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THE  
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*Selden Society*

*περὶ παντὸς τὴν ἐλευθερίαν*

VOLUME XXVI

FOR THE YEAR 1911

# Selden Society

FOUNDED 1887

TO ENCOURAGE THE STUDY AND ADVANCE THE KNOWLEDGE  
OF THE HISTORY OF ENGLISH LAW.

1911.

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**The Pear Books Series.**

VOL. VI.

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# Selden Society

## YEAR BOOKS OF EDWARD II.

VOL. VI.

4 EDWARD II.

A.D. 1310-1311

EDITED  
FOR THE SELDEN SOCIETY

BY

G. J. TURNER, GEORGE JAMES  
OF LINCOLN'S INN, BARRISTER-AT-LAW

C Introduction to yearbooks of Edu

*He [Serjeant Maynard] had such a relish of the old year books that he carried one in his coach to divert him in travel, and said he chose it before any comedy.*

ROGER NORTH

*C'est toute la tragédie, toute la comédie humaine que met en scène sous nos yeux l'histoire de nos lois. Ne craignons point de le dire et de le montrer.*

ALBERT SOREL

LONDON  
BERNARD QUARITCH, 11 GRAFTON STREET, W.

1914

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## PREFACE

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THIS volume contains all the reports of Hilary term and all save a few of those of Easter term 4 Edw. II. In almost every instance the report has been identified with the corresponding case on the record. The exceptions are where the particulars in the report are inadequate for the identification or where a report is misplaced and really belongs to some earlier term. In the preparation of the text two new manuscripts have been used, that is to say, one which was recently purchased by the Trustees of the British Museum from the present owner of the Phillipps Collection, the other a manuscript in the University Library at Cambridge which had escaped the notice of our late Literary Director. More use has been made of the manuscript here called Y than in previous volumes of this series. It will be remembered that these reports are arranged according to subject-matter, and not chronologically. A very large number of them are undated, and dates can only be assigned to them by identifying them with versions in other manuscripts or where, as often happens, there are no other versions, by identifying them with cases on the records of the Court. This has involved prolonged research, which has materially delayed the publication of the volume. It may here be noticed that this manuscript contains a considerable number of reports of the first three years of the reign which have not been printed. Professor Maitland was unfortunately unacquainted with it when he published his first volume, and owing to absence from London he was unable to make full use of it in his subsequent volumes.

In the present volume the variant readings of the text have been printed somewhat more lavishly than in previous volumes, in order to show as clearly as possible how the different manuscripts are related to one another. The relation between them is of great importance in the history of the Year Books, and may perhaps assist in solving some of the problems of their origin and purpose. The cases are here arranged according to the writs on which they are based, and not, as in the first four volumes, according to the order in which they occur in one of the

manuscripts. The Table of Cases at the end of the volume has been constructed exceptionally fully, and miscellaneous observations on some of the cases have been introduced there. For the most part they are too long for the footnotes, and would have been out of place in the Introduction. Another new departure is the addition of Christian names to the Index of Persons, and the insertion of a separate Index of Places. It is hoped that these innovations will meet with the approval of the Society generally.

Though much has already been written on the origin of the Year Books and the question of their official character, the Introduction is largely concerned with this subject. It has been used to put forward a new theory, which may be called the 'Pamphlet' theory, of the origin of the Year Books as we know them. It would be absurd to expect that it will commend itself to all the members of the Society; but it may be hoped that the hitherto unnoticed letters patent by which James I. (acting on his well-known writ of Privy Seal published by Rymer) appointed two official reporters, the reference to the Abridgement produced by 'Lincoln's Inn Labour,' and several other notes and documents, may be found useful by legal historians. The history of the manuscripts, which also occurs in the Introduction, and the particulars of the quires and folios which are printed in Appendix I., relate to the whole series and not to this volume especially. The particulars of the quires may be of little interest to the reader, but to the editors of subsequent volumes they may prove to be of service.

In the first section of the Introduction I have developed some suggestions made by Mr. W. S. Holdsworth in his *History of English Law*, and I have found Mr. Soule's little known but valuable article on the 'Bibliography of the Year Books,' published some years ago in the *Harvard Law Review*, of assistance. I am indebted to the Right Honourable Sir Frederick Pollock, one of our Literary Directors, for reading part of the proof sheets and drawing my attention to various errors; and to Mr. R. F. Norton, K.C., for some useful suggestions with regard to the first section of the Introduction. I have also to thank Mr. D. T. B. Wood and Mr. R. Flower, of the Manuscript Department at the British Museum, for their assistance in the work of constructing the first Appendix.

G. J. TURNER.



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- M. Cambridge University Library, Ff. 2, 12
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- Q. British Museum, Hargrave MS. 210
- R. Cambridge University Library, Dd. 9, 64
- S. British Museum, Harleian MS. 1062
- T. British Museum, Harleian MS. 3639
- X. Bodleian Library, Tanner MS. 13
- Y. British Museum, Additional MS. 35116
- Z. Lincoln's Inn Library, MS. 137 (2)



# INTRODUCTION

1. The Origin of the Year Books.
2. The Abridgements.
3. The Manuscripts and their Owners.
4. The Relations of the Manuscripts to one another.

## 1. THE ORIGIN OF THE YEAR BOOKS.

Few of the many topics which the late F. W. Maitland discussed in the introductions to the first three volumes of this series have aroused more interest than the Origin of the Year Books. In his opinion they had as their primary object instruction for pleaders rather than the authoritative fixation of points of substantive law.<sup>1</sup> He saw in them the outcome of private enterprise, and could not believe that they were in any sense official. They, or rather the earliest of them, seemed to him to be students' notebooks and nothing more.<sup>2</sup> Of late a rather wider application has, perhaps, been given to Maitland's opinion than his own words will warrant, for he expressly declared that his belief related to 'the earliest of them,' and that he would not speak 'of an age that he had not observed.'<sup>3</sup> The time has now come when an attempt should be made to study the origin of the Year Books in the light of their later history. There is probably no period in their development which cannot contribute something of importance to the elucidation of the subject. Some among us may think that the wisest method of proceeding would be to endeavour to ascertain the conditions under which the Year Books were produced in their last, and perhaps their best-known, days, and then to work backwards step by step. Such an investigation would be long, laborious, and in this volume altogether impossible. All that can be attempted here is to collect a few notes, to discuss a few problems, and to suggest a few directions in which further research may usefully proceed.

The older opinion that the Year Books were in some sense official rested primarily on certain words of Edmond Plowden, who published

<sup>1</sup> *Year Book Series*, vol. i. p. xiv.

<sup>2</sup> *Ibidem*, vol. iii. p. xii.

<sup>3</sup> *Ibidem*.



which are unrepresented in the printed Year Books, or that reporting suddenly ceased in the year 27 Henry VIII., with which the printed Year Books end. Numerous MSS. in the libraries of the British Museum and Lincoln's Inn show that reporting was still being carried on, though somewhat intermittently, throughout the reigns of Edward VI., Mary, and Elizabeth. Some day these reports will be examined critically, and we shall be able to appreciate their value more definitely. In the meantime we shall do well to remember that the printing of a report was a monetary speculation, and that it was probably due to commercial reasons rather than to professional inefficiency that many of the years of Henry VIII. are unrepresented in the Year Book series, and that few of the reports of the sixteenth century have been printed at all.

Next we may notice that the tradition which Plowden mentioned was officially accepted some thirty years after his death when James I., by a writ of privy seal dated 24 October 1617, provided for the appointment of two law-reporters at an annual stipend of £100.<sup>1</sup> In a recital in this writ he is made to say :

In regard whereof we have thought good to revive and renew the auncient custom of appointing some grave and lerned lawyers to attende our courts at Westminster for the reporting of the judgements and resolutions of lawe which there shall passe from time to time, whose duty wee intende to be to report (though compendiousle yet truely and narrativelie) that which passeth according to the auncient manner.

Some years earlier, Francis Bacon, when attorney-general, had urged the king to appoint such reporters, and in a letter to him had stated :

But to give perfection to this work his Majesty may be pleased to restore the ancient use of Reporters, which in former times were persons of great learning, which did attend the Courts at Westminster, and did carefully and faithfully receive the Rules and Judicial Resolutions given in the King's Courts, and had stipends of the Crown for the same ; which worthy institution by neglect of time hath been discontinued.<sup>2</sup>

It may be objected that Bacon merely repeats here what he had read in the preface to Plowden's Commentaries ; but even so the

<sup>1</sup> Patent Roll, No. 2147, entry 2. This writ is printed in Rymer's *Foedera*, vol. xvii. p. 27, and also in Spedding's edition, vol. xiii. p. 264.

<sup>2</sup> Spedding's edition, vol. xii. p. 86.

<sup>3</sup> The persons following may be thought on, as men not overwrought with practice, and yet learned and diligent, and conversant in Reports and

Records. There are six names whereof three only may suffice according to the three Principal Courts of law, . . . Mr. Whitlock, Mr. Noie, Mr. Hedley, Mr. Hackwell, Mr. Courtman, Mr. Robert Hill' (*Ibidem*). Hedley is the same person as Hetley, who became an official reporter (p. xix below).



repetition of the statement<sup>1</sup> by such an exalted and well-instructed person is in itself testimony in favour of its correctness. Few men of his period had better opportunities than Bacon of forming a well-considered opinion on the subject. He was sufficiently interested in history to write a life of Henry VII., and presumably he knew what value to attach to tradition. He was the son of a Lord Keeper of the Great Seal, who was born in the year of the accession of Henry VIII. and lived till late in the reign of Elizabeth. As a young man he was brought in contact with 'grave and learned men' who had sought his father's favour. Finally, he was so keenly interested in law reporting, and so firmly persuaded of the need of an official series of reports, that when he became Chancellor he persuaded the king to take steps for the appointment of salaried reporters with well-defined duties.

Let us now turn from Bacon to his great rival, Sir Edward Coke, in order that we may learn what he has to say about the Year Books. Born in 1552, he was admitted to the Inner Temple in 1572, and called to the Bar just six years afterwards. In 1593 he became attorney-general, and in 1600 began to publish his famous Reports. Thus he was Bacon's senior, both in age and standing at the Bar; and he was Plowden's junior by little more than a generation. Like Bacon he agreed with Plowden about the four reporters having been appointed by the king. He refers to them in the Preface to the third part of his Reports, which was published in 1602:

The Kings of this realme, that is to say, Ed. 3, Hen. 4, Hen. 5, Hen. 6, Ed. 4, Ric. 3, and Hen. 7, did select and appoint foure discreet and learned professors of Law to report the judgements and opinions of the reuerend judges as well for resoluing of such doubts and questions wherein there was . . . diuersitie of opinions, as also for the true and genuine sence and construction of such Statutes and Actes of Parliament, as were from time to time made and enacted.

We might infer from this passage, in which he omits the reigns of Edward I., Edward II. and Richard II., that he had made no special study of the manuscripts of the Year Books, and that his knowledge of them, though undoubtedly considerable, was confined to those which were printed when he wrote his own Reports. This inference

<sup>1</sup> It should be noticed that William Fleetwood, whose Table to Plowden's Reports appeared in the edition of 1578, is likely to have been acquainted with the Bacons, for at one time he lived at Bacon House, in Foster Lane. (*Dict. Nat. Biog.* xix. 268.) He possessed manuscript Year Books of which at least two still

exist. He was about seventeen years younger than Plowden, whom he survived nine years. If, then, Bacon was acquainted with Fleetwood, he enjoyed opportunities of hearing what one of Plowden's contemporaries (who was himself interested in law reporting) thought about Plowden's famous statement.

receives some confirmation from the fact that he elsewhere states that the Year Books began with Edward III., and so plainly shows that he was either unacquainted with the Year Books of Edward II., which were still in MS., or that he thought that they were reports of a special character. He observes in the Preface to the third part of his Reports :

And the reason that the former Reports were in the French tongue was for that they begun in the raigne of king Edw. the third.

Coke also omits the reign of Henry VIII. in the first of the two passages just quoted ; but this is because he thought that the reports of that reign were not compiled by the same class of reporters as those of the earlier Year Books. He gives his reasons for this opinion in a subsequent passage in the same Preface :

But to retourn again to these graue and learned Reporters of the Lawes in former times, who as I take it, about the end of the raigne of Hen. the 7 ceased ; between which and the cases reported in the raigne of Hen. the 8 you may obserue no small difference. So as about the end of the raigne of Hen. the 7 it was thought by the Sages of the law that at that time the Reports of the Law were sufficient ; wherefore it may seeme both unnecessary and unprofitable to haue any more reports of the law, but the same causes that moued the former doe require also to haue some more added unto them.

We have here not merely Coke's opinion that the system of law reporting described by Plowden prevailed until the end of the reign of Henry VII., but also the interesting statement that he could distinguish a change in the manner of reporting dating from that time. Unfortunately he has not explained what he considered to be the chief features of the new manner. Possibly one of them is the occasional introduction of the personal opinion of the reporters, which is not often found in the Year Books of earlier reigns than that of Henry VII. Obviously a reporter who speaks for himself cannot have flourished in the days described by Plowden, when there were four reporters who conferred together in the making and producing of the reports. Elsewhere Coke describes the difference between the method of citation which prevailed in his day and that of some unspecified earlier period. But this particular change which he describes was probably not one of the features of the new manner of reporting which he noticed in the reign of Henry VIII. Coke's words<sup>1</sup> are as follows :

<sup>1</sup> Prologue to the tenth part (in Latin and English). The Latin text of this passage is as follows :—

Antiquus ille argumentandi mos ad septem curiæ per Seruientes ad legem et Iuris consultos quos Apprenticios

uocamus prorsus immutatur. (1) *Li uix unquam librum uel autoritatem nominatim produxerunt, ut uidere est in 40 Ed. 3, &c. sed Est tenuis &c., uel simile, qui modus est in quaestionibus arguendis (quas uocamus Moots a le barre)*

The ancient order of arguments by our seriants and apprentices of law at the bar is altogether altered. 1. They neuer cited any booke case or authoritie in particular, as is holden in 40 Ed. 3., etc., but 'est tenuz ou agree in nostre liures ou est tenus ou adiugé in termes', or such like, which order yet remaines in moots at the bar in the Inner Temple to this day. 2. Then was the citing generall, but alwaijes true in the particular; & now the citing is particular, and the matter many times mistaken in generall.

This is vague and not very illuminating; but we may notice that in the reigns of Henry VII. and Henry VIII. there are many references to earlier Year Books under the designation of 'livres.' Apparently men were beginning to treat them more and more as works of authority, and to look upon them less and less as books for the instruction of students. In 27 Henry VIII. an apprentice says in the course of his speech:

(a) In anciens ans et livres est nul mencion fait d'ascun 'use' et si ascun 'use' avoit esté al *common ley* il vouloit aver esté spécifié in anciens livres de nostre *ley*.<sup>1</sup>

It is the judges, however, who refer to the Year Books the most frequently:

(b) *Fitz.* Ceo est par cause qe le jurie est pris al barre; et encontre vostre livre jeo puis moustrer a vous 4 livres adjugez le contrary.<sup>2</sup>

(c) *Jenour Prenotary.* Et jeo puis moustrer a vous un precedent pur ceo. *Fitz.* dit que il purra moustrer moult livres com il ad dit.

Et puis a auter jour *Jenour* moustra son livre a *Fitz.* Et come *Jenour* dit a moy *Fitzh* dit . . .<sup>3</sup>

(d) Et un dit a luy que cest cas est en mesme le report de anno 12 du roy qe ore est.

*Fitz.* Mettez cest cas hors de vostre livres, car il n'est ley sanz doubt.<sup>4</sup>

(e) Et plusours apprentis arguerent all contrary. *Fitz.* La ley est clere in cest point et jeo puis moustrer a vous divers livrez adjugez in cest point come j'ay dit.<sup>5</sup>

In another case the reporter expresses his own views on the subject under discussion:

(f) Et puis les justices furent in purpos a doner jugement pur les heirs generals, pur ceo que est trové pur eux par verdit. Et coment ils avoient livre il voloient aviser. *Quod nota bene, quia novel cas.*<sup>6</sup>

in interiori Templo huc usque retinetur. (2) Eo temporis annotatio fuit generalis, uera autem semper in particulari; hodie, e contra, annotatio est particularis, multociens uero abs re in generali.

<sup>1</sup> 27 Henry VIII. Easter, p. 9, case 22.

<sup>2</sup> *Ibidem*, Easter, p. 1, case 2.

<sup>3</sup> *Ibidem*. See also *Jenour's* remark, *ibidem*, p. 5, case 14. He frequently

took part in the discussions in Court.

<sup>4</sup> *Ibidem*, Trinity, p. 23, case 21.

<sup>5</sup> *Ibidem*, p. 28, case 14. *Fitzherberd* often speaks as though he had many Year Books in his possession.

<sup>6</sup> 21 Henry VII. p. 36, case 44. For similar cases see Trinity 1 Ed. V. case 6, p. 4, *Mich.* 1 Ric. III. case 2, p. 4.



But although these and similar passages give vague references to the Year Books, and not to specific cases, it is not improbable that specific cases were sometimes cited in court. We can scarcely doubt that when a judge or counsel said that he had authority in the Year Books for a proposition he forthwith read to the court the case on which he relied. The reporter gives no particulars of the case cited for the simple reason that, the Year Books being for the most part still unprinted, and the foliation differing with the manuscripts, a particular citation would have been useless.

And here it must be noticed that all these vague references to earlier reports occur in the reigns of Henry VII. and Henry VIII. Similar references are very seldom to be found in the Year Books of Edward II. It is true that in the Year Books of that reign a case or a precedent is sometimes mentioned, but it is cited not by a vague reference to a report but by an appeal to the memory. The counsel or judge who cites it supposes that all present will remember the case or decision. It was evidently not until Tudor times that the Year Books came to be looked upon as a source of authority for the court; and even then they seem to have been cited very tentatively. There can be little doubt, however, that the change in the manner of citation to which Coke refers was the change from the vague manner of citation adopted by the reporters of the early Tudor period, and the citation by precise references to which the lawyers of the early Stuart period were accustomed. But this change cannot be the 'no small difference' which Coke observed between the reports of the reign of Henry VII. and Henry VIII., for the vague citation may be noticed in the reign of Henry VII. and the precise citation with which Coke was familiar had not begun in the reign of Henry VIII.

