Paul, 1891 (1991 reprint). Lawbook Exchange reprinted the first edition of *Black's Law Dictionary* in 1991 in honor of the centennial of its initial publication. By 1901, it was already being referenced by the Supreme Court: Justice Brewer cited it for the definition of *common law*.



Henry Campbell Black, *A Law Dictionary*. . . . St. Paul, 1910.

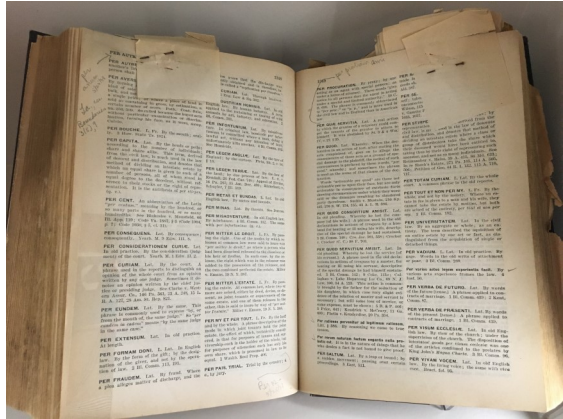
This second edition of *Black's* belonged to Charles Hamilton Houston (1895–1950), the great NAACP attorney and dean of Howard Law School. The front pastedown includes his signature and address from his first year at Harvard Law School 99 years ago this fall.

On loan from the library of Karolyne and Bryan A. Garner, Dallas, Texas.

Henry Campbell Black, *Black's Law Dictionary*. . . . St. Paul, 1933.

This is West Publishing's in-house corrected copy of *Black's* third edition for use in preparing the fourth edition, displayed open to some revisions in the P section.

On loan from the library of Karolyne and Bryan A. Garner, Dallas, Texas.

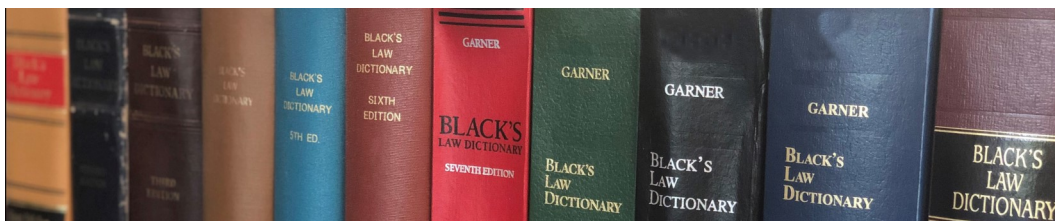


CABINET 8



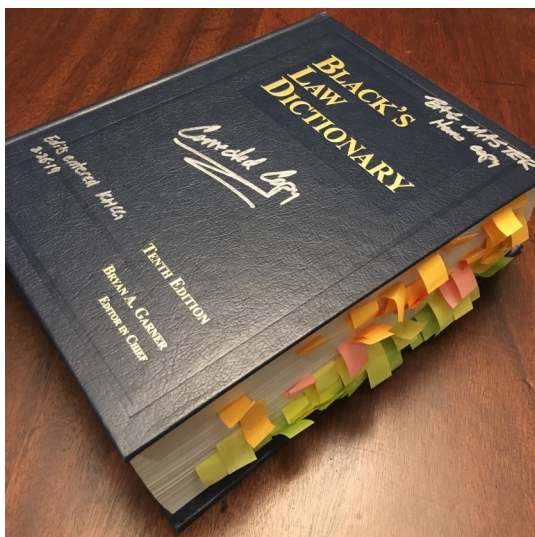
Photo by Karolyne H.C. Garner

BRYAN A. GARNER has been at the helm of *Black's Law Dictionary* as its editor in chief for the past 25 years. Garner rigorously applies principles of modern lexicography and systematically combs the world of legal literature for new terminology and previously overlooked historical sources. Often described as the most widely cited lawbook in the world, *Black's* has been cited by the U.S. Supreme Court in over 330 opinions, sixteen of which came in the 2018-19 term alone (representing citation in almost 25 percent of the court's merit opinions for that term).



Bryan A. Garner, *Black's Law Dictionary*. St. Paul, 1999.