But although Coke's statement that in the ancient order of argument 'they never cited any book cases or authority in particular,' need present little difficulty to us, the English words 'as is holden in 40 Ed. 3' with which he continues his sentence certainly suggest a judicial decision on the manner of citation, and no such decision is to be found. It is obvious, however, that they are a very unsatisfactory translation of the Latin 'ut uidere est in 40 E. 3.'

It is remarkable that the reports of the year 40 Edward III. as printed by Tottel in 1555, and as subsequently reprinted, differ in an important respect from those of other years of Edward III. They contain, and the reports of no other year of this reign contain, a large number of references to other reports, and these, unlike the references in the Year Books of Henry VII., and more especially of Henry VIII., are for the most part specific. But the reports for the eleven years

40-50 Edward III. were printed for the first time between the years 1518 and 1520 by Pynson, each year being separately foliated, so that each year could probably be obtained as a separate part. Now, Pynson's text of these reports contains no references to other Year Books. Such references appear for the first time in Tottel's reprint published in 1555, and then only in the reports of 40 Edward III. Nearly all of them occur at the end of the cases, but a few of them may be noticed at the end of speeches. Apparently they are the work of some Tudor lawyer who annotated his copy of Pynson's printed text of the year 40 Edward III. ; and it was from this annotated copy that Tottel printed his text in 1555. Thus, there is no real resemblance in point of citation between the Year Books of Henry VII. and Henry VIII., and the Year Book of 40 Edward III. as originally printed ; and if Coke thought that there was, he deceived himself.

The most conspicuous example of a vague citation in the annotation of the reports of 40 Edward III. is :

Il est tenus en nostre livers que tenant a volunt avera ayde de son lessour.<sup>1</sup>

As a general rule, however, the references are given to particular folios of printed texts of the Year Books :

Et anno 37 Hen. VI. fol. 2. Et anno 21 Ed. fol. 20. Horewood ad vouché cest liver etc.<sup>2</sup>

Et pur le darrein matter mon seignior Fitz Herbert ad vouché le liver de 37 Hen. fol. 38.<sup>3</sup>

Mes uide M. 3 E. 4 fol. 12 ou cest liver e auters sont vouches.<sup>4</sup>

The unknown annotator of the year 1555 lived, so it would seem, at a time when the old manner of citation was rapidly giving place to the new.

But however ambiguous Coke's account may be of the change in the manner of reporting which he noticed at the beginning of the reign of Henry VIII., he has emphatically recorded his belief that until then four grave and learned reporters were appointed from time to time by the king. This is important ; for when we find that Plowden's story of four reporters who were paid by the king was accepted by Coke as well as by Bacon, we can scarcely reject it as worthless. There is at least a presumption that in some former age there was an organised system of law reporting<sup>5</sup> under official patronage, even if the reporters were not always four in number, and were not directly appointed and

<sup>1</sup> Year Book, 40 Ed. III., edition of 1675, Trin., p. 31, case 12.

<sup>2</sup> *Ibidem*, Hilary, p. 12, case 26.

<sup>3</sup> *Ibidem*, Easter, p. 24, case 25.

<sup>4</sup> *Ibidem*, Mich., p. 37, case 10.

<sup>5</sup> This also seems to be Mr. W. S. Holdsworth's opinion (*Hist. of English Law*, ii. p. 456).



paid by the king. We should look to the general purport of Plowden's statement rather than to the exact words in which it is couched.

Those who hold that the Year Books were in no sense official maintain that Plowden's statement is inaccurate in detail and untrue in substance. Their criticism turns chiefly upon four points. First they say that if the reporters were appointed and paid by the king some record would be preserved of their appointment, whereas none has yet been discovered. In point of fact Plowden's statement is that they were paid by the king, and not that they were appointed as well as paid by him. But even if it be admitted for the sake of argument that a royal payment implies a royal appointment, the fact that well-indexed calendars of the patent rolls from the reign of Edward I. to that of Richard III., and also for the reign of Henry VIII., have been printed, published and much studied constitutes no valid objection to the possibility of the reporters having been appointed by the king, for many royal appointments were not made by letters patent. The Lord Chief Justice of the King's Bench, for instance, was appointed by writ, and appointments by writ were not regularly recorded upon the patent rolls, nor of necessity upon any of the rolls of the chancery. We may search in vain for any trace of the writs by which the serjeants-at-law were created in the thirteenth and fourteenth centuries. We know, however, from Sir John Fortescue's '*De Laudibus Legum Angliæ*,'<sup>1</sup> that in the reign of Henry VI. the Chief Justice of the Common Bench by the counsel of all the Justices chose seven or eight persons and presented their names to the Chancellor in writing, and he by virtue of the king's writ directed that they should come before him on a certain day to take upon them the degree and estate of serjeant-at-law. It is therefore possible that the reporters, like the early serjeants, were appointed by unenrolled writs; but it is also possible that they were appointed in the name of the king without writ by the Lord Chief Justice of the Common Bench.

The second objection is that no record has yet been noticed of the payment of an annual stipend to any one of the compilers of the Year Books. But here, again, we cannot assume that such payments were never made merely because they have not been noticed. The Issue Rolls of the fourteenth and fifteenth centuries, on which we might most reasonably expect to find them, are bulky, unindexed and not much consulted. From the end of the reign of Edward IV. until the ninth year of Elizabeth there are no Issue Rolls, but research upon the Tellers' Rolls, which in some respects take their place, is subject to the same difficulties as regards size and indices; and they have been less often consulted than the Issue Rolls. Moreover, many entries of annual pay-

<sup>1</sup> Chapter 50 and p. 117 r° in the edition of the year 1616.

ments found on these rolls afford no indication of the services rendered by those to whom they were made.<sup>1</sup> This second objection, therefore, carries little conviction, especially with reference to the later period of the Year Books, when the rolls were becoming inconveniently bulky. In any case there is no occasion for assuming that Plowden's words represent facts with absolute accuracy. When he says that he has heard that four reporters had received an 'annual stipend for their labour . . . paid them by the king' the truth may be that certain favoured reporters had temporarily received some remuneration from a public source with the king's approval. Such a temporary payment may have been made to encourage law reporting at a time when it was difficult to find well-qualified reporters. Some of the kings of England—Richard III., for instance<sup>2</sup>—were sufficiently interested in legal proceedings to take their seat on occasion in the King's Bench; and it would not be remarkable if one of the kings had directed the reporters whom he saw in court to supply him with copies of their reports, and had granted them in return for this service annuities or stipends out of the Privy Purse. If, however, any of the reporters had received salaries for their labours, even for a short period only, tradition would almost certainly remember the fact of the payment and forget that it had not been made from time immemorial.

A third objection is that different manuscripts of the Year Books often give entirely different reports of the same case; and this obviously shows that their authors were working independently of one another, and not in the concerted fashion described by Plowden. But it is far from certain that there were more than four or five reporters normally at work in the reign of Edward II., and until the manuscripts of the fifteenth and sixteenth centuries have been examined critically it cannot be assumed that the reports found in the later Year Books were not the work of four men who conferred together in their production. Nor is there any necessary antagonism between Maitland's theory that the Year Books were originally students' note-books, and Plowden's statement to the effect that they were produced by professional reporters, for the theory relates to the earliest days of the Year Books, and the statement may relate to the early Tudor period. Young barristers and students in the days of Edward I. and Edward II. may have taken notes with a view to qualifying themselves by subsequent perusal and study to become serjeants-at-law. There may even have been some

<sup>1</sup> A payment to Robert Rodes' 'apprenticius ad leges' may be noticed (*Issue Rolls*, 18 Hen. VI., No. 736, m. 9). See also the case of Sir

Nicholas Bacon (p. xxxix below).

<sup>2</sup> Edward Foss, *Judges of England* iv. 480. See also *Ibidem*, p. 215.

enthusiasm for this work when it was initiated, but it is scarcely credible that it was of long duration. Careful note-taking is not now, and probably never has been, a popular mode of instruction. It was a difficult pursuit in the Middle Ages, much more difficult than it now is, in an age of cheap writing material, steel pens, and above all good blotting paper. The wise student would soon find that he could learn more by reading good notes made by practised reporters than by writing bad notes himself. In short, it is not difficult to believe that private note-taking gave place to an organised system of law reporting, which may in course of time have attracted royal patronage.

The last objection to Plowden's statement is that if the reports were official we should expect that the originals, or at all events copies of them, would be carefully preserved by officers of the court, whereas as far as we are aware our manuscript Year Books always come to us from private hands. A complete answer to this may be found in the fact that James I. appointed two reporters by letters patent under the Great Seal of England<sup>1</sup> with an annual stipend of £100 each, and yet neither the originals nor copies of their reports are to be found among our public records. One of these reporters was Edward Writington and the other Thomas Hetley, both barristers of Gray's Inn.<sup>2</sup> Writington has sometimes been confused with Thomas Widdrington, who was Commissioner of the Great Seal in 1648 and Speaker of the House of Commons in 1656. Thus, on the first folio of a manuscript<sup>3</sup> volume of reports compiled by Thomas Widdrington in the King's Bench and Robert Paynel in the Exchequer we have the following memorandum, in the handwriting of Francis Hargrave :

This Widd. with Thomas Headly were the two who in Mich. term 15 Jac. by Privy Seal were appointed the king's reporters of cases in all the courts of Westminster. This is enrolled at the rolls. By this privy seal<sup>4</sup> they were commanded to report the arguments at the bar, and the resolutions of the Bench and to communicate their reports to the Lord Keeper and Judges for the time being. For this they were each to have a salary of 100<sup>l</sup>. per annum, and the first case they reported was the great case<sup>5</sup> of Burrell and Goff *in conc.* for tithes of houses in London, and the place assigned them was at the feet of the Lord Keeper Bacon who had promoted them.

<sup>1</sup> Patent Roll, No. 2131, entries 3 and 4.

<sup>2</sup> Hetley was member for Huntingdon in the first Parliament of James I. and Writington was member for St. Maves in the Parliament which met on 16 June 1621. *Return of 1878*, i. 442, 450.

<sup>3</sup> Lansdowne MS. 1083, fol. 1. See also *Ibidem*, fol. 356, and Hargrave

MSS. 38 and 39.

<sup>4</sup> The writ of privy seal is enrolled on the Patent Roll. (*Patent Roll*, 2147, entry 2.) This is unusual. Such a writ is the king's direction to the chancellor to prepare the letters patent, and it is the letters patent, and not the writ, which are usually enrolled.

<sup>5</sup> Hargrave MS. 386, fol. 256 r<sup>o</sup>.



These observations were no doubt derived from a manuscript volume of reports <sup>1</sup> of cases heard in the reigns of James I. and Charles I. compiled by Sir Henry Calthorpe, who for a few weeks in 1635 held the office of recorder of London, and was appointed attorney-general of the court of wards and liveries in January 1636. Unfortunately the French of the report is so decadent and its handwriting so cramped that its correct transcription is a matter of no little doubt. The following version must therefore be read as a tentative copy :

Mesme cel terme un privye seale fuit direct a Mounsieur Headdleye et al Mounsieur Writtington de Grayes destre les reporters del roy en toutes les courtes al Westm. en qe il fuerent commandes de reporter les argumentes de serjeantes et counsaylors al barre et auxi les argumentes de judges les resolutions de queux il fuerent de reporter et auxy leurs opinions en le bref et apres qe ils avoient fait un report de eux il fuerent dofrir eux as judges destre lieu et donqe le Seigneur Keaper pur le temps esteaunt averoit le perusall de eux. Et il avoient le fee de 100<sup>li</sup> par an doné as eux severalment pur lour payements, et il pristeront lour seate as feete de Seigneur Keaper sur largument del cas de desmys qe fut le primer cas qe il reportent.

In the MS. this note is written immediately after the report of the case of *Goff and Burrell*, otherwise known as 'The Case concerning the payment of Tythes in London.' Of this case Sir Henry Calthorpe also produced an English version which will be found in his 'Reports of Speciall Cases touching severall customs and liberties of the city of London' published in January 1618.

Writington's reports were never printed, and it may be that they no longer exist even in manuscript. Certain unprinted reports, however, which have been attributed to Widdrington, may really have been compiled by Writington.<sup>2</sup> In Lincoln's Inn library there is a volume containing 288 cases in all with the words 'Widrington's Reports' written on its cover. It consists of reports of Michaelmas 2 James I. and the two following terms, which are then followed by others of the years 17-21 James I. Their dates certainly suggest that they were compiled by Writington rather than Widdrington ; for the latter was not admitted a member of Gray's Inn until 14 February 16 James I.<sup>3</sup> It is certainly improbable that he began to compile the years 17-21 James I. so soon after his admission to Gray's Inn, and it is almost impossible that he could have been the author of the reports of Mich. 2 James I. and the two following terms. Moreover a note on the cover of this volume says 'This does not seem to be the book referred to in Salk. 137 by the name of Widdrington.' There would certainly have been a good reason for

<sup>1</sup> Hargrave MS. 386, fol. 259 v°.

<sup>2</sup> Coxe's MS. lxxxi.

<sup>3</sup> *Gray's Inn Admission Register*, p. 153.

the appointment of Writington, if he had already acquired some experience in reporting in the early years of the reign. His career at the bar seems to have been undistinguished. He was elected reader at Gray's Inn on 8 November 1622,<sup>1</sup> and in the following February the masters of the bench complained that 'Mr. Writington hath utterly refused to reade this next Lent, and so the house is destitute of a reader.'<sup>2</sup> In the following May he was fined £100 'for failing to read the last Lent,' but the fine was reduced to £40 a month later.<sup>3</sup> He seems to have been removed from the Bench of his Inn when the fine was imposed, for in November 1637 the Pension Book records that 'Mr. Writington, one of the counsell of Yorke, is called up to the Bench, and to take his place according to his antiquity.'<sup>4</sup> Apparently there are no reports either at the British Museum or at Lincoln's Inn Library which can reasonably be supposed to have been compiled by Writington in the reign of Charles I. He certainly had no share in the production of the volume in the Hargrave collection with the note on its fly-leaf about the official reporters, for that volume concludes with the words 'Explicit annus quartus Caroli per Thomam Widdrington in Banco Regis et Robertum Paynel in Scaccario.'

Hetley's career was rather more distinguished than Writington's. He acquired, so it seems, a large practice, became a serjeant in Michaelmas term 21 James I., and was knighted a few weeks later (17 November 1623). Like Writington he refused to read at Gray's Inn and was removed from the Bench; but he was called there again two years later 'to com when it pleaseth him.'<sup>5</sup> A volume of reports bearing his name was published in 1657, more than twenty years after his death. They extend from 3 to 8 Charles I. Although Hetley was at one time an official reporter, his volume received no special recognition either from the judges or from the legal profession generally. Baron Clerke, by whose authority they were printed, contented himself with certifying 'I conceive these reported cases may be very useful, and so fit to be printed.' Nor can they have been highly esteemed by the profession, for no second edition of them was published. It is not unlikely that Hetley ceased to be an official reporter when he became a serjeant, and that the printed reports which bear his name were really entirely unofficial. They relate solely to the Common Bench, in which court he would as a serjeant have been practising normally. During two of the years with which they are concerned—namely, 3 and 4 Charles I.—Thomas Widdrington was, as already stated, responsible for reports in

<sup>1</sup> R. J. Fletcher, *Pension Book of Gray's Inn*, vol. i. p. 251.

<sup>2</sup> *Ibidem*, p. 255.

<sup>3</sup> *Ibidem*, pp. 257, 258.

<sup>4</sup> *Ibidem*, p. 329.

<sup>5</sup> *Ibidem*, pp. 223, 283.

the Common Bench, and Robert Paynell for others in the Exchequer. This suggests that if official reporting were discontinued soon after its institution, those who were sufficiently interested in the work to report unofficially, may have arranged not to compete with one another, and to make their notes in different courts.

The letters patent by which Writington and Hetley were appointed reporters have never been printed. Those granted to Writington read as follows :

Rex omnibus ad quos etc. salutem. Cum per regalem ordinacionem nostram nuper factam et sub magno sigillo nostro Anglie firmatam quam etiam in curiis nostris publicari et irrotulari mandauimus ea intencione ut res iudicate et acta in curia nostra prolata tradantur posteris in omne tempus cum diligencia et fide constituerimus fore duos viros graues et discretos et in legibus nostris solide eruditos qui res iudicatas et acta predicta de tempore in tempus excipiant et perscribant prout per predictam ordinacionem plenius liquet. Nos igitur de erudicione discrecione et integritate Edwardi Writington de Grayes Inne armigeri ad plenum informati et plurimum confidentes assignauimus nominauimus et constituimus ac per presentes pro nobis et successoribus nostris assignamus nominamus et constituimus predictum Edwardum Writington unum officiarium nostrum a Commentariis Anglice a Reporter ad res et acta in curiis nostris respectiue iudicata et iudicanda de tempore in tempus excipienda et perscribenda Habendum et tenendum officium predictum prefato Edwardo Writington quamdiu se bene gesserit in eodem. Dedimus insuper et concessimus ac per presentes pro nobis heredibus et successoribus nostris damus et concedimus prefato Edwardo Writington pro labore et impensis suis in predictis rebus et actis ut prefertur excipiendis et perscribendis quandam annuitatem siue annuale feodum centum librarum bone et legalis monete Anglie per annum Habendum gaudendum percipiendum et recipiendum predictam annuitatem siue annuale feodum centum librarum eidem Edwardo Writington uel assignatis suis a festo sancti Michaelis Archangeli ultimo preterito ante datam presencium ad duos terminos anni usuales uidelicet ad festum Annunciacionis beate Marie uirginis et sancti Michaelis Archangeli per equales porciones ad Receptam Scaccarii nostri Westmonasterii per manus thesaurarii subthesaurarii et camerariorum scaccarii nostri predicti pro tempore existencium singulis annis soluendas quamdiu se bene gesserit in officio predicto. Et ut prefatus Edwardus Writington melius officium suum in ea parte exequi ualeat et possit uolumus et per presentes ordinamus quod prefatus Edwardus Writington locum et sedem in curiis nostris predictis magis idoneum et conuenientem ad res et acta predicta excipienda et perscribenda per appunctuacionem cancellarii nostri siue custodis magni sigilli nostri iusticiariorum et baronum nostrorum et aliorum iudicum supremorum et primariorum in curiis nostris respectiue habeat et possideat. Quare mandamus et precipimus tam predictis cancellario et custodi magni sigilli nostri iusticiariis et baronibus quam aliis iudicibus supremis et primariis quod in curiis nostris predictis respectiue



sedem et locum ad eadem res et acta excipienda et perscribenda conuenientem eidem Edwardo Writington appunctuent et perscribant. Et quod eidem Edwardo Writington sint fauorabiliter annuentes in premissis quociens res sic postulauerit sicuti qui seruicium prestat honorem et conseruacionem legum regni nostri tantopere concernens et regali constitucioni nostre fundatum. Volumus insuper et firmiter per presentes iniungendo precipimus et mandamus omnibus et singulis officiariis et ministris earundem curiarum nostrarum respectiue quod prefato Edwardo Writington sint intendentes et auxiliantes secundum intencionem nostram regiam in ea parte. Eo quod expressa mencio etc. In cuius rei etc. Teste rege apud Westmonasterium uicesimo quinto die Octobris.