The seventh edition of *Black's* (above, red binding) was the first with Garner onboard as editor in chief. When faced with the editorship offer from West Publishing, he “accepted on the condition that [he’d] have free rein to remake the grand old book to bring it in line with established principles of lexicography.” With that understanding in place, Garner revamped the dictionary. Changes included 4,500 new entries, a thorough revision of the other 20,000 entries, clear pronunciation symbols, over 2,000 new quotations from works of Anglo-American legal scholarship, and the novel addition of bullets to differentiate definitional from encyclopedic information.



Bryan A. Garner, *Black's Law Dictionary*. St. Paul, 2014.

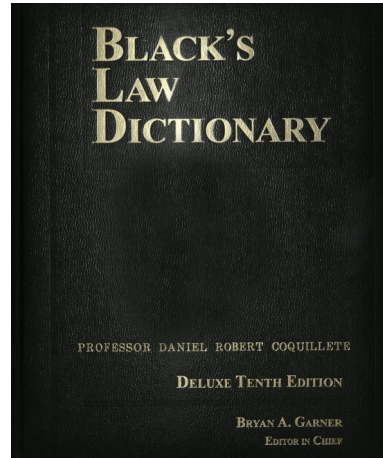
This is one of about fifteen copies of *Black's Law Dictionary* (tenth edition) that Professor Garner marked for revisions to be incorporated into the massively revised eleventh edition. The tabs indicate necessary changes ranging from substantive definitional edits to updated cross-references.

On loan from the library of Karolyne and Bryan A. Garner, Dallas, Texas.

Bryan A. Garner, *Black's Law Dictionary*.
St. Paul, 2014.

This deluxe copy of the tenth edition was presented to Professor Coquillette in gratitude for his contributions. This edition included 7,500 new entries and doubled the number of sources quoted and cited. Garner explains in his preface that quotations from caselaw were minimized due to the context-specific nature of those discussions.

On generous loan from Daniel R. Coquillette

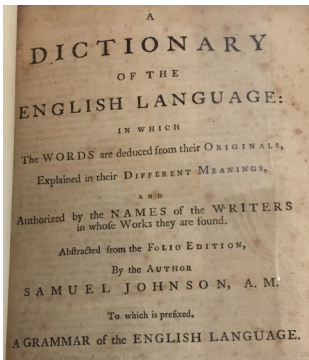


CABINET 9

JUSTICES OF THE UNITED STATES SUPREME COURT have cited dictionaries in about 1,000 opinions in their struggles to interpret the words used in statutes, regulations, and decisional law. The Court's first dictionary citation came in 1805 in *Adams v. Woods* with a reference to Thomas Cunningham's law dictionary (Cabinet 5). As the chart in this section illustrates, citations have increased dramatically in recent decades. *Black's Law Dictionary* holds an easy lead with law dictionaries, while citations to general English-language dictionaries like those of Webster and Johnson also abound.

Samuel Johnson, *A Dictionary of the English Language*. . . . London, 1756.

Johnson's legendary dictionary, first published in 1755, set the standard for the English language, with over 40,000 entries and over 114,000 quotations from



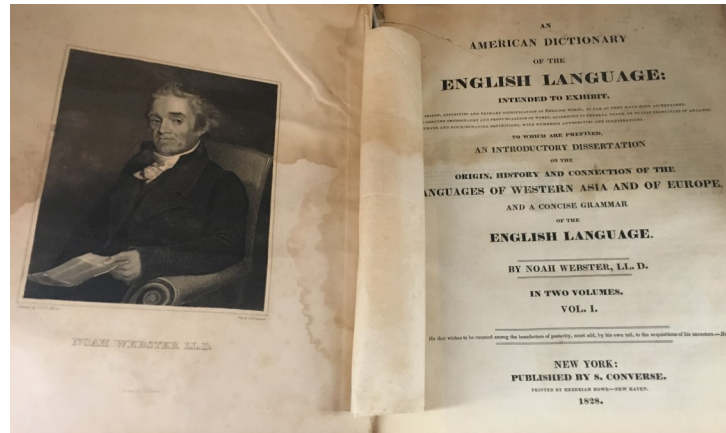
writers like Milton and Shakespeare to illustrate usage of the terms. Webster set out to supplant it with his 1828 American dictionary. The U.S. Supreme Court has cited the various editions of Johnson's dictionary dozens of times as founding-era sources of definitions, often in tandem with citations to Webster. This is the first abridged edition.