Those granted to Hetley are in the same form. No record of any subsequent appointments of official reporters has yet been found. Half-yearly instalments of the salaries granted by the letters patent were paid as late as Michaelmas term, 17 James I., and are recorded on the Issue Rolls of that year.

Iacobo Hedley relatori legum de feodo suo ad centum libras per annum ei debitas pro dimidio anni finito ad festum predictum . . . l libras.

Edwardo Writington armigero relatori legum domini regis de feodo suo ad centum libras per annum ei debitas pro dimidio anni finito ad festum sancti Michaelis archangeli anno regni regis Iacobi septimo decimo . . . l libras.<sup>1</sup>

The insertion of these detailed particulars in a brief introduction is justified on the ground that they form an important part of the history of law reporting. Anything which can be learnt about the reporters of the Tudor and early Stuart period may be relevant to the history of the Year Books as a continuous series ; and perhaps by such investigations as these some light may be thrown upon the infancy of our reports. My immediate purpose, however, has been to show that King James I. actually appointed official reporters, who reported and were paid for reporting, but whose work has not been preserved either in original or transcript by any officer of the courts. What is true of the reporters of the reign of James may be true of an earlier period, and the non-existence of official copies of the Year Books cannot of itself be taken as evidence that no official reporters were appointed in the fourteenth and fifteenth centuries. On the other hand no positive evidence has yet been produced in support of Plowden's much discussed statement. From this, based though it doubtless is upon tradition, we cannot deduce that throughout the Middle Ages there were four reporters working in concert and paid by the king. But the tradition is not likely to be wholly wrong. Even if we admit that the earliest Year Books were mere

<sup>1</sup> Issue Rolls, Pells, No. 566, rolls 19 and 20.

students' notebooks and entirely unofficial in character we need not assume that an organised system of law reporting never prevailed in the Middle Ages; nor need we deny that there may have been a time when the reporters were paid by the kings of this realm as Plowden declared and others have believed. Almost certainly the conditions under which the Year Books were produced varied from time to time.

This is no place for a discussion of the character of the reports in the later Year Books. It is sufficient to remark that independent reports of the same case are not a prominent feature of the manuscripts in which they are preserved. In this respect they differ considerably from the Year Books of Edward II., the various manuscripts of which often appear to disclose three or more independent reports of a single case. This difference, if it be established, seems to indicate an improving organisation in the production of the reports. There are few more hopeful sources for the history, and especially the early history, of our Year Books than carefully compiled particulars of the relation of various contemporary manuscripts to one another. As regards the early years of the reign of Edward II. this subject is discussed in a subsequent section of this Introduction.

Two theories of the authorship of the Year Books remain to be noticed. First, the modern editions of Sir Edward Coke's *Reports* contain a marginal note opposite his well-known remark about the four reporters in these words:

These four reporters I take to be those who have since been nam'd Readers, and elected to that Office by the respective Inns of Court.

They appear for the first time in the anonymous edition of 1738, and are repeated in George Wilson's edition of 1777.<sup>1</sup> Though put forward as a mere conjecture in explanation of Coke's statement, they should not be treated as absurd. Quite recently and in this very series Maitland propounded the theory that the early Year Books had as their object instruction for pleaders rather than the authoritative fixation of points of substantive law.<sup>2</sup> His theory, supported as it is by a wealth of argument, has met with general approval. It is also in accordance with what Sir John Fortescue stated in his *De laudibus legum Angliae*,<sup>3</sup> written in the middle of the fifteenth century.

Reportantur etiam ea quae in curiis regis placitantur disputantur et iudicantur ac in libros ad futurorum eruditionem rediguntur in sermone semper gallico.

<sup>1</sup> The edition of 1738 differs considerably from that of Edward Chilton, published in 1697. Several of the editions of the Reports are not to be found

in the Library of the British Museum.

<sup>2</sup> See p. ix above.

<sup>3</sup> c. 48 and p. 111 v<sup>o</sup> in the edition of the year 1616.



Fortescue obviously refers to the Year Books in this passage, and the context shows that by *futurorum* he means students. If, however, the Year Books were compiled for the instruction of students it is highly probable that they were used in the ordinary course of legal studies in the Inns of Court. In the Tudor period these studies were conducted under the supervision of Readers of whom two were appointed in each Inn annually. Actual evidence of the Readers using the Year Books is wanting. We know next to nothing of their work in the fifteenth century<sup>1</sup>; but in the sixteenth century their readings seem to have become something of a formality; their topics were then either Statutes or some special branch of law. But law reporting was at a low ebb in that century; and in earlier days when the Year Books flourished, the readers may have taken their office more seriously, and have given definite instruction in pleading. In the Inns of Chancery they studied original writs; in the Inns of Court may they not have studied such works as *Nouae Narrationes* and the Year Books? It is significant that two of our Year Books of Edward II. are preceded in their manuscripts by the *Nouae Narrationes*, an obvious work of instruction. Is it impossible that a Lent reader was at one time responsible for the production, either personally or by deputy, of reports for Michaelmas and Hilary terms? and may not an autumn reader have had a like responsibility for Easter and Trinity terms? If in course of time the readers or their deputies became negligent in making their reports, the judges or perhaps even the king might have resolved to appoint four paid reporters, who would be likely to perform their work more efficiently and would so preserve an established institution.<sup>2</sup> The marginal conjecture of the anonymous editor of Coke's reports certainly deserves our gratitude for it is at least highly suggestive.

Let us now turn to another theory. Mr. Luke Owen Pike, the veteran editor of the Year Books of Edward III., has recently expressed the opinion that they may have been the unofficial work of four of the more important clerks of the Common Bench.<sup>3</sup> His great erudition and long experience in this field of research very properly attracts much attention to his opinion. It is certainly a fact that two of the prothonotaries of the Common Bench, namely Richard Brownlow and John Goldesborough, produced a meritorious volume of reports in the middle of the seventeenth century;

<sup>1</sup> The Black Books of Lincoln's Inn give no particulars of the readings during this century. We may notice, however, what Coke says about the citation of Year Books in the Inner Temple in the Prologue to Part X of his reports. See p. xiv above.

<sup>2</sup> If not responsible for the original report, the reader may have been expected to collect and arrange the reports for the use of the students.

<sup>3</sup> Luke Owen Pike, Year Books of 20 Edw. III. part 2 (No. 31 in Rolls Series), vol. ii. p. lxxii.

and there is no reason for doubting the capacity of their predecessors in the fourteenth and fifteenth centuries to do likewise. Moreover, when it is objected that the clerks of the Middle Ages were interested in matters of enrolment rather than of pure law, it must in fairness to Mr. Pike's theory be remembered that in their eyes a large part of the arguments in court related to enrolment and nothing else. Indeed, a large number of cases in the early Year Books are just of the sort which would especially interest the prothonotaries and their subordinates. It is, therefore, far from improbable that the clerks responsible for the enrolment of the cases took notes of the arguments in court, and if so these notes may have been written in French. Nevertheless, if the Year Books had been written by clerks we should expect that questions of enrolment would have been treated in greater detail and in a more technical spirit. Now, the Year Books, taken as a whole, have not the appearance of reports compiled for the instruction and guidance of enrolling clerks, though in some cases they may have been partly based upon their notes. It is also scarcely credible that they whose interests lay in enrolment and procedure would have been selected to make reports as part of their duty for the instruction of students and barristers or for the convenience of the judges and sergeants. It is true that now and then a clerk might compile a volume of reports which would pass as the work of a barrister; but it is scarcely conceivable that a long series of Year Books can have been the work of the enrolling clerks without their disclosing some evidence of the occupation of their authors. We may test this matter by referring to the reports of Brownlow and Goldesborough which were published in 1651, when both men were dead. The title of the book is as follows:

Reports of diverse choice cases in law taken by those late and most judicious prothonotaries of the common pleas Richard Brownlow<sup>1</sup> and John Goldesborough esquires with directions how to proceed in many intricate actions both reall and personall shewing the nature of those actions and the practice in them; excellently usefull for the avoyding of many errors heretofore committed in the like proceedings; fit for all lawyers, attorneys and practisers of the law

Its contents, as the title suggests differ in form from those of an ordinary volume of reports. The cases are arranged according to their subject-matter instead of chronologically. The numbers of the rolls on which the cases are recorded respectively are nearly always supplied,<sup>2</sup> and the reports themselves seem to be primarily based upon the records

<sup>1</sup> Brownlow was appointed chief Prothonotary of the Common Bench on 9 October 1589, and Goldesborough second Prothonotary of the same court

on 7 May 1613. (See their reports, p. 256.)

<sup>2</sup> This, however, was not a peculiarity of their reports.

and not upon the speeches of counsel and the judgments of the court. Goldesborough is also the reputed author of a series of reports (published in 1653) extending from April 1586 to February 1601, during which period he was not a prothonotary. Though printed from a manuscript in his own hand the earliest cases in the volume can scarcely have been reported by Goldesborough himself, as he was not born before 1568. It should be noticed, too, that the volume only purports to contain cases which he had 'collected.' Similarly a volume of reports attributed to Brownlow and extending from 7 to 11 James I., which resemble other reports in form and subject-matter, purport only to have been 'collected' by him. Several reports in this volume are of cases in the King's Bench, and it is improbable in any event that they were the work of a presumably busy official of the Common Bench. Thus, the only reports undoubtedly compiled by the prothonotaries in the sixteenth century were those for which Brownlow and Goldesborough were jointly responsible, and it is significant that they differ in form and character from those of other reporters.

Again, we may doubt whether Plowden would have referred to the clerks of the courts, who were permanent officials, as 'chosen men,' or that Sir Edward Coke, when a member of the bar, would have called them 'discreet and learned professors of the law'; for in the seventeenth century the words 'professors of the law' seem to have been applied normally to members of the bar. If the tradition of the days of Plowden and Coke had been that the ancient reporters were the prothonotaries or other of the more important clerks of the courts, these eminent jurists would almost certainly have described them by some official designation. Nor should it be forgotten that the suggestion of the Year Books having been compiled by the prothonotaries was first made by Sir William Blackstone<sup>1</sup> in the year 1765, nearly two centuries after the death of Plowden. Finally, the official system of reporting which Bacon endeavoured to institute was professedly based upon tradition; but the reporters whom he appointed, Writington and Hetley, were barristers and not clerks or other officials of the courts.

Another suggestion which Mr. Pike has recently made needs brief notice. He has observed that in the edition of the Year Books published in 1678-9 there are two sets of reports of the year 21 Edw. III., and that one of them concludes with the words: 'Here endith Maister Horewoodes report.' He says that there can be little doubt that Maister Horewood was either a clerk of the reign of Edward III. or a prothonotary of the time at which the Year Book was printed. He believes that in either case we have a connecting link between the

<sup>1</sup> *Commentaries*, i. 71.



Year Books and the clerks or prothonotaries of the courts.<sup>1</sup> Mr. Pike has such a distinguished reputation as an editor and student of Year Books that it will be well to draw attention to a strange mistake which may, if not corrected, mislead others. The Maister Horewood, of whom he speaks, is a well-known man, frequently mentioned in the edition of the Year Books printed in 1678-9; as, for example, in the reports of 40 Edw. III. :

Solonque lenprent de Pinson le quel come jeo entende quant a cel case est melior que le report de Horewood [sic] et le prent de Bartlet.<sup>2</sup>

In this passage the first reference is to the edition of the Year Book of 21 Edw. III., printed by Pynson in 1520; the second is to the edition of 21 Edw. III., by Thomas Berthelet in 1527, which contained an entirely different report, afterwards called 'Master Horewood's report': while the third reference seems to be intended to amplify the second. It is certain, however, that Master Horewode was not the compiler of the report which bears his name, but the owner; and that he lent his manuscript of it to Berthelet in order that it might be printed. In a note at the end of the report, which is not repeated in subsequent editions, Berthelet refers to the loan in these words:

Etsi ille vir Guilielmus Horewod in legibus nostratibus cum primis peritus. et acerrimo ingenio preditus. exemplar huius repertorii (sic vocant) ad exscribendum contulit. tamen ea conditione. vti ego non excuderem. nisi ille primum perlegerit atque castigaret. Verum vbi exscripsi. continue inceptum imo et ferme excusum est priusquam ille vir optimus sciuit. ego vt tu vides. fretus sua ingente humanitate tam audax sum. Quam ob rem haud fieri potest. quin errata mea incuria. cum in exscribendo tum in imprimendo. elapsa sint. De paucis quidam generosissimus. amicus meus me admonuit. de quibus etiam. ne diutius te remorentur cum ea legeres. sic admonere opere precium duxi.

This language shows that Horewood was a man of considerable distinction in the legal profession. There can be no doubt that he was the same person as William Whorewood who succeeded Richard Riche as solicitor-general on 13 April 1536, and John Baker as attorney-general on 8 November 1540.<sup>3</sup> His name, though normally written Whorwod or Whorwode, was sometimes spelt without its initial letter. No objection can be taken to the identification, on the ground that, though not a clerk, he is described as 'Maister' in all editions of his report subsequent to Berthelet's, for this prefix was often applied to lawyers of eminence in the Tudor period.

<sup>1</sup> Year Books of 20 Ed. III. Second Part, p. lxxx.

<sup>2</sup> Mich. 40 Edw. III., fol. 45, case 29.

<sup>3</sup> See *Selden Society Publications*, vol. 25, p. 227 note.

## 2. THE ABRIDGEMENTS.

Towards the close of the fifteenth century a new form of literary activity arose and lawyers began to compile abridgements of the Year Books and Statutes. It is true that there are many manuscripts of a much earlier period, such as our X, in which the reports or some of them are abridged. There are also manuscripts of an earlier period, such as our Z, in which the cases are arranged partly in an order professedly chronological and partly according to their subject-matter—that is to say, according to the writs by which the cases originated. Nevertheless, it is not until the middle of the fifteenth century that we meet with Abridgements in the sense in which lawyers have generally understood the word—that is to say, collections of abridged cases arranged according to their subject-matter in alphabetical order and without regard to chronology. A few of them were printed: *Statham's Abridgement*, *Fitzherbert's Abridgement*, and the *Abridgement of the Book of Assizes*. A few still exist in manuscript, but probably many have disappeared for ever. They were written at a time when paper, which is much less durable than parchment, had become a popular writing material.

The compilation of abridgements seems to have led to results which profoundly affected the history of the Year Books. In the first place the student could gain information on special points of law much more speedily from the carefully digested and well-arranged abridgements than from the unindexed Year Books, many of which were scarce. If he purchased an abridgement and had no ambition in legal literature the old manuscripts obviously became less useful to him. He would usually be satisfied with the brief statements of law which he found in the new compilations. The practitioner, too, was beginning to look upon the Year Books as works of authority rather than of instruction; for it was just in this second half of the fifteenth century that reports are first cited in court with any frequency. The new Abridgements, even while still in manuscript, directed men to old and neglected volumes of reports containing many cases of great legal interest. Hence when the printing press found its way into England the Year Books and the Abridgements were among its early productions. In the first decade of law printing, namely 1480–1490, six Year Books were published—that is to say, 33–37 Henry VI. and 20 Henry VI. Then *Statham's Abridgement* appeared about 1490, written many years earlier<sup>1</sup> and compiled entirely from manuscripts. During the next thirty years, 1490–1520, Pynson and others published a large number of Year Books of various reigns, including the first eight years of Henry VII. and also the years

<sup>1</sup> *Statham* died in 1472. See p. xxxiii below.

9 Henry VII., 12 Henry VII., and 14 Henry VIII., which appear to have been printed almost contemporaneously.<sup>1</sup> The Year Books of Henry V. and various odd years in the reigns of Edward III., Henry IV., Henry VI., and Edward IV. were published later in the sixteenth century; those of Edward II. were first printed in 1678, and those of Richard II. still remain unprinted. It was in 1516,<sup>2</sup> towards the close of the period when Pynson flourished, that Fitzherbert published his Grand Abridgement. This noble work in three parts, containing 792 folios in all, far exceeded in magnitude any law book hitherto printed in England. A year later John Rastell compiled and printed a Table to this work,<sup>3</sup> a convincing proof of its utility. For a century and a half these two abridgements contained all that the student of printed books could learn about the Year Books of Edward II.

Some time before 21 December 1516, the '*Liber Assisarum et Placitorum Corone*,' a volume of reports of the reign of Edward III., issued from the press of John Rastell.<sup>4</sup> It consisted chiefly of reports of assizes of novel disseisin and mort d'ancestor and various pleas of the crown heard before justices of assize in the country; but it also contained a considerable number of cases in trespass and error heard in the King's Bench, and a few cases in chancery originated by bill. This book may therefore be regarded as supplementary to the ordinary series of the Year Books, which in the fourteenth century are chiefly concerned with cases in the Common Bench. It was evidently compiled at a time when law reporters were especially active, and a careful study of its contents and the manuscripts from which it is derived will probably disclose some interesting information about their work and methods.

A few years earlier, probably in 1509 or 1510, Pynson published a book with no title-page which in subsequent editions was called '*The Abridgement of the Book of Assizes*.' This little volume, to which modern bibliographers have given the title '*Liber Assisarum*,'<sup>5</sup>

<sup>1</sup> These particulars are taken from the very useful article by Mr. Soule on the *Bibliography of the Year Books* printed in the *Harvard Law Review* (xiv. No. 8).

<sup>2</sup> At the end of the third volume the following words occur 'Finis tocius istius operis finiti xxi die Dicembris anno domini millesimo quinquentesimo sexto decimo.'