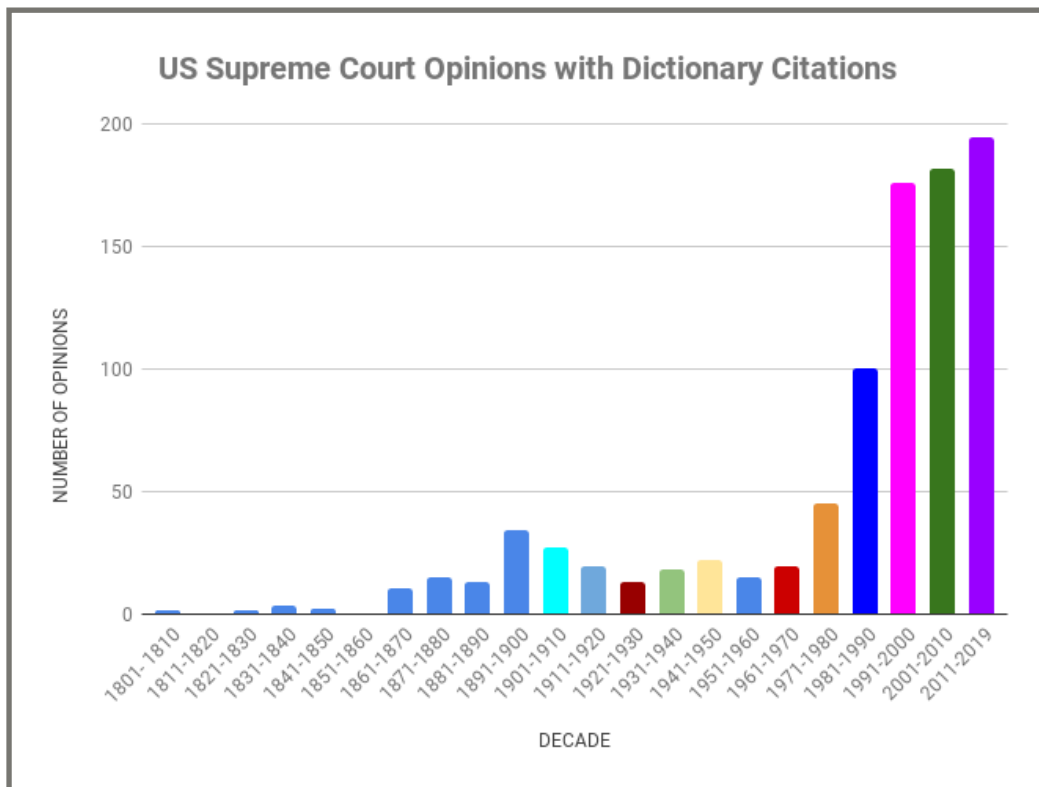
Gift of Daniel R. Coquillette

Noah Webster, *An American Dictionary of the English Language*. New York, 1828. 2 vols.

This is the first edition of the iconic American dictionary, which the U.S. Supreme Court has cited hundreds of times. Webster (1758–1843) was a Connecticut schoolteacher and lawyer who set out to write “the largest, most complete dictionary of the English language” and “supersede Samuel Johnson’s but also provide the foundation for a ‘federal language’” (George, *Dictionary of Literary Biography*). His 70,000-entry work became a classic. After Webster’s death in 1843, his heirs sold the rights to George and Charles Merriam.

Gift of Frank Williams Oliver





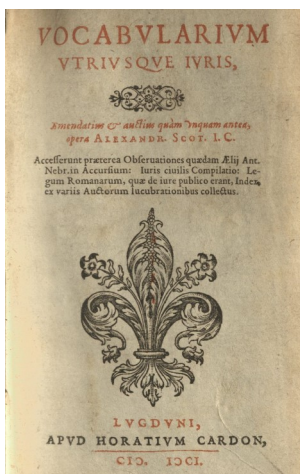
In 2012, Justice Scalia dissented in *Nat'l Fed'n of Indep. Bus. v. Sebelius*, 567 U.S. 519, 649 (2012), rejecting the majority's holding that the individual mandate of the Patient Protection and Affordable Care Act was a valid exercise of Congress's taxing power. He cites both Webster and Johnson for the definition of *regulate*. He also notes that the most authoritative founding-era law dictionaries, such as those of Burn, Jacob, and Cunningham, lack any definition for the term, suggesting that the word thus bears its ordinary meaning and not a specialized legal one.

For a more in-depth look at dictionary citation by the U.S. Supreme Court, see the source list for helpful articles, including those by Brudley & Baum, Calhoun, and Thumma & Kirchmeier.

CABINET 10

ROMAN LAW DICTIONARIES help lawyers and students understand the terminology used in the body of law that originated with the ancient Romans and ultimately was organized and compiled into the *Corpus Juris Civilis* (“body of civil law”) by the Emperor Justinian in the sixth century. Roman law provides the foundation for the legal systems of many modern nations, including most countries in continental Europe.

Even in common-law countries like England, Roman law was influential. John Cowell, author of *The Interpreter* (Cabinets 1 & 3), was an English civilian lawyer (a specialist in civil and Roman law) whose study and knowledge of Roman law and ideology influenced his work. Bryan A. Garner has noted the importance of accurately defining Roman legal terms in *Black’s Law Dictionary*, as “Roman-law principles underlie many modern civil-law and common-law concepts. Students of legal history often come across references to Roman legal terms” (“Legal Lexicography” 157).



Alexander Scot, *Vocabularium Utriusque Iuris*. . . . Lyons, 1601.

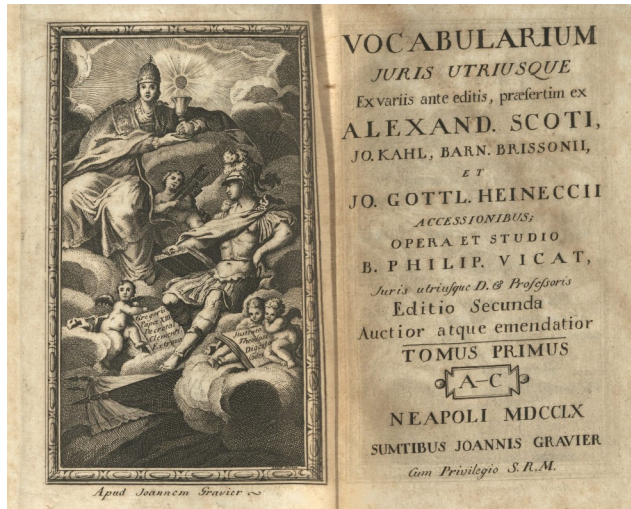
The *Vocabularium Utriusque Iuris* was a medieval law dictionary that went through many editions and iterations over the centuries. The title roughly translates to “Dictionary of the Two Laws,” referring to canon and civil (i.e., Roman) law.

Gift of Michael H. Hoeflich

B. Philippe Vicat, et al. *Vocabularium Juris Utriusque*. . . . Naples, 1760.

The frontispiece suggests the dual nature of the *Vocabularium Juris Utriusque*, with references to canon law on the left (e.g, the Decretals or papal decisions) and Roman law on the right (e.g., the codes of Justinian and Theodosius II).

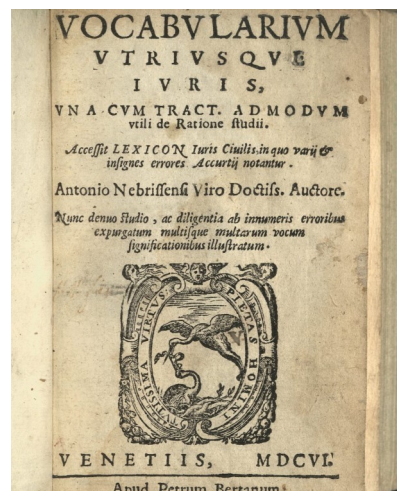
Gift of Michael H. Hoeflich



Antonio de Nebrija, *Vocabularium Utriusque Iuris*. . . . Venice, 1606.

Grammarian and lexicographer Nebrija (1444–1522) was a distinguished professor at the University of Salamanca. His 1506 *Iuris Civilis Lexicon* was combined with the classic, medieval, Roman and canon-law dictionary and printed under his well-known name for thirty editions. Nebrija is perhaps best known for writing the first grammar of any Romance language (Spanish).

Gift of Daniel R. Coquillet





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