<sup>3</sup> On 10 February 1518 (or according to the ancient computation, 1517) John Rastell published a Table to the Grand Abridgement at the end of which occur these words: 'Tabula libri magni abbreviamenti librorum legum anglorum

finita feliciter impressa Londoni impensis Iohannis Rastell anno Domini mcccccxvii die x Februarii.'

<sup>4</sup> He refers in his Prologue to the Grand Abridgement as a book not yet printed. On the other hand he gives the names of the justices of assize in the fifth year of Henry VIII., so that it was published at the earliest in the course of the regnal year beginning 22 April 1513.

<sup>5</sup> The Table of Contents is headed 'Tabula libri assisarum.' The British Museum copy is bound together with *Le Breggement de touz les estatutz*, which Pynson printed in 1528.



seems to have been printed from an ancient manuscript. It was in no sense an abridgement of John Rastell's *Liber Assisarum*, which has just been described and it was, as already stated, the older of the two books. Rastell's '*Liber Assisarum*' reports cases of one reign only, namely that of Edward III., whereas Pynson's book contains abridgements not only of cases heard in the reign of Edward III. but also of others heard in the four following reigns. Pynson's book was obviously a work of less general utility than Statham's Abridgement, which contains a larger number of headings and treats of many technical matters of law in greater detail. Pynson's edition of the Abridgement of the Book of Assizes is extremely scarce, and few copies of it are to be found in our great public libraries; but two editions of it were printed in 1555 by Richard Tottel.

If we were to collect the cases of a certain period occurring in any one abridgement, whether printed or unprinted, we might perhaps ascertain which of our existing manuscripts, if any, were used in its compilation. We might even gather a few particulars about manuscripts of the Year Books which have long since been lost or destroyed. Possibly too the particular abridgement would contain no notes of cases of certain years, and if this feature were noticed in other abridgements we might infer that manuscript reports of those years were already scarce in the days when the abridgements were being compiled. Any thorough investigation of such matters would necessarily be slow and might after all yield little fruit. Nevertheless an editor of a Year Book can at least identify and arrange in chronological order such notes in the abridgements as relate to the cases with which he is concerned. These may enable a future editor of the abridgements themselves to arrive at some useful conclusions about their construction. We may now briefly consider the three earliest Abridgements of the Year Books.

Statham's Abridgement has been generally assigned to a certain Nicholas Statham, a member of Lincoln's Inn who became Lent reader of that Society in 1471 and died in the following year.<sup>1</sup> His book, probably printed at Rouen about eighteen years after his death by Guillaume le Tailleur for Richard Pynson of London, though quite possibly printed in London by Pynson himself,<sup>2</sup> is remarkable as being, apart from a few Year Books, our earliest printed law book. Though generally described in catalogues as an '*Abridgement of Cases to the end of K. Henry VI.*,' it has in fact no title-page, and its authorship can only

<sup>1</sup> Black Books of Lincoln's Inn, i. 53.

<sup>2</sup> On the reverse of the second folio are the words '*per me R pynson.*'

be deduced from the fact that it was consistently described as 'Statham by writers and reporters of the sixteenth century. Its pages and abridged cases are alike unnumbered ; but as the first four pages of each quire of eight are marked *a 1, a 2, a 3, a 4 . . . b 1, b 2 . . .* and so on, respectively, it is easy to give a precise reference to the pages. An editor of the Year Books of Edward II. should not be expected to give a detailed description of this important work. It may be observed, however that it contains a few notes of cases of the reign of Edward I., and that from 1 Edward II. to 38 Henry VI. nearly every year is represented in the volume. The chief omissions seem to be 2 Edward II., 37 Edward III., 14-19 Richard II., 10 Henry V., and 10, 17, 33, 34 and 37 Henry VI. ; though further research may reveal a few cases of some of these years. Its earliest entries are very brief notes ; but among the later ones are divers long reports, some of which are not to be found in the printed Year Books.<sup>1</sup> Though the entries are usually dated by the term and regnal year, many have a reference to a year and none to a term. From this, however, it should not be inferred that Statham had before him manuscripts in which the reports of certain years were not divided into terms, for he sometimes mentions and sometimes omits the term in his notes of cases of the same year. As the volume is unfortunately disfigured by many misprints, the term may in some instances have been omitted through carelessness. On the other hand the terms of certain years, as for example 4 Henry V., are so consistently omitted in every part of the volume that Statham's manuscript reports of those years can scarcely have been divided into terms in the usual manner. Significantly enough, this year 4 Henry V. is one for which our printed Year Books contain no reports ; and possibly Statham's Abridgement is here based upon some scarce manuscript containing but few reports of that year. This may also be true of several other years. The whole subject of citation by years and terms would probably repay in interest a careful investigation.

Statham abridged one case at least from the reports of the Cornish eyre of Edward I., and several from the Northamptonshire and Nottingham eyres of 8 Edward III. ; but as he gives no references to the Kentish eyre of 6 Edward II. it is probable that he was not in possession of a manuscript containing reports of that eyre. His Abridgement comprises the following notes of cases heard in the first five years of the reign of Edward II.

1. *Quale ius.* (Mich. 1 Edw. II.) *Quale ius issera sur accion de covenant*

<sup>1</sup> For instance, *Barre*, M. 30 H. vj., c. 4 v° ; *Remitter*, H. 19 H. vj., v. 7 v°.



porté par home de religioun pur lever une fyne, etc. Tamen il semble qe le seigneur peut entrer, qar ceo n'est qe feoffement, etc. (t, 4v<sup>o</sup>.)

2. *Age*. (Anno primo Edw. II.) En breue d'annuité vers un persone d'un esglise, qe pria en aide del heire del patron deinz age et qe le parole demurge. Et non potuit, etc. (a, 5v<sup>o</sup>.)

3. *Age*. (Mich. 3 Edw. II.) En waste verz tenaunt pro indiuiso de wast fait par son parcener<sup>1</sup> il fuist ousté de son age. Vide statutum. (a, 5v<sup>o</sup>.)

4. *Saver de defaute*. (Mich. 3 Edw. II.) Quere si le demandant peut relessier le defaute le vouché al le graund cape ou petit cape, et si noun si le tenant peut, etc. (x, 7r<sup>o</sup>.)

5. *Viewe*. (Mich. 3 Edw. II.) En breue d'entrusion verz le baron et sa feme supposant qe le defendant intruda; le viewe fuist grauté. Quere causam; quar nulle tort est en le baroun, etc. (et<sup>2</sup>, 3v<sup>o</sup>.)

6. *Droit*. (Easter, 3 Edw. II.) Lou home graunt a moy lez servicez son tenant par fyne sur conusaunce de droit, jeo avera breue de custumez et servicez, non obstante qe le tenant n'attourna, etc. Mez jeo ne puis avower, etc. Tamen il semble fort de maintenir son breue de custumez et servicez, quar il covient de lier possessioun en luy ou en son auncestre. Et en ceo cas n'est possessioun en fait come semble, etc. en replevin per opinionem curie, etc. (i, 6v<sup>o</sup>.)

7. *Waste*. (Easter, 3 Edw. II.) Waste agardé boun verz executours sanz coexecutourz nient nosmé etc. (z, 4r<sup>o</sup>.)

8. *Voucher* d'un meason admitté lou une tofte fuit garranté, etc., en un nota. (et, 2v<sup>o</sup>.)

9. *Nuper obiit*. (Anno III. Edw. I.) Nuper obiit gist parentre soers de demi sank, etc., del seisin de comune auncestre, etc. (r, iv<sup>o</sup>.)

10. *Oyer et terminer*. (Trinity, 4 or 5 Edw. II.) En oyer et terminer si la partie al primer jour face defaute home avera uenire facias ou pone per uadium a son eleccioun. (r, 4.)

11. *Fynes*. (Mich. 5 Edw. II.) Un fyne ceo leva sur breue d'entré, mes primes le demaundaunt counta et le tenant fist defence et sur ceo prierent congé d'accorder et sur ceo lever le fyn, etc. Et ex hoc sequitur qe fyne peut estre levé sur chescun breue par quel terre est demandé, ou sur autre breue qe chargera terre, come breue de garrant de chartre ou quid iuris clamat ou per que seruicia et tielx semblablez com semble, etc. (m, 8v<sup>o</sup>.)

Statham's will, dated 15 July 1472, and proved on August 5 following, contains an interesting bequest of law books.<sup>3</sup>

I will that William my clerk haue my litill olde statutes couered with ledir, and my *natura breuium*, and if he go to court to thentente to continue there I wil that he haue my best Registre and my boke of newe statutez.

It will be noticed that, though he is supposed to have been the sole

<sup>1</sup> This word is printed in the book as *pere*, the letters here printed in italics representing a mark of contraction.

<sup>2</sup> In early printed books the abbreviations for the word *et* and for the

syllables *con* and *rum* were used as signatures when all the letters of the alphabet had been exhausted.

<sup>3</sup> The reference to this will is 7 *Wattys*.

author of an important abridgement, he makes no special bequest of its manuscript, nor of any of the Year Books on which it is based.

So far as this Introduction is concerned our chief interest in the Abridgement of the Book of Assizes (the second of our early printed abridgements) lies in a possible reference to it in the will of Sir William Callow, one of the judges of the Common Bench in the reign of Henry VII. Sir William, whom the Middle Temple claims as one of her distinguished members, made his will in 1485 on 5 October, and the same was duly proved in the Prerogative Court of Canterbury on 4 February 1487.<sup>1</sup> It contains the following bequest :

And as for my plate and stuf at Cauntbury and bookes and other loosendis and goods of myn being in my stody at London and elsewher except a book of Assises in papir a Dratton <sup>2</sup> a booke of newe statutes and ii bookes of Briggements oon of myne owen labour and thothir of Lincolnesin labour be atte the disposicion of myne executours my clerkes and other my frendes suche as entende to encrease theimsilf in the lawe.

Of these two abridgements 'oon of myne owen labour' and 'thothir of Lincolnesin labour,' we may suspect that the latter was the work attributed to Nicholas Statham, who was, as already stated, Lent reader of Lincoln's Inn in 1471.<sup>3</sup> Now the description of the book, not by the name of a single compiler, but by the remarkable words 'of Lincolnesin labour,' certainly suggests that it was produced not by some one man but by several men working together. If then we are to identify it with Statham's Abridgement we must suppose that it was produced not by Statham himself but under his supervision. Remembering that he was Lent reader of the Society of Lincoln's Inn, we may at least consider the possibility of this Abridgement having been compiled by members of Lincoln's Inn under Statham's direction during the period when as reader he was responsible for the legal studies of that Society. This is, of course, a mere possibility, which may be altogether ill founded. Callow's will, however, shows that an Abridgement of some sort was undoubtedly produced by 'Lincoln's Inn labour,' and though there may be much difference of opinion about the meaning of those words, they can scarcely fail to suggest that the Year Books also may have been compiled by the labour of the Inns of Court.

The other abridgement which Callow mentions in his will and describes as 'of myne owen labour' may perhaps be identified with the 'Abridgement of the Book of Assizes.' It enjoyed a good reputation in the Tudor and early Stuart period. Sir Edward Coke speaks <sup>4</sup> of

<sup>1</sup> The reference to this will is 7 *Milles*.

<sup>2</sup> An error for Bratton or Bracton.

<sup>3</sup> See p. xxxi above.

<sup>4</sup> *Reports*, Part X. fol. xxviii.

Stathoms abridgement first published in the reign of H. 6 by Stathom a learned lawyer of that time ; and the Abridgement of the Book of the Assizes published also about the same time, but the author thereof is unknown.

This identification is in some measure confirmed by the fact that Callow's will shows that he possessed a copy of the Book of Assizes.

A consideration of Fitzherbert's Abridgement in its relation to the Year Books of Edward II. must be reserved for another volume. It may be noticed, however, that for purposes of reference he gives the pages of Rastell's printed 'Book of Assizes,' but he is content to cite cases in the manuscript Year Books by the regnal year and term, and sometimes like Statham by the regnal year alone. In many instances his references are incorrect. Thus he cites the case of *Shrewsbury v. Shrewsbury*, printed on subsequent pages, as of Michaelmas, whereas it was reported and enrolled in Hilary term 4 Edward II.<sup>1</sup> This, if not due to carelessness, might be explained by the fact that in one manuscript the Michaelmas cases of that year are not separated from those of the following term. If then Fitzherbert used this manuscript in making his Abridgement he would naturally cite the Hilary cases as of the preceding term. It is certain, however, that, whether he used this manuscript or not, he used at least one other ; for he cites several cases as of Hilary term of 4 Edward II., quite correctly.

Probably many other Abridgements besides those already described were compiled in the Tudor period. There is, for instance, an interesting but unfortunately very imperfect abridgement in manuscript at the British Museum,<sup>2</sup> which has never been printed. It seems to have been written in the reign of Henry VIII., for it contains a case of the third year of that reign and several cases of the reign of Henry VII. ; but some, if not all, of these may have been written later than the main body of the work. In its present form it consists of 83 paper folios neatly written on both sides. Internal evidence, however, shows that it was once a fine volume of more than 650 folios.<sup>3</sup> All that remains of it now is in a good state of preservation, one folio only, namely that which should follow No. 65, being missing. This abridgement contains no notes of cases heard in either the Common Bench or the King's Bench in the reigns of Edward I. and Edward II. On the other hand, it has a few notes which relate to the eyres in Kent, London and Nottingham in the reigns of Edward II. and Edward III. These, however, seem to be

<sup>1</sup> See p. 93 below. All the manuscripts agree in ascribing this case to Hilary term.

<sup>2</sup> Add. MSS. No. 35936.

<sup>3</sup> On folio 4 r<sup>o</sup> there is a note, 'vide plus de cest title de couverture en le tître de T. a voluté posterius fol. DCL., M., iii. H. viii.'



among the later insertions. It also contains notes from cases in the Book of Assizes, and a few from the unprinted Year Books of Richard II. The chief peculiarity of this abridgement is that it gives precise references to the folios of the manuscripts upon which it is based. As yet, however, I have not been able to identify the manuscripts. The total absence in this Abridgement of notes of cases argued in the Common Bench in the reign of Edward II., and the scarcity of them in Statham's Abridgement, suggests strongly that the Year Books of Edward II. were little used in early Tudor days; and were probably uncommon. Interest in them may have been revived by the publication of Fitzherbert's Abridgement, which contains numerous notes of cases reported in this reign.

### 3. THE MANUSCRIPTS AND THEIR OWNERS.

If we could ascertain by what sort of persons the earliest Year Books were owned and in what quantity they were produced, we should possess information almost enough of itself to show the purpose for which they were compiled. But this is just what we cannot ascertain except in a very conjectural fashion. The earliest owners whose names we know lived for the most part late in the fifteenth century, and the chief basis for our vague estimates of the number of Year Books of Edward II. of the same class as those which we now possess is a comparison of the number of the surviving volumes with those of other legal treatises of the same period. Perhaps when the later Year Books have been studied in manuscript we may gradually form clearer ideas on the subject. For the present we must content ourselves with investigating the material which lies at hand. Though small in quantity, it is instructive. Our Year Books were, with the exception of *Y*<sup>1</sup> which is unique, all written in the course of the reign of Edward III. or soon after his death. With the same exception not one of them contains any cases of the time of Edward I. set out in regular series, though in some of them a few cases which may be ascribed to that reign are inserted without regard to chronological order among those of Edward II. Again *L*, *S* and *Z* are the only manuscript Year Books of Edward II. which also contain cases of the reign of Edward III., and these cases are of the early years of the latter reign. Thus the Year Books of Edward II., as we know them, are volumes relating to that reign exclusively or to that reign and a few years more. We can scarcely be wrong in saying that in the latter part of the fourteenth century—that

<sup>1</sup> This manuscript was probably written in the reign of Edward II.

is to say, a few generations after the death of Edward II.—Year Books of this reign were circulating in single volumes containing reports of as many consecutive years as their compilers could obtain.

It should also be noticed that no manuscripts of the Year Books of Edward II. which were actually transcribed after the accession of Henry IV. still exist. All those which we know seem to date from the fourteenth century. Apparently an active demand for them ceased some three or four generations after they were compiled. We may infer from this that they were already regarded as out of date for purposes of instruction and as yet not much appreciated as works of authority. Even in early Tudor days, when men began to cite reported cases in court, and the abridgements were being compiled and studied, there was no great demand for the Year Books of Edward II. They remained unprinted until the middle of the reign of Charles II., and such interest as was taken in them during the Tudor period was insufficient, so far as is known, to give rise to the production of new copies of them even in manuscript.

In the preparation of the first five volumes of this series fourteen manuscripts in all have been used. Possibly a few more may yet come to light, but we cannot hope for many. The commercial value of ancient manuscripts has increased of late years, and owners, prouder of their possessions than formerly, seldom resent inspection. Now fourteen texts are quite enough to embarrass an editor, but the number is not large. It is very much smaller than twenty-six, the number of manuscripts used by the late Mr. F. M. Nicholls in his edition of Britton published in 1875; still more so than the number of manuscripts of that work now known to exist. Britton was no doubt a popular work in the days of the first three Edwards, but nevertheless it is improbable that any considerable number of serjeants, barristers and students possessed copies of it at that period. As the Year Books, in the form in which we now know them, are scarcer than manuscripts of Britton, we may at least suspect that they were less popular with the legal profession in the fourteenth century. There is certainly no good reason for thinking that many of the early Year Books in the form with which we are now familiar have been worn out by a long succession of readers and cast aside as useless. If this were the case we should surely find that some of those which still exist had been damaged but not entirely worn out by use. On the contrary, we find that they are for the most part in a good state of preservation. We may attribute the bad condition of two or three of them to the carelessness of custodians rather than to the zeal of students. There is scarcely one among them which records

the comments or corrections of a critical reader.<sup>1</sup> Such marginalia as we may find are the work of men writing in the fifteenth and sixteenth centuries. The earliest owners of our Year Books evidently treated them with care and respect and modestly refrained from disfiguring them by their own annotation.

Now this scarcity of Year Books and their good state of preservation suggests an explanation of certain difficulties in their history, which other considerations seem to render satisfactory. It is as follows. The reports with which lawyers of the reign of Edward II. were familiar were not finely written volumes such as those which we now know, but small pamphlets or gatherings of folios, each of which usually contained the reports of a single term. Perhaps those of several terms may sometimes have been sewn together or even copied continuously into a single small volume, especially where they were the work of an individual reporter of good reputation. But such collections of consecutive reports would have been considerably smaller than our large volumes of reports of the whole reign. The reason why none of these pamphlets or collections has survived to this day is that they were compiled for the instruction and immediate use of students. They read them, discussed them, and then as likely as not cast them aside in favour of more recent reports. On the other hand the larger volumes which have survived were not compiled for the instruction of students, but for the edification of mature lawyers who read law for recreation and collected legal treatises. The objection may be taken that treatises such as Britton and Bracton may also quite properly be described as works of instruction; and so strictly speaking might the large volumes of Year Books even if they were, as here suggested, compiled for the recreation of elderly lawyers. But in actual fact there is a great difference between the small collections of recent reports which young students might be expected to read as part of their legal education, and the long collections of reports and records of ancient cases which constitute the Year Books of Edward II. as we now know them. The difference is analogous to that between the texts of single books of Virgil and Homer which a modern schoolboy often possesses, and the large and expensive editions of classical authors used by men of erudition.

There can be no doubt that law students in the Middle Ages were accustomed to attend the courts. Fortescue says:

Wherefore euery daye in courte the studentes in those lawes resorte by

<sup>1</sup> In the manuscript *P* there is some contemporary annotation.



greate numbers unto those courtes wherein the same lawes are redde and taught as it were in common scholes.<sup>1</sup>

We know that in the reign of Edward II. the apprentices had a 'crib' in the Common Bench, which seems to have been a place to which they resorted for their self-instruction.<sup>2</sup> We also know that direct instruction by readers in the Inns of Court took place not during the term time, but in the vacations when they were not engaged in the work of their profession and when the students were no longer engaged in watching and noting legal proceedings. Even in Tudor times a member of an Inn of Court who had not yet been called to the Bar might take notes and actually call himself a reporter. William Burton, the Leicestershire antiquary, referring to the case of *Corbet v. Corbet* heard in Easter term, 1600, says :

I was then standing by, being a Reporter in the same Court.<sup>3</sup>

Yet Burton was only admitted a member of the Inner Temple on 20 May 1593, and was not called to the Bar until 19 May 1603.

But if in the Middle Ages young students busied themselves with taking notes, we need not assume that they were themselves normally responsible for the early reports. The Year Books are, as we may prove by checking them with the records, too carefully compiled to have been the work of mere beginners. The compilers of them assume that their readers are acquainted with the nature of original writs, the elements of procedure and the general principles of pleading. They were almost certainly written for purposes of instruction ; but they were written by persons who were themselves capable of giving instruction. In the modern technical sense of the word some of these reporters may have been 'students,' that is to say, men who had not yet been called to the Bar ;<sup>4</sup> but they had obviously passed through a course of legal training, and should not be confused with the younger and untrained men, some of whom may have stood or sat beside them in the 'crib' taking notes, but not compiling reports for the instruction of others.

It is only by a careful examination of the reports of several years

<sup>1</sup> *De Laudibus*, first edition, f. 112. The Latin text of this passage is as follows: 'quo in curiis illis ad quas omni die placitabili confluent studentes in legibus illis, quasi in scolis publicis leges ille leguntur et docentur.'

<sup>2</sup> *Year Book Series*, vol. ii. p. xvi. and vol. iv. p. xli.

<sup>3</sup> *Description of Leicestershire*, p. 271.

<sup>4</sup> The words 'student-at-law' were

formerly not restricted to members of an Inn of Court who had not been called to the Bar. Sir Nicholas Bacon, who was called to the Bar at Gray's Inn in 1533, and became a Bencher in 1550, was described officially in a royal book of receipts and payments from 1 October 1548 to 30 September 1549 as 'studeant-at-the lawe' (*Camden Society Publications*, first series, vol. 84, p. 13).

that we shall be able to form any useful estimate of the number of professional reporters in the reign of Edward II. In the next section of this Introduction, such an examination will be begun, but it is necessarily long and must be continued elsewhere. The rest of this section is chiefly concerned with the owners of some of the manuscripts in the fifteenth and subsequent centuries. Unfortunately comparatively few owners have recorded their names in their books, for it was not a common practice before the Tudor period. Unfortunately, too, many flyleaves and covers which once contained signature have disappeared for ever. Moreover some names can no longer be read because the ink has faded; others have been carefully erased by subsequent owners. Even when we have a plainly written signature we cannot always be sure of its date, for owners sometimes imitated other hands when writing their names. John Maynard, for instance, has left his signature in our manuscript *B* in a hand which as far as appearances go might have been that of his great-grandfather or some more remote ancestor. Signatures in large letters not unlike those of monumental brasses are far from uncommon, and are not easily dated.

The first of our manuscripts (here called *A*) is in the University Library at Cambridge. It bears the name of Henry of Motelow on folio 111 r<sup>o</sup> and again on folio 113 v<sup>o</sup>. Henry was appointed a Justice of the Common Bench on 4 July 1357, and is believed to have died four years later<sup>1</sup>; so that the manuscript must have come into his possession not many years after it was written. We also have information of another of its early owners. On folio 149 r<sup>o</sup> we have the words, 'Basset est magister huius libri ut dicit Armiston,' and on folio 161 there is a direction which reads as follows:

☞ Verte ad quarterium tercium sequentem ubi hoc signum scribitur in medio quaternii.

The reference is to a continuation of an additional report from folio 161 to folio 188 v<sup>o</sup>. On the latter folio we find the sign ☞ and the name of Basset noted in the margin. The date of the handwriting is very doubtful, but it is not later than the reign of Richard II., and possibly it is as old as the early years of Edward III. The Latin words now under discussion also raise some difficulties. When we are told 'Basset est magister huius libri,' we may take it that a certain Basset was once owner of the book, though the use of the word 'magister' in this sense is remarkable. Again the words 'ut dicit Armiston' seem to be equi-

<sup>1</sup> No fines were levied before him after Easter 1361.



valent to 'teste Armiston,' a form of expression not uncommon in brief statements of ownership of flyleaves and margins of manuscripts.<sup>1</sup> If these surmises are correct, Basset and Armiston were contemporaries, and the absence of Christian names suggests that they either practised at the Bar or were clerks of the Common Bench. There was a certain Armiston who held the office of a filacer in the Common Bench between the years 7 Richard II. and 22 Henry VI.; but he appears to have had no colleague called Basset, nor is anything known of any serjeant or advocate so named at this period. In the reign of Edward III., however, a certain William Basset became Justice of the Common Bench and Justice of the King's Bench successively and probably died about 24 Edward III. Possibly Ralph Basset of Drayton, who was a Justice of the Peace in Staffordshire in the reign of Richard II.,<sup>2</sup> and perhaps a lawyer, may have been the person to whom Armiston referred.

This manuscript is in three parts. The first contains the Kentish Eyre of 5 Edward II. and occupies the first nineteen folios. The next part contains reports of the Common Bench of the first three years of the reign, and also of Michaelmas term and part of Hilary term of 4 Edward II.<sup>3</sup> The reports of the latter term end abruptly towards the top of folio 65 v<sup>o</sup>, which is the last of a quire. The third part contains reports from Michaelmas term 10 Edward II. to Michaelmas term 20 Edward II., which is the last of the reign. It is improbable that this manuscript ever contained reports from Easter term 4 Edward II. to Trinity term 10 Edward II.

The manuscript, here called *B*, formerly the property of Serjeant Maynard, is interesting as containing the signature of another early owner of a Year Book of Edward II., John Wyse of Salisbury. It occurs three times on one folio, and on another we have the words 'Hec indentura facta inter Iohannem Wyse de ciuitate Noue Saresberie draper ex una parte,' which were probably written for the purpose of testing a pen. He was the same person as John Wyse who was elected Mayor of Salisbury 1453, 1460, 1461 and 1470.<sup>4</sup> His will was proved in 1478 and it may be presumed that he died not long before that date. Although we have no certain knowledge how such a technical work as a Year Book came into the hands of a country merchant we may at least suspect that it was once the property of Cardinal Morton. In the

<sup>1</sup> Cf. 'Teste Willelmo Fletwode,' see p. 1 below.

<sup>2</sup> *Calendar of Letters Patent*, 1385-9, p. 82, *et passim*.

<sup>3</sup> The last case of Hilary term is un-

finished and ends in the middle of a folio.

<sup>4</sup> R. C. Hoare, *History of Modern Wiltshire*, vi. 696. *Calendar of Patent Rolls*, 1452-1461, pp. 164, 658. For his will see 33 *Wattys* at Somerset House.

Arundel collection at the British Museum there are four manuscripts which belonged to the Cardinal. One of them, a fine copy of the *Infortiatum*,<sup>1</sup> belonged to this John Wyse.<sup>2</sup> Now the Cardinal was a Canon of Salisbury from 8 November 1458 to 29 October 1476, and being a strong Lancastrian he was in exile from 1461 till 1470.<sup>3</sup> It is therefore not improbable that he pledged or sold some of his books to Wyse before leaving England. If the Cardinal were really the owner of this manuscript, we have the fact that scarcely a hundred years after its compilation it had passed into the hands of a young man who had been brought up not in the Inns of Court but in the Benedictine abbey of Cerne, who had studied canon and civil law at Oxford, and who had acquired at an early age a considerable practice in the ecclesiastical courts.

The names of some sixteenth-century owners are also written in this manuscript, namely, Henry Grene, esquire, of Staple Inn, of whom nothing has been ascertained; and also John Ramsey and Thomas Colby of Gray's Inn, who were admitted members of that Society in 1539 and 1549 respectively. It subsequently came into the possession of one John Kempe, possibly a kinsman of Thomas Colby. How Serjeant Maynard acquired it remains unknown. It was printed by him in pursuance of an authorisation of Rainsford, C.J., dated 28 August 1676. A later owner was John Heptinstall, well known as the printer of several works by Henry Purcell, the musician. It eventually found its way into the Library of Sir Gregory Osborn Page-Turner at Battlesden, which was sold by order of the sheriff of Bedfordshire in November 1824.<sup>4</sup> It was purchased by Sir Thomas Phillipps of Middlehill and placed in his collection in March 1827. Finally it was acquired by the British Museum for the sum of £30 on the sale of a part of his library in 1896. At the Battlesden sale it was so poorly esteemed that it was placed without any description of its contents with two other manuscripts in a single lot:

2713. Treatise of Game, a MS. on vellum, in English with illuminated capitals. Aesopi fabulæ MS. on vellum, and one other on vellum.

<sup>1</sup> This is *Arundel MS.* 454. The other three manuscripts which belonged to the Cardinal are Nos. 366, 435, and 461 in the same collection. On f. 278 v<sup>o</sup> of No. 454 John Wyse has written: 'Non est in mundo diues qui dicit Habundo; et hoc dicit Iohannes Wyse qui est bonus.'

<sup>2</sup> It may be noticed that Nicholas Statham, whose Abridgement has been discussed on an earlier page, was mem-

ber of Parliament for Old Salisbury in 7 Edward IV. (*Official Return of 1878*, part i. p. 359). He may well have known John Wyse and used his Year Book.

<sup>3</sup> See *Dictionary of National Biography*, and W. H. Rieh Jones, *Fasts Ecclesiae Sarisberiensis*, ii. p. 382.

<sup>4</sup> A copy of the sale catalogue of this library is in the Library of the British Museum.

The Additional MS. 37658, here described as *C*, was purchased by the British Museum at the Phillipps sale in June 1908. It was unknown, or at any rate inaccessible, to our late Literary Director, and is now used for the first time in an edition of the Year Books. It contains 276 folios, and is written on vellum in a remarkably clear and unlaborious hand of the fourteenth century. Its shape, 16 inches high and 6 inches wide, would make it conspicuous in any collection of Year Books. Once it was even taller than it now is, for most of the catchwords at the feet of the folios and some of the headlines have been cut away by the binders. The first folio of the MS. is a flyleaf; the second contains a report of an undated assize of novel disseisin heard before Sir Henry Spigurnel and his unnamed fellow justices in Lincolnshire. The nineteen folios next following (3-21) contain the tract on pleading known as *Nouae Narrationes*<sup>1</sup> which enjoyed no little popularity as a work of instruction in the Middle Ages. Next we have a useful but incomplete table of the Reports in the volume, beginning on folio 22 r<sup>o</sup> and ending with folio 38 v<sup>o</sup>. The Reports occupy 234 of the remaining 236 folios, the last two of which are blank. They extend from Michaelmas term 1 Edward II. to Michaelmas term 15 Edward II., but there are no reports for Trinity term 12 Edward II., and Easter and Trinity terms of 14 Edward II. Easter and Trinity terms of 11 Edward II. are treated as a single term. On an average there are about twenty folios to a year, but there are many more reports for some years than for others. Thirty-three folios are needed for the fifth year, but four only for the ninth. The folios are numbered in ancient Arabic figures on each side like the pages of a modern book. Curiously enough the numeration is inaccurate, the numbers 115, 277 and 311 being omitted, and the numbers 178 and 218 repeated. This numeration begins on folio 39 r<sup>o</sup> with the Reports and was doubtless made for purposes of reference in the Table of Cases.

The words 'Iste liber pertinet ad me Georgium Serrye' occur on the last folio of this MS. on which there is writing, and on the second of the two following blank folios are the words 'Iste liber constat Ricardo Clerke.' Nothing is known of Serrye, but an extract from certain proceedings in one of the courts of Common Law written on the flyleaf at the end of the volume shows that Richard Clerke was acting therein as attorney for an unnamed prior, who was the executor of the will of John Shillingford. Possibly this was the John Shillingford who was elected mayor of Exeter in 1444.

<sup>1</sup> It was first printed by Richard Pynson at the end of the fifteenth century. Another edition was published by Tottel in 1561.



This manuscript formerly belonged to George Robert Petre of Dunken Hall, Lancashire, who died on 30 March 1829.<sup>1</sup> Neither he nor any of his ancestors of the name of Petre are known to have collected manuscripts or to have been interested in English law. Yet there are three Year Books at the British Museum which the late Sir Thomas Phillipps acquired from Mr. Petre; and none of them contain the signatures, arms, or book-plates of any eighteenth-century collector. It is almost certain that they once belonged to Sir Thomas Walmisley, a justice of the Common Bench from 1589 to 1612. He was the owner of Dunken Hall, which passed by descent to Catherine Walmisley, who married Robert Petre the seventh baron and an ancestor of the late George Robert Petre.<sup>2</sup> Sir Thomas is known to have possessed one Year Book of Edward II., for in the report of Catesby's Case we read:

For authorities, a resolution of this court *tempore* E. 2 in the written Book of Cases in his time; in which book (which belongs to Walmesley Justice) appears a writ awarded out of this court. Rex venerabili W. eadem gracia Lincolniensi episcopo salutem. Cum magister milicie Templi in Anglia<sup>3</sup>. . . .

I have been unable to find this writ either in *C* or in *Y*, another manuscript which may have belonged to Sir Thomas Walmisley<sup>4</sup>; and it may be that it is quoted from a manuscript Year Book of which nothing is now known.

The remarkably fine MS. here called *D* was bequeathed to the Library of Lincoln's Inn by Charles Fairfax, a legal antiquary of distinction, who died in 1673. All that is known of its history is recorded in the manuscript itself.

This volume of Edward y<sup>e</sup> second I had upon an Exchange with Sergeant Clarke (commonly writt in our Pention-Rolls John Clerke the Thirteenth) in or about Decimo Septimo Jacobi 1619. I accounted itt more y<sup>e</sup> gift of a Friende then any Exchange of like vallew.

C. FAIRFAX.

Now given as my legacy to Lincolnis Inne Library as may appeare by a Clause of my will entered in the last Folio of a large booke of Iters 433 w<sup>ch</sup> (together with this) I also bequeath as likewise some other Manuscripts of Law to that Noble Society.

<sup>1</sup> *Gentleman's Magazine*, vol. 99, p. 379. He was the eldest son of the Hon. George Petre who died 22 October 1797 (*Ibidem*, vol. 67, p. 901).

<sup>2</sup> The pedigree is given with some errors of date in Whitaker's *History of Whalley* (ii. 280).

<sup>3</sup> *Reports*, part 6, f. 62 (vol. iii. of edition of 1826, p. 379).

<sup>4</sup> The description of the MS. as a Book of Cases suggests that it was *Y* rather than *C*. Possibly the case occurred in one of the three missing folios of the former manuscript.



This Serjeant Clerke was admitted a member of Lincoln's Inn in April 1608, and was created a serjeant in 1648, but in the printed Black Books of the Inn he is not described as 'the thirteenth.' Charles Fairfax was a few years his junior, having been admitted on 27 October 1611. His will is dated December 1672, and he died in the same month in the following year.<sup>1</sup>

We learn from the Black Books that in November 1672, a few weeks before the date of the will of Charles Fairfax, the question of printing the Year Book of Edward II., then 'remaining in the Library,' was under consideration. The entry reads as follows<sup>2</sup>:

8 November 1672. Ordered that Sir Nicolas Pedley, Mr. Day, Mr. Manby and Mr. Atkyns, or any two of them, be a Committee to attend the Lord Chiefe Justice of England in order to the printing of the manuscript of Edward the Second now remaineing in the Library; and to treat with the Booksellers in relacion to the printing of the said manuscript.

This must refer to the Lincoln's Inn manuscript here designated by the letter *Z*, for Fairfax's manuscript *D* was still in his possession. Nevertheless, when the Inn acquired his manuscript on his death in the following year, namely 1673, the Masters of the Bench made no similar order with respect to the acquisition. This is not remarkable; for the Chief Justice, whom the Committee attended in 1672, was Sir Mathew Hale; and it is probable that they attended him at his own request. He had recently referred to this very manuscript (*Z*) in terms of high praise,<sup>3</sup> so that we are bound to suppose that he would have wished to see it printed unless some better text was forthcoming. Apparently, either he was not altogether satisfied with the manuscript which he had praised and preferred the Maynard manuscript or the Committee were unable to agree to its publication for reasons of their own. It was not until 28 August 1676, four months after the resignation of Hale, and three years after the death of Fairfax that Maynard's manuscript was brought before Hale's successor, Sir Richard Rainsford, and its publication approved. Probably Hale had never seen Fairfax's manuscript, for it has many merits, and some might think it the best

<sup>1</sup> Thomas Jones of Gray's Inn, Common Serjeant of London from 1614 to 1625 (see John Strype's edition of Stowe's *Survey*, 1720, ii. 162), wrote a brief table of contents on a paper fly-leaf at the beginning of this volume, and also many headings and marginal notes. On folio 60 r<sup>o</sup> the signature of William Fairfax occurs. It is difficult to suppose that any person of that name

was ever the owner of the manuscript. Charles Fairfax's brother William died at the siege of Frankenthal in 1621. The appearance of this signature remains to be explained. It is scarcely consistent with the extracts printed on p. xlv above.

<sup>2</sup> *The Black Books of Lincoln's Inn*, iii. 85.

<sup>3</sup> In the case of *Socheverell v. Froggat*. See our *Year Book Series*, i. p. xxx.

from which the Year Book could have been printed. If he had been acquainted with it when he praised *Z* he would almost certainly have mentioned it and praised it also.

Charles Fairfax also possessed a second manuscript Year Book of Edward II. which, if it still exists, remains to be discovered. At the end of the reports of Trinity term 2 Edward II. he has written in the margin of *D*<sup>1</sup>:

Three other cases<sup>2</sup> are here inserted in my other MS. E. 2;

and at the end of the volume<sup>3</sup> he has added ten folios from this second manuscript, giving for his reason:

These last tenne leaves I took out of another of my manuscripts to make this volume the more compleate.

This observation is a little misleading. His MS. *D* ends in the middle of a case of Trinity term 19 Edward II.; his additional ten folios contain cases of the same year, the first of them beginning with a case of Michaelmas term, and the last ending with one of Trinity term. Thus, his additional folios, instead of supplying missing reports for Michaelmas term<sup>4</sup> of the year 20 Edward II., give us a second set of reports for 19 Edward II. They are written in a hand somewhat similar to our MS. *T*, and in single column. In the latter respect they differ from *D*, which is written in double column throughout. Fairfax's two manuscripts must have agreed very closely in size, about 12½ by 9 inches; but the additional folios may have been reduced a little to suit the binding of *D*. Each of these ten folios contains 72 lines occupying 7½ inches by 11½ inches. These data ought to be quite sufficient to enable us to identify the missing manuscript should it ever come to light.

Our next manuscript, *G*, though in the University Library at Cambridge,<sup>5</sup> seems to have escaped the notice of our late Literary Director. Two or three quires have disappeared from the beginning, the first case being that of *Kennington v. Cornwall*<sup>6</sup> in Hilary term 3 Edward II. The reports are continuous until the end of Michaelmas term 7 Edward II., when there is a break, and they are not resumed until Michaelmas 10 Edward II. There is no reason, however, for supposing that the manuscript ever contained reports for the eleven missing terms. From Michaelmas 10 Edward II. they are again con-

<sup>1</sup> Folio 42 v°.

<sup>2</sup> As to these three cases see p. lxxii (line 19) below.

<sup>3</sup> Folio 360 v°.

<sup>4</sup> This was the last term of the reign.

<sup>5</sup> Gg—5—20

<sup>6</sup> *Year Book Series*, vol. ii. p. 180.

tinuous until the end of Trinity term 18 Edward II., except that no reports are definitely assigned to Hilary and Easter terms of 16 Edward II. or to Easter and Trinity terms of the following year. On folio 30 r<sup>o</sup> the name Tremayne occurs in the margin; and it is not unlikely that the manuscript once belonged to a serjeant of that name who practised in the closing years of the reign of Edward III. *G* is a valuable manuscript, on account of the accuracy of its text and the excellence of its handwriting. In this volume, however, it agrees almost word for word with *B*, from which the Old Edition of 1678 was printed.

Our manuscript *L* was purchased by the British Museum from the late Lord Robert Montagu in June 1863. It came to him by descent from his maternal ancestor Oliver St. John, whose signature appears on a flyleaf at the end of the book. He was a Justice of the Common Pleas from 1648 to 1663, and his is the only signature in the volume. It is divided into seven parts. The first, which is of three quires in double columns, contains reports from Michaelmas term 1 Edward II. to Easter term 3 Edward II., but the last case of the latter term, namely *Lancaster v. Stratford*,<sup>1</sup> is unfinished and ends abruptly on folio 27 v<sup>o</sup>, which is the last of the third quire. The next part consists of twelve folios in single column and contains reports of the first three terms of 5 Edward II. This part also ends in the middle of a case. The third part (40 r<sup>o</sup>–46 v<sup>o</sup>) consists of seven folios, which are smaller than those in the other parts, and were evidently written considerably later than any of them. Its cases are undated but obviously belong to the reign of Edward III. The fourth part (47 r<sup>o</sup>–58 v<sup>o</sup>) contains reports of all four terms of 13 Edward II. This part is complete. The fifth part (59 r<sup>o</sup>–65 v<sup>o</sup>) consists of reports of Michaelmas term 14 Edward II., and a few cases in a later hand from 1 Edward III. on folios 64 v<sup>o</sup> and 65 r<sup>o</sup> and v<sup>o</sup> which were probably left blank originally. The sixth part (66 r<sup>o</sup>–116 r<sup>o</sup>) consists of reports of the years 15 & 16 Edward II. and of Michaelmas and Hilary terms 17 Edward II. They end abruptly in the middle of a case, and probably form part of an intended volume which was never finished. This part is also defective internally, two folios between 87 and 88 and their corresponding folds between 95 and 96 having been lost. The seventh and last part (117 r<sup>o</sup>–162 v<sup>o</sup>) consists of reports of Michaelmas term 4 Edward III., all four terms of 5 Edward III., and a few cases of Hilary term 6 Edward III. written on the verso of the last folio.

An ancient numeration of the folios shows that when in the hands

<sup>1</sup> *Year Book Series*, vol. iii. p. 114.



of a former owner the parts were arranged in a different order, namely 5, 2, 3, 4, 1, 6, and that part 7, the folios of which were not numbered, was added afterwards. It is obvious, however, that the six parts, arranged as they were without regard to chronology, were numbered and bound by the direction of some owner who had little acquaintance with the Year Books of the fourteenth century. He probably found himself in possession of some fragments of Year Books, and put them together as best he could. The parts which contain reports of the reign of Edward II. seem to have belonged to four or five different manuscripts, of which other parts may even yet come to light.

The manuscript here called *M* is in the University Library at Cambridge.<sup>1</sup> Though there may well be differences of opinion about its date, it seems to have been written in the reign of Richard II., and possibly a little later. Its first eight folios, and two others, namely those once marked 90 and 101 in the ancient numeration, have disappeared, but in other respects it is in a good state of preservation. Beginning in the middle of its concluding case of Hilary term 2 Edward II., it contains a continuous series of reports until the end of Trinity term 18 Edward II., and will supply some useful text for many terms which are poorly represented in our other manuscripts. None of its former owners has left his signature upon its folios but, like the other Year Books of Edward II. in the University Library, it once belonged to John Moore, successively bishop of Norwich and Ely, whose collection of books and manuscripts was purchased by George I. and given to the University of Cambridge.

Our chief interest in *P*, the letter by which Harleian MS. 835 is here distinguished, arises from the individuality of its compiler, who has incorporated many reports not found in the other manuscripts. For the most part they belong to the reign of Edward I., and are inserted out of chronological order among the reports of Edward II. Some early owner, perhaps the earliest, has also added here and there a few brief notes in the margins below the text; and various references and comments in the margins opposite the cases. The manuscript has certainly undergone more early annotation than any of our others. Unfortunately no owner has written his name anywhere in the volume, and it is not even known from whom it was acquired by Robert Harley, Earl of Oxford. It was at one time in a bad state of preservation, and can then have been little more than a packet of detached folios.

<sup>1</sup> Ff—2—12.



It has recently been rebound, and its folios have all been attached to guards. The first eight containing reports, which are headed 'Anno primo E. secundi,' apparently belong to divers years of the reign of Edward I. The rest of the volume contains reports of the years 1 to 7 and 11 & 12 Edward II.

Next we come to the manuscript here cited as *Q*. Although what remains of it is in an excellent state of preservation it has obviously lost much. Perhaps its defects are due to bad stitching or careless binding in its younger days. In its present degenerate state it contains no cases at all for several terms in the first five years of Edward II., and many are missing for some of the remaining years. Nevertheless we may assume that it once contained a continuous series of reports as far as Easter term 5 Edward II. and perhaps as far as Trinity term in that year. Here the reports in the Common Bench cease and the next twenty-two folios are concerned with the eyre of Kent of 5 Edward II. Then the reports in the Common Bench begin again with Michaelmas term 10 Edward II., those for the years 6 to 9 Edward II. being entirely omitted. They are now continuous for four years, 10 to 13 Edward II. and then after an omission of four years they begin a third time with Michaelmas term 18 Edward II. The reports for the various terms of this year are not separated from one another by the customary headlines; but from a collation with other manuscripts it is evident that all four terms are represented in the volume. Next we have reports of Michaelmas<sup>1</sup> and Hilary terms 19 Edward II.; but though the reports of the latter term are introduced by the words 'De termino Hilarii anno nono decimo'<sup>2</sup> they may include a few others of a later date. After this a second series of reports of the eyre of Kent occurs differing considerably from the earlier series already mentioned. They extend from folio 181 r<sup>o</sup> to 208 r<sup>o</sup>, on which there begins a series of reports of cases of *quo warranto* tried in the same eyre and headed 'Incipiunt placita de quo warranto.' Then after two short notes, one on a writ of *cessavit*, the other on a matter of process, a few cases of debt conclude the volume.

This manuscript discloses the names of some of its former owners. On a blank space on folio 101 v<sup>o</sup> we have the words 'Iste liber constat Thome Rochefort quem deus amat.' Nothing is known of any lawyer of distinction who bore this name, but the entry appears from the handwriting to have been made in the fifteenth century and his identity may yet be discovered by further research. Again on three different folios we have the signature Jakes, which is followed by a curious flourish

<sup>1</sup> These are incomplete at the beginning.

<sup>2</sup> Folio 172 v<sup>o</sup>.

which suggests that it had some official significance. There was a certain Jakes who held the office of clerk of the warrants in the Common Bench in the reign of Henry VIII., and it is he who was once the owner of this manuscript.<sup>1</sup> It came into the Hargrave collection as a gift to Francis Hargrave in the year 1806 from Samuel Egerton Brydges, the famous antiquary and collector, who bought it, so he states on the flyleaf, 'at the sale of Jacob's Library.' He refers no doubt to the sale of the library of Edward Jacob, who died at Faversham on 26 November 1788.<sup>2</sup> The flyleaf also contains the signature of E. R. Mores, that is of Edward Rowe Mores, another eighteenth-century antiquary of some repute,<sup>3</sup> and also a description of the contents, beginning with the words 'This MS. I bought among Mr. Harding's books.' The sale to which he refers was that of the library of the scholarly clerk to the House of Commons, Nicholas Hardinge,<sup>4</sup> who owned a large collection of legal manuscripts. He died in 1758 and the sale took place in the following year, but no copy of the catalogue is to be found in the British Museum. The sale catalogue,<sup>5</sup> however, of the Library of Edward Rowe Mores mentions the manuscript (lot 1531), which it describes simply as 'The Year Book of Edw. II., Fol. From Mr. Harding's Collection.' A note states that it was sold for a guinea. At the same sale two other Year Books were sold; one (lot 1534) is described as 'The Year Book of Edw. I.,' with the information that at the beginning is this note: 'Hic liber Francisci Tate de medio Templo continet. . . . Teste W. Fletewode. Folio.' The other (lot 1535) is described as a 'Year Book from 32 Edw. I. to 6 Edw. II (plura continet). 4<sup>to</sup> upon vellum.' The first of these two manuscripts belonged at one time to the late Serjeant Heywood,<sup>6</sup> and was purchased not long after his death by the Honourable Society of Lincoln's Inn, in whose Library it now remains.<sup>7</sup> The other manuscript may almost certainly be identified with the Additional MS. 32086 at the British Museum. This manuscript was given by the late Sir Thomas Duffus Hardy to his son-in-law A. J. Horwood,<sup>8</sup> and

<sup>1</sup> For further information about him see pp. li. and lii. below.

<sup>2</sup> *Dict. National Biography*, xxix. 114.

<sup>3</sup> *Ibidem*, xxxix. 6.

<sup>4</sup> *Ibidem*, xxiv. 346.

<sup>5</sup> A copy of this catalogue is in the Library of the British Museum.

<sup>6</sup> On a paper flyleaf Serjeant Heywood wrote: 'At the end is a very ancient copy of part of Britton signed also by William Fleetwood who was Recorder of the City of London in the

reign of Elizabeth to whom this volume in its present state probably belonged formerly as well as my MS. copy of reports in the reign of Edward the 3rd.' Fleetwood's signature in this part of Britton has disappeared.

<sup>7</sup> He died on 11 September 1828, and the MS. was bought on 9 August 1847 from a bookseller.

<sup>8</sup> The words 'ex dono T. Duffus Hardy' are written inside the cover and on the first folio 'MS. St. John.'

was purchased by the Trustees of the Museum in 1883.<sup>1</sup> It is not so much a Year Book as a notebook in which numerous reports have been entered somewhat capriciously and without any uniform regard to chronological order. It contains reports of the Kentish eyre of 6 Edward II., and of the Common Bench in the first six years of Edward II. and the last four years of Edward I. together with a few others of an earlier date. If, as seems likely, this is the volume which belonged to E. R. Mores, it is not quite accurately described in his sale catalogue, for its earliest dated cases are of the year 30 Edward I. and not 32 Edward II. as there stated. This manuscript has not been used in the preparation of the text of the first four volumes of this series or of the present volume. It was intended to add a few observations upon the more interesting reports which it contains in an Appendix to a subsequent volume.

Thomas Jakes, to whom the manuscript *Q* belonged, married Elizabeth, widow of Sir Thomas Frowyk, Chief Justice of the Common Bench, who died in 1506, having appointed his widow, Thomas Jakes, John Kingsmill and Thomas Roberts executors of his will. Possibly it once belonged to Frowyk, for he possessed a manuscript Year Book containing reports of several years of Edward III., and one year of Henry V., which is now in the Library of the British Museum.<sup>2</sup> It bears his own signature and that of Thomas Jakes, and it subsequently belonged to Sir John Spelman, a Justice of the Common Pleas (who married Elizabeth, daughter and heiress of Sir Henry Frowyk, brother of Sir Thomas Frowyk, and died in 1544), and to Geoffrey Caldwell<sup>3</sup> (an attorney of that court in the reign of Elizabeth), William Fleetwood (the famous Recorder of London, who died in 1594), and Sir Edmond Anderson, Chief Justice of the Common Pleas, who died in 1605. Probably, like our manuscript *C*, it once belonged to Sir Thomas Walmisley, for it was in the possession of his descendant the late George Robert Petre of Dunken Hall.<sup>4</sup> It was bought by the Trustees of the British Museum at the Phillipps sale in 1908.

Jakes himself seems to have been a collector of manuscripts. Besides his two volumes of Year Books just noticed he possessed a magnificent

<sup>1</sup> The sale took place on 12 June, and this MS. was lot 1336.

<sup>2</sup> Additional MS. 37659.

<sup>3</sup> The words 'Galfridus Caldwell me possidet 1547' occur on the flyleaf. He was the only son of Ralph Caldwell of London, who was buried at St. Anne's by Aldersgate, and Anne, daughter of Hugh Reading. He died unmarried leaving an only sister Joan, the wife of Thomas

Faringdon (*Harleian MS.* 1196, f. 711). Geoffrey seems to have possessed a collection of manuscripts including Lydgate's *Life of the Virgin Mary* (*Cotton MS.* App. viii.) in which his signature appears on f. 40 v<sup>o</sup>, and a medical treatise, *Sloane MS.* 3557 (in which his signature also occurs, f. 5).

<sup>4</sup> See p. xliv above.



volume of statutes with finely illuminated borders and initials. The arms which are depicted on several of its folios may throw light on some other legal manuscripts and their owners. On folio 44 we have the arms of Callow and Twiss, on folio 90 those of Callow and Spenser of Witton in Staffordshire, and on folio 127 those which have been attributed to an obscure family called Addott. On three subsequent folios the arms of Callow are impaled with Twiss, Spenser, and Addott<sup>1</sup> respectively, but the arms of Jakes are nowhere depicted in the volume. Nor have I been able to discover any relationship between Sir William Callow, the Justice of the Common Bench mentioned on an earlier page, and the families of Twiss, Spenser and Addott.

Jakes' will,<sup>2</sup> dated 20 January 151 $\frac{2}{3}$  and proved in the Prerogative Court of Canterbury on 13 July 1514, contains the following bequests:

To my brother John Fowlar the best horse I have at Wyllsborough one of my gowns and such a boke of lawe of myn as he wyll chose. Item I will that my said good lady and wyffe delyuer to the Company of the Inner Temple my fayer boke of the newe statutes wryten and lymed<sup>3</sup> and my greate boke of entres which were my singuler good lord Frowyckes there to remayne in the Librarie to the intent they shuld the better remember my said good lord her late husbond herself and me. . . . Item I bequethe to Richard Belamy John Chauncy Robert Hawkes and Thomas Robertes euery of them a boke of lawe or xxs. in money for the same at their pleasure.

The manuscript here called *R* is in the University Library at Cambridge.<sup>4</sup> It belonged in the Tudor period to one William Shelley,<sup>5</sup> presumably the distinguished Justice of the Common Bench in the reign of Henry VIII. The manuscript is now incomplete and ends abruptly in the middle of a case, but it contains a continuous series of reports from Michaelmas 2 Edward II. to Michaelmas 7 Edward II., the reports of the last term being unfinished. It is much damaged in places by damp, and many cases, notably those of Trinity term 4 Edward II., cannot now be deciphered.

Our manuscript *S* (Harleian MS. 1062 at the British Museum), once belonged to a certain Edmund Hord, whose name appears upon a flyleaf at the beginning of the volume. He may perhaps be identified with the Hord who was clerk of the warrants in the Common Bench

<sup>1</sup> I have been unable to learn anything about this family except in Heraldic works of reference and strongly suspect that the arms are those of some other family the name of which has been misread.

<sup>2</sup> The reference is 2 *Holder*.

<sup>3</sup> I am informed that this manuscript is not in the Library of the Inner Temple. Possibly it was never delivered to the 'Company,' in which case it may be the volume described above.

<sup>4</sup> Dd—9—64

<sup>5</sup> See folios 1 r<sup>o</sup>, 49 r<sup>o</sup>, and 64 r<sup>o</sup>.



in the reign of Elizabeth. Another owner was Edmund Cock or Cockes, whose name appears on a blank folio at the end of the volume. No lawyer of distinction bearing this name is known, but the will of one Edmund Cocke of St. Mary Church, Devon, was proved in 1616, and perhaps the signature is his. The manuscript was given by John Anstis, Garter King at Arms, to Robert Harley, and passed with his collection into the British Museum. Though irregular in structure, and damaged by the loss of a few folios, it contains much valuable material for this edition. A report of the London eyre of 14 Edward II. with a brief table of cases occupies its first twelve folios. This is followed by the Kentish eyre of 6 Edward II., which ends on folio 31 v°. After a half folio containing an index of the preceding and a few other cases, the reports of the Common Bench begin with Michaelmas term 3 Edward II. on folio 33 r°. There are no headlines for Easter term of this year; and on folio 48 r° the cases of Trinity term end abruptly. On folio 48 v° we have the undated case of *Thornton v. Lichfield*, which is followed by two assises assigned in the margin to the seventeenth year of the reign. Then after a short and undated case of trespass we have the headline 'De termino Michaelis anno regni regis Edwardi filii regis Edwardi decimo octavo' relating to the cases on this and the four following folios. The reports of the Common Bench are now resumed, and folios 54 r° to 145 r° contain reports of every term from Michaelmas 10 Edward II. to Trinity 17 Edward II. Folios 147 r° to 160 v° contain cases of Michaelmas, Hilary and Easter 18 Edward II., but these folios have not been bound in the true order and at least two folios are missing entirely.

Some early owner of this manuscript began to compile a table of its contents, arranging his entries according to the subject-matter of the cases on various blank or partially blank folios; thus 'waste' occurs on folio 12 v°, 'entry ad terminum qui preterit' on folio 71 r° and 'account' on 145 r°. This table shows that the manuscript never contained reports of the year 4 Edward II., nor of the years 6 to 9 Edward II., but that a quire of folios containing reports of 5 Edward II. has disappeared.

Our manuscript *T* (Harleian MS. 3639 at the British Museum) would be more serviceable if it were less defective. Well written and carefully copied, it contains reports of very nearly every term from Michaelmas 3 Edward II. to Michaelmas 19 Edward II. Nine or more folios have unfortunately disappeared from the beginning, which accounts for the lack of reports for the first two years, and for part of Michaelmas term of the third year. Twelve folios have also disappeared from the

middle of the volume, so that we have part only of the reports of Michaelmas term, none for Hilary, Easter and Trinity terms of 7 Edward II. and a few only for Michaelmas term of the following year. Owing to the loss of four folios we have part only of the reports for Easter, and none for Trinity term of 11 Edward II., while some for Michaelmas term 12 Edward II. are missing. Another folio (between 91 and 92) is missing from the reports of Hilary term 12 Edward II.; and one or more from those of Michaelmas term 13 Edward II. From this term to the end of the year 18 Edward II. we have a continuous series of reports except that part of folio 171 in Michaelmas term 18 Edward II. has been cut away. The reports end abruptly in the middle of a case of Michaelmas term 19 Edward II. The volume probably contained a complete series of reports of this reign.

This manuscript was bought with many others, on 16 July 1720, from the celebrated antiquary and collector John Warburton, by Humphrey Wanley, the librarian of the Earl of Oxford. Its binding seems to date from the early part of the eighteenth century: but it is impossible to speak confidently on the point. It was carelessly bound, several folios being misplaced to the great inconvenience of its readers. Fortunately two ancient numerations in Arabic figures, the one at the head, the other (but as to the first 90 folios only) at the foot of each folio, enable us to correct the binder's errors without difficulty. The folios which are now officially numbered 13 to 18 should, if placed in their correct order, succeed one another as follows: 13, 14, 18, 17, 15, 16. Similarly the true order of the folios now numbered 101 to 106 should be 101, 104, 106, 105, 102, 103.

Our only manuscript in the Bodleian Library is the Tanner MS. No. 13, here called X. It contains brief notes of cases heard in the Common Bench in every year of the reign of Edward II. except the first; and also reports of the Kentish eyre of 6 Edward II. and the Northamptonshire eyre of 3 Edward III. The cases of the first year have probably been cut away; those of Trinity term 8 Edward II. are missing, and Easter is not separated from Hilary term of 16 Edward II. Nor is the manuscript quite uniform in character, for in place of brief notes we occasionally have reports of some length, as for example in Michaelmas, Hilary, and Easter terms of 8 Edward II. Among its most interesting features are a few scattered reports of assizes taken before Justices specially assigned for the purpose. Some of them are not dated; others are described as having been taken at Dartford and Grinstead in 19 Edward II.; at Maidstone, Horsham and Guild-

ford in 5 Edward III., at Grinstead and Croydon in 7 Edward III., and at St. Albans in 15 Edward III. The names of the justices before whom they were taken are not always apparent from the reports; but John de Bousser seems to have been in all these special commissions before 3 Edward II. and Bacon in those after that date. Possibly these brief notes were made by some person who was successively clerk to these two justices, and he may have also abridged the reports in the Common Bench.

The manuscript was given by Thomas Alwyn, who is described on a blank folio as lately rector of Broughton, to Sir Robert Brudenall at the time when he was Chief Justice of the Common Bench.<sup>1</sup> Sir Robert was appointed to this office in 1521, and died ten years afterwards. It perhaps belonged subsequently to Sir Edward Montagu, for the signature of a person bearing that name appears at the end of the volume. He was Chief Justice of the King's Bench in 1539 and of the Common Bench in 1545. A later owner was John Akeroyd, who perhaps may be identified with the John Akeroyd of Bubwith,<sup>2</sup> the son of Henry<sup>3</sup> Akeroyd who was admitted a member of the Inner Temple in 1632. Thomas Tanner, into whose collection it afterwards passed, was Bishop of St. Asaph and died in 1733.

Of all our manuscripts Y<sup>4</sup> is perhaps the fairest and most pleasing to the eye. Written in a fine clear hand in double columns and well-spaced lines, it certainly is of exceptional beauty. Its cases, belonging to the last five or six years of Edward I.<sup>5</sup> and to the first four and a half years of Edward II., are arranged as already explained in order of subject-matter. Many of the cases of Edward II. are not reported elsewhere; and most of them differ so much from our other versions that it has been necessary to print them in full. Possibly the later reports are by one author and the earlier by another or others. Throughout the volume the cases are sparingly dated; and apparently it is chiefly among the later cases that we meet with dates. This is of itself a very slight indication of difference in authorship and it may perhaps be attributed to a

<sup>1</sup> It is not quite certain that the two consecutive entries—'Ex dono Thome Alwyn nuper rectoris de Broughton' and 'Roberto Brudenall militi capitali justiciario communis banci iste liber pertinet'—are intended to be connected.

<sup>2</sup> The expression 'nuper ex libris Iohannis Aikeroyd' suggests a seventeenth-century owner; and the handwriting appears to be of the first half of

that century.

<sup>3</sup> He is probably the same person as Henry Akeroyde of Bubwith, eldest son of John Akeroyd. This Henry was admitted to the Inner Temple in November 1592.

<sup>4</sup> Additional MS. 35116 at the British Museum.

<sup>5</sup> It contains a few of earlier date than this.



reporter having learnt by experience that dates were useful to his readers. There are however other indications of such difference. We may notice that Latin records are less common among the later than among the earlier cases. Indeed a large part of the volume contains the records of assises of novel disseisin and mortdancestor which are often unaccompanied by reports, but a more conspicuous difference may be noticed in the character of the brief notes which occur among the later cases. Many of them are written in the first person singular and reveal to us an author active in the pursuit of legal knowledge. He tells us the opinions of various serjeants, apprentices and clerks given on express enquiry or in the ordinary course of conversation. Notes of this character appear in the later cases only. Apparently he made his own reports for some years and added to them brief notes on legal principles and practice. Then he rearranged his reports and notes according to subject-matter and inserted among them as many earlier reports and records as he could find. As a general rule in his rearrangement he dated the cases which he had reported himself, but hesitated to date those which he borrowed from others.

Sir Thomas Phillipps bought this manuscript from the late Mr. George Robert Petre of Dunken Hall, and it was acquired by the British Museum at the Phillipps sale in May 1897. It is highly probable for the reasons already stated that like the Additional MS. 37658 it once belonged to Sir Thomas Walmisley. In both manuscripts certain marginal notes occur which seem to have been made by one and the same person in the early Stuart period. Possibly it may be shown that Sir Thomas Walmisley wrote them. Several other owners have written their names in this manuscript. Those of John Denton of London and Thomas Denton both occur on the last folio. Possibly the latter was Thomas Denton of Hillesden, who died on 20 July 1557, and the former John Denton his brother. On the same folio a name has been carefully erased. The compiler of the British Museum catalogue has read it as 'Thomas Cary (?) . . . professor medii Templi.' Careful investigation has shown that the missing word is 'legis,' with its last two letters represented by a mark of contraction. The surname also seems to be a longer one than Cary. Its first letter is almost certainly a *G* and the fourth may be a *g*. A fifth and the last legible letter looks very much like an *r*. We may therefore conjecture that the manuscript once belonged to Sir Thomas Gargrave, who was Speaker of the House of Commons in the reign of Elizabeth. He was never called to the Bar, but may have been admitted a member of the Middle Temple. Even so, the description of a man who was not a barrister as 'professor legis'



is remarkable and the reading of the surname as Gargrave must be regarded as very doubtful.

The only name on the first folio of the manuscript, that of Thomas Nowell of Preston, has been described as written in a hand of the fourteenth century. Several members of the family of Nowell were well known in the legal profession, and one of them, Robert Nowell, became attorney-general of the court of wards and liveries in the reign of Elizabeth; but how he was related to Thomas Nowell of Preston remains to be ascertained. On folio 2, which is a flyleaf, the name of Hengescot has been twice written in a hand of the fourteenth, or perhaps early fifteenth, century, and at the foot of a folio in the middle of the manuscript we have in the large letters of a brass or monumental inscription the name of Topclyf.<sup>1</sup> Nothing is known of any person of distinction who bore either of these names. The manuscript at present contains 294 folios, the first and the last of these are pasted on to the covers; and the second and third are flyleaves. Sixty folios have been misplaced and now come after folio 207, whereas they should have been inserted after 291 at the end of the volume. An ancient numeration of the folios shows that this misplacement is not to be attributed to a modern binder. The manuscript is also incomplete, as the last of the sixty intrusive folios and the last folio of the book as now bound end respectively in the course of a case. Three folios are missing in the middle of the volume, that is to say after folios 65, 117 and 156 respectively. On the other hand three extra folios were inserted after the book was written; they are now numbered 43, 82 and 114.

The last of the manuscripts used in this edition is in the Library at Lincoln's Inn. Its first four folios contain reports which appear to relate to Easter term 8 Edward III. They are written in double column, and spaces are left here and there for some omitted cases. These reports differ not only from those found in another part of the manuscript but also from the printed text in the edition of 1678. They evidently formed no part of the manuscript volume as originally bound. After these four intrusive folios we come to thirty-six folios containing a long table or kalendar of the reports which follow it. This kalendar is arranged according to the writs by which the reported cases were initiated, the references to the folios being given in early Arabic numbers. The text of the Year Book consists of (1) cases in the Common Bench with a few in the King's Bench from 1 Edward II. to Michaelmas 19 Edward II., (2) cases and proceedings in the eyre of Northampton-

<sup>1</sup> Folio 174.

shire and Derby in 3 & 4 Edward III., and (3) cases in the two Benches from 1 to 9 Edward III. The manuscript seems to be written in one hand almost throughout, but the arrangement of the reports is not uniform. We find the cases arranged year by year according to subject-matter and without division into terms for the first ten years of Edward II. ; but from 11 Edward II. to the end of the reign they are arranged in the usual fashion. It may be noticed that the reports of 10 Edward II. begin towards the foot of folio 66 v° in the usual single column ; they are continued on folios 67 r°, 67 v° and 68 r°, but in double column. On folio 68 v° the reports of 11 Edward II. begin and they are once more in single column. This leaves us with the impression that the work of transcription was twice suspended in this part of the manuscript, once on the completion of the ninth year, and again on the completion of the tenth year.

The arrangement of the cases which belong to the reign of Edward III. is not a subject which can be considered in detail in this Introduction. It is sufficient to observe that the reports of the year 4 Edward III. are arranged like those of each of the first ten years of Edward II. according to their subject-matter and without regard to terms. The rest of the cases of this reign are reported in the usual fashion ; the only points of interest about their arrangement being that there are no cases for certain terms, namely Hilary and Trinity 1 Edward III., Easter, Hilary and Trinity 3 Edward II., and Trinity and Michaelmas 6 Edward II. The printed reports, however, of Easter 1 Edward III. agree with the manuscript reports of Hilary term ; and the manuscript gives the first nine cases only of those printed in Michaelmas term of that year. Instances such as this of a series of cases being attributed to a wrong term are not uncommon in the manuscripts of the fourteenth century. They support the view that the early Year Books circulated in single terms or short series of terms and not in large volumes of complete years.

This manuscript was given to Lincoln's Inn Library by George Anton, who was called to the bar on 45 June 1584 and afterwards became Recorder of Lincoln.<sup>1</sup> A century earlier it had belonged to John Clerk, a Baron of the Exchequer in the reign of Edward IV., as may be seen from the following inscription on the last folio :

Liber magistri Iohannis Clerke unius baronum scaccarii domini regis Edwardi quarti anno ipsius domini regis octauo de Greys Inne. 1468.

Apparently 1468 was the year when John Clerke acquired the

<sup>1</sup> *Fourteenth Report of Historical Manuscripts Commission, Appendix, pt. viii. pp. 73, 86, 92.*

manuscript, for he had been appointed second baron eight years earlier. Another owner was a certain Urswick, whose name appears in a fifteenth-century hand on four different folios. He may probably be identified with Sir Thomas Urswick who was appointed Common Serjeant of the City of London on 27 June 1453, Recorder on 3 October 1455, and Chief Baron of the Exchequer on 22 May 1472. He was almost certainly a member of Gray's Inn, for he was one of several distinguished lawyers to whom with others Reynold de Gray granted the manor of Portpool in 1456.<sup>1</sup> The name Johan Byrkryg, which is perhaps intended for Johan Byrkryng, occurs on another folio<sup>2</sup> in an ancient but not very clear hand. It has not as yet been identified.

One of the most interesting features of this manuscript is a name which appears at the top of the right-hand margin of several folios.<sup>3</sup> It is plainly written (with one or two slight variations in spelling) as Knaresburgh, and though it is impossible to speak confidently it seems to be in the same handwriting as the manuscript. We may at least suspect that it is the name of its writer. There can scarcely have been a better object in the inscription of the name on these folios, than to testify to the authenticity of the copy. It is as if the writer were to say: 'These are the reports of the years here mentioned, as Knaresburgh witnesses who wrote them.' We fortunately have a hint of his identity. Between the reports of the reign of Edward II. and those of the eyre of Northampton a folio<sup>4</sup> was originally left blank, and on this at some later date three documents have been copied, all of which relate to the forest of Knaresburgh. The third of these documents, an agreement<sup>5</sup> made in the form of a chirograph, is dated 30 March 1285, and one of the witnesses to it was a certain Robert of Knaresburgh, who is likely to have been the writer of the manuscript. He was possibly the person of that name who was acting as attorney of Elizabeth widow of John of Burgh in the reign of Edward II. and the early years of Edward III.<sup>6</sup> But though he was probably the writer of the manuscript there is no reason for supposing that he was himself a reporter. He was a clerk and an attorney, who perhaps made this compilation for some person interested in law or possibly made it for his own edification. How far the manuscript contains any original work in the way

<sup>1</sup> *Pension Book of Gray's Inn*, i. p. xx.

<sup>2</sup> Folio 176 v<sup>o</sup>.

<sup>3</sup> Folios 43 r<sup>o</sup>, 51 r<sup>o</sup>, 61 r<sup>o</sup>, 69 r<sup>o</sup>, 301 r<sup>o</sup> and 313 r<sup>o</sup>.

<sup>4</sup> Folio 240.

<sup>5</sup> The agreement was made between Edmond Earl of Cornwall of the one

part and Sir Robert of Plumton of the other part.

<sup>6</sup> *Calendar of Letters Patent*, 1321-4, p. 228; *ibidem* 1327-30, p. 365, *ibidem* 1330-4, p. 4. In the year 1334 he appears to have been in Ireland.



of abridgement and revision is a matter for further consideration. Like Winchendon, whose manuscript Selden saw in the Inner Temple Library,<sup>1</sup> Knaresburgh may have been a man of learning. Several clerks who practised as attorneys at this period were entitled to the prefix 'Master,' and had studied at a university. Robert of Knaresburgh was apparently not entitled to be called Master, but he may yet have possessed a considerable knowledge of English law. The chief difficulty in accepting the view that he was the actual writer of the manuscript is the fact that twelve names or words which have with one exception been more or less successfully erased are inscribed respectively in the top margin of each of the folios 43 v<sup>o</sup> to 49 r<sup>o</sup>. Their position, however, is a little different from that of the name 'Knaresburgh,' and they appear to have been written at a later date. The only one of them which has not been wholly or partially erased seems to read as 'Omolryan'; and it is very uncertain how many of the other names or words differ from this or from one another. For the present they must remain unexplained.

If we have been unable to trace the history of any one of our manuscripts from its infancy to the present day, we can at least notice a large proportion of men of erudition and legal distinction among their owners of the Tudor period. At a later date they were regarded with affection by distinguished jurists such as Selden and Hale, and were prized by famous collectors such as Fairfax, Rawlinson, and Harley. It is evident that at no time since the reign of Henry VIII. were manuscript Year Books poorly appreciated, and we may doubt whether any considerable number of them have perished in the last four centuries. A few copies lingering in private collections may be still unknown to legal antiquaries, and there may even be a few in public libraries which have escaped their notice. We cannot hope to hear of many more still in good condition. With regard to those which have perished we may perhaps know more when the Abridgements have been studied carefully and those which their compilers used have been divided into the known and the unknown. Finally the history of the manuscript Year Books of subsequent reigns, and the study of their annotations, may reflect some faint light on those of the reigns of Edward I. and Edward II.

<sup>1</sup> *Year Book Series*, vol. i. p. 30. This manuscript appears from the statement in *Icon Libellorum* (p. 322) by Myles Davies to have been in the Inner Temple Library in 1715 or shortly

before that date. He remarks that it is 'so fairly writ that it is easier to read than the first edition in print.' In point of fact there was no second edition of Maynard's Year Book.



A second and important point to notice is that in some of our manuscripts the reports of several years and terms are missing—notably, in *A*, Easter 4 Edward II. to Trinity 9 Edward II.; in *G*, Hilary 7 Edward II. to Trinity 9 Edward II.; in *L*, 6 to 12 Edward II.; in *P*, 8 to 10 Edward II.; in *Q*, 6 to 9 Edward II.; and in *S*, 4 to 9 Edward II. There is no reason for thinking that these omissions are due to the loss of quires and folios; for *A* and *G* are in an excellent state of preservation, and if *L*, *P*, and *Q* have been sadly damaged they disclose no indications of ever having contained the missing reports. It is much more probable that the reports for certain years were so scarce that compilers of Year Books often found it impossible to make their volumes as complete as they wished. Reports seem to have been especially scarce for the years 7 to 9 Edward II. Even *C* which includes all these three years contains very few cases for the eighth and ninth years. All this accords with the view that the reports of the fourteenth century circulated as small pamphlets containing the reports of a few terms only, and that our large Year Books containing reports of many years were compiled from collections of the small pamphlets. On this subject there is some discussion in the next section of this Introduction.

One other source of Year Book history must be briefly mentioned. Palaeography is rapidly becoming more and more useful as an auxiliary of historical investigation. Those only who have studied the many technicalities of this abstruse science long and critically can draw inferences from the handwritings of our Year Books, which others can safely trust. The precise dates when they were written can never be more than a matter of conjecture, but we can at least hope to learn if any two or more of our manuscripts have been written wholly or partly by one and the same person; whether an apparent change of writing is due to a scribe resuming work after an interval, or to the task of copying having been transferred to another; and to what class or classes of scribe the men who wrote the Year Books belonged.

In conclusion attention may be drawn to the First Appendix to this Introduction which contains particulars of the quires and folios of our different manuscripts. It is a matter of great importance to know precisely how the quires were formed, and how far they remain intact. It constantly happens that the reports of a new year begin with the first folio of a quire, and sometimes when a year occupies less than a complete quire the blank folios are cut away or are used for notes. On this subject we need all the information which can be collected. In

the Appendix I have adopted a method of describing the quires which is, I believe, entirely new. The numbers of the first and last folios of each quire are printed above a short line, and the number of the folio which precedes the stitching of the quire is printed below the line. Thus  $\frac{135-142}{138}$  describes a quire having 135 and 142 for its first and last folios respectively and its stitching between 138 and 139. In most great libraries the folios of manuscripts have in recent years been renumbered in pencil, and this is the numeration used in the Appendix. Unfortunately the system of numeration varies. Some librarians assign no number to blank folios; whereas others designate them by the number of the last folio on which there is writing, together with the distinguishing letters *a*, *b* in alphabetical order. This difference of practice, however, leads to some confusion. It is obvious that every complete quire contains an even number of folios. Where the description in the Appendix appears to show an uneven number this is due either to the presence of a blank and unnumbered folio or to the fact that a folio or some odd number of folios has been cut away. Attention is drawn to all such cases by a note; and where a folio has been cut away, the number of the folio to which it was once the half-fold or 'conjugate' is also specially mentioned.

#### 4. THE RELATIONS OF THE MANUSCRIPTS TO ONE ANOTHER.

The theory that our Year Books were compiled from small pamphlets or gatherings containing the reports of a few terms only needs some explanation. When our large volumes of Year Books were compiled they were no doubt occasionally copied *verbatim* or almost *verbatim*. Being no larger than manuscripts of Bracton and Britton, they were just as easy to copy from cover to cover. But copies of this sort were derived ultimately from the same source as the manuscripts from which they were immediately copied, and have no special history of their own. The theory in discussion, which may be called the 'pamphlet' theory, is put forward in opposition to one which seems to say that our Year Books were compiled by selection from various other manuscripts of the same character as themselves; that their compilers had before them several manuscripts, not all of them the work of the same reporter, and that when they were about to copy a particular case they examined carefully the different manuscripts to see which gave the best report. In short, the compiler of the large volume (the Year Book as we know it) is on this theory an editor. On the 'pamphlet' theory the compiler

is not an editor, but an intelligent, or fairly intelligent, transcriber, who, nevertheless, may sometimes have abridged, omitted, and even inserted, cases. Normally, however, he was a reproducer of texts rather than the author of original work. But it must be admitted that the 'pamphlet' theory cannot as yet be stated in very precise language. We cannot say whether the pamphlets in their earliest forms circulated as the reports of one or of two or more terms, nor whether from the first there were rival pamphlets giving different reports of the same cases. When more volumes of the Year Books of Edward II. have been edited and their contents critically examined, information will probably be at hand which will enable the theory to be stated with more precision.

No manuscript pamphlets containing the reports of single years or terms of the reign of Edward II. are known to have been preserved. Their former existence is purely a matter of inference. In the first place the gaps of various lengths in our large Year Books can, as already stated, be well explained by the 'pamphlet' theory, and no other explanation seems to be so satisfactory. Then we have the evidence of the early printed Year Books. A considerable number of them were first printed as pamphlets containing the reports of one year only. We may notice: 20 Henry VI., published between 1480 and 1490; 3 Henry VI. and 9 Henry VI., between 1490 and 1500; and 22 Edward IV., between 1500 and 1510. It is much more probable that the early printers published the reports of these years, because they were able to obtain manuscripts of them, and none of longer periods, than that they selected them out of large manuscripts containing the reports of many years. Moreover, we know that Pynson published a second report of the year 21 Edward III., which belonged to Sir William Whorwood.<sup>2</sup> If Whorwood's manuscript contained other years he would almost certainly have printed them as well as the year 21 Edward III.

We are accustomed to calling the reports of the Middle Ages Year Books, but in their early days they seem to have been called just as frequently Books of Terms. In the famous passage in which Chief Justice Prissot mentions Year Books<sup>1</sup> he speaks of 'Students in Terms.' Even in the preface to the folio edition of the Year Books published in 1679 we read of Books of Years and Terms. Thus it would appear that the term rather than the year was the original unit of the book of law-reports. A small pamphlet containing the reports of a single term, or of a few terms only, may be described as a 'book of terms' as properly as, and even more properly than, a large volume containing the reports

<sup>1</sup> See *Year Book Series*, iii. p. xv.

<sup>2</sup> See p. xxviii above.



of many years. Indeed we may suspect that it was only when the small and perishable pamphlets, each containing reports of a few terms only of the reign of Edward II., were becoming scarce, and their contents were becoming known through larger volumes, that the phrase 'Book of Years' gradually began to take the place of Book of Terms. In the early Tudor period, however, judges and lawyers generally referred to the reports neither as Books of Years nor as Books of Terms, but as 'books' simply. In Trinity term 1 Edward V. it was said 'by divers apprentices present at the bar that it is adjudged in *our books*.' We have also seen on an earlier page<sup>1</sup> that when Jenner the prothonotary said that he could show a precedent, Fitzherbert, one of the judges, replied that he could show 'many books' in support of what he had said. On another occasion the same judge remarked<sup>2</sup> that he could show 'divers books adjudged on that point,' by which he seems to have meant divers cases in different books; also on a third occasion, that he could show 'four books adjudged to the contrary.' When he speaks of these four books he can scarcely have meant four large volumes of reports, for some of his cases would almost certainly occur in the same volume. It is much more likely that he meant by a 'book' the reports of a single year or of a short series of years.

An interesting document in which books of terms are mentioned may here be noticed. The will<sup>3</sup> of one John Langley of Soddington St. Peter in the county of Gloucester, dated 4 December 1458, and proved in the Prerogative Court of Canterbury on 23 November 1459, shows us that his collection of legal books included four volumes of reports in the Courts of Westminster in addition to two copies of the 'Books of Assizes.' The reports are described as follows:

- (1) A book of terms of the years 38 and 41-43 Edward III. and 2, 7, and 13 Richard II.
- (2) A book containing four or five years of the 'forties' of Edward III.
- (3) A book containing many cases and divers terms, *viz.* 28 Edward III., and 2, 7, 8, 11, and 13 Richard II.
- (4) A book of two unnamed years of the reign of Henry VI.

The first and third of these volumes seem to have been compiled from manuscript pamphlets containing reports of single years, most of which were not consecutive. The second was probably compiled from pamphlets, but as the years are not specified we cannot be certain;

<sup>1</sup> See p. xiv, above.

<sup>2</sup> *Ibidem.*

<sup>3</sup> My attention was drawn to this very interesting will by Miss E. Stokes.



and the fourth cannot have been more than a pamphlet as it contained two years only. The material part of the will <sup>1</sup> is as follows :

Item volo quod liber qui vocatur Actus Apostolorum ligatus et coopertus cum panno lineo quem habui ex deliberacione . . . Mylis adtunc Canonici in Abbathia de Cirencestre redeliberetur domui predicte. Item unum Rotulum armorum quod habui ex deliberacione Ricardi Collesborne Canonici apud Cirencestre redeliberetur eidem domui. Item una quaterna grammaticalis quam habui de Iohanne Chestirton redeliberetur domui predicte. Item unus liber de terminis viz de annis xlj<sup>o</sup> ij<sup>o</sup> iij<sup>o</sup> et xxxvij<sup>o</sup> et ij<sup>do</sup> Ricardi vij<sup>o</sup> et xij<sup>o</sup> redeliberetur Filoll aut executoribus patris sui ad disponendum pro anima patris sui. Item alius liber assisarum<sup>2</sup> scriptus in paupiro et ligatus quem habui ex deliberacione Rogeri Capis redeliberetur executoribus predicti Rogeri ad disponendum pro anima ipsius Rogeri. Item quidam liber in pargameno de assisis nuper Willelmi Poole redeliberetur executoribus suis. Item alius liber vocatus a Manuell in lingua gallicana redeliberetur executoribus predicti Willelmi aut heredi suo ad disponendum pro anima sua. Item alii libri qui sunt mei proprii unde unus restat in custodia Iohannis George de Whitehors et continet quatuor vel quinque annos<sup>3</sup> de quadragesimis Edwardi tercii. Item alius liber meus qui restat in custodia Roberti Hogges in quo continentur multi casus ac diuersi termini viz. [de] annis ij<sup>o</sup> vij<sup>o</sup> viij<sup>o</sup> xj<sup>o</sup> xij<sup>mo</sup> Ricardi necnon xxvij<sup>o</sup> Edwardi tercii et plura alia que ad presens ignoro ; volo quod vendantur et disponantur pro anima mea per executores meos. Item liber de terminis de duobus annis istius Regis volo quod vendatur et disponatur pro anima eius de quo habui illum librum secundum dispositionem executorum meorum.

Item michi debetur pro feodo meo annualis redditus de xl.s annuatim michi soluendorum per Abbatem Gloucestre de communi consensu Conuentus ad terminum vite mee, unde summa arreragiorum restat insoluta xxiiij. *li.* quam quidem summam volo quod habita consideracione de redditu eiusdem domus in Gloucestre existente nuper per consilium meum recognito et domui predicte retornato quod predictus Abbas et Conuentus soluant predictam summam executoribus meis. Alioquin quod ipsi Abbas et Conuentus respondeant coram deo nisi gratiam meliorem habeant de executoribus meis aliter pro anima mea disponenda. . . . Item volo quod duo libri mei viz. liber statutorum et alius Registrum quos nuper emi de Margeria sorore mea pro quatuor libris vendantur et disponantur pro anima mea Prouiso semper quod si Willelmus Langley, Iohannes Langley vel Edmundus Langley consanguinei mei vel aliquis eorum voluerint emere predictos libros et dare pro dictis libris sicut ego dedi viz. iij. <sup>or</sup> *li.* preferantur pre omnibus aliis.

If the 'pamphlet' theory is to be accepted as good, it will be necessary to satisfy ourselves by an examination of the reports year by year that it is consistent with their contents and arrangement. But before starting on this examination we must notice and briefly consider

<sup>1</sup> For this will see *Stokton*, 18, at Somerset House. <sup>2</sup> MS. 'assisis.' <sup>3</sup> MS. 'annis.'

a few important facts. The cases which are common to the different manuscripts often occur in different order ; some manuscripts contain reports which are altogether missing in others ; and according to our late Literary Director—the highest authority on the Year Books of this period—some of the reports of the same case in one manuscript, or in one group of manuscripts, may be altogether independent of the reports in the other manuscripts. These, however, are difficulties which must be faced, to whatever theory of the origin of the Year Books we incline.

Let us suppose that a clerk is directed to copy a pamphlet containing the reports of a few terms only. If he make his copy as accurately as he can he will transcribe the pamphlet as he finds it, incorporating its corrections, and perhaps some of its marginal additions. Possibly he will find passages which are, or which seem to him to be, corrupt, and others which, through the bad preservation of the parchment or for some such good reason, he cannot read satisfactorily. Here he will have to construct a text for his copy to the best of his ability. Thus two scribes each endeavouring to copy accurately the same pamphlet might produce two texts differing in important points. The readings might vary considerably in places, and certain marginal notes and additions might occur as part of the text in one copy, and not at all in the other. Their texts would have differed still more from one another if they had been copied from different transcripts of the same pamphlet. In particular we should not be surprised to find that an extra case, or a few extra cases, occurred at the end of some copies, and not at the end of others which purported to be the same reports. A pamphlet would often have one or two blank folios or part of a blank folio at the end, on which an owner would be tempted to add some additional matter. In copies derived from this one, the additional matter would no doubt sometimes be incorporated with the main text.

So far we have been considering copies which purported to be accurate, copies such as would be made in accordance with a direction from the scribe's employer. It might often happen, however, that the scribe copied the pamphlet on his own initiative. Here he would feel himself less strictly bound to accuracy of arrangement. He might occasionally like to take a case out of its order, selecting one of such length as suited the time at his disposal. He might sometimes wish to abridge, or to omit, some unimportant cases, so as to obviate the necessity of using more parchment than he had beside him. In looking through our manuscripts of the Year Books we cannot fail to notice the anxiety of their scribes to begin the reports of a year with a new quire. In order to effect this whole folios are left blank,

and in all probability cases are sometimes abridged or omitted for a like purpose. When we find this anxiety a conspicuous feature of our large Year Books we may be pretty sure that a desire to confine their cases to a limited space prevailed among the scribes who compiled the small pamphlets, and that it had an important effect upon the transmission of the text of the reports.

Nor is the existence of two or more apparently independent reports of certain cases in the different manuscripts in any way inconsistent with the 'pamphlet' theory. It might be suggested that from the beginning independent collections of reports of the cases, being the work of rival reporters, were in active circulation. It is true that many of the reports in *Y* seem to be altogether different from those in the other manuscripts; but *Y* is unique. It differs from the other volumes not only in the arrangement of its cases by subject-matter instead of by terms, but also in containing numerous notes and observations which disclose the personality of its author. He usually reported his own cases, though occasionally he seems to have copied the reports of others. It is very probable that other young lawyers or even clerks were, like the author of *Y*, making reports and notes of cases for their own instruction in the early years of Edward II., and perhaps some of their work found its way into the pamphlets from which, I believe, the Year Books were derived. But it is an entire mistake to suppose that the number of apparently independent reports is large. It is often convenient to print two or more versions of the same case; but it should not be assumed that in every instance in which two versions are printed in this edition the reports are entirely independent of one another. They are printed because their texts contain too many variants for them to be adequately represented in footnotes to any other printed version. If we exclude *Y*, we shall find that in the first four volumes and the present volume of this series the number of reports which have any decided appearance of being independent is far from large. Moreover, there is no sufficient reason for supposing that these apparently independent reports were really independent in the sense that they were the original work of other reporters than those who were responsible for the rest of the reports. It is more probable that such original work as they contained appears by way of occasional substitution of an improved version of an unsatisfactory report rather than as part of the work of men who were reporting continuously.

Thus, if the reports of a term or a year in two different manuscripts are in substantial agreement except for two or three cases which are



very different, the safest inference is that the reports in both manuscripts were by the same author, but that a critical owner of one of them has substituted reports of his own for a few which he considered unsatisfactory. Such an owner might either have been a lawyer or a clerk who had taken the trouble to make his own report of a case which interested him; or a serjeant who had argued the case in question. If these substituted reports were the work of some lawyer of distinction the pamphlet in which they were first inserted would no doubt be extensively copied. Probably in the first instance they would be written at the end of the pamphlet, and the old versions would be respectively cancelled by some such words as 'uacat quia melius inferius.' In subsequent copies the older version would probably be omitted, and the new one substituted for it, but it might happen sometimes that both versions would be retained. It is absurd to suppose that transcribers had one uniform method in these matters. In our large volumes of Year Books interesting substitutions of this character may be noticed. Thus on folio 48 r<sup>o</sup> of *C* the first version<sup>1</sup> of the case of *Mortimer v. Ludlow*, which was heard in Michaelmas term 2 Edward II., has been carefully erased, and on folio 61 r<sup>o</sup> the second version<sup>2</sup> is found. In this instance the erasure seems to have been due to the owner finding that he had two reports of the same case in his manuscript; but the later version was probably intended to be in substitution for the earlier one in the pamphlet in which it was first inserted.<sup>3</sup>

We may now begin an investigation of the history of the text of the Year Books of the first four years of the reign of Edward II. in the light of the detailed particulars which follow. They are necessarily long and tedious, but when they have been carefully considered it will be easy for the reader to test the 'pamphlet' theory for himself and to form his own conclusions. It must be remembered that the manuscripts of the Year Books are in four different repositories, and that the printed volumes of our series by reason of their size are not easily carried from place to place. It is therefore not unlikely that in the particulars of some of our manuscripts a few brief notes have

<sup>1</sup> *Year Book Series*, ii. p. 43.

<sup>2</sup> *Ibidem*, p. 45.

<sup>3</sup> Another case of an erasure, but in somewhat different circumstances, may here be noted. In the margin of folio 86 v<sup>o</sup> in *C* opposite the case of *Thorne v. Peche* heard in Easter term 3 Edw. II. (vol. iii. p. 93) there is a reference to folio 204 r<sup>o</sup>, on which another report on this case in 9 Edw. II.

has been carefully erased. It would seem that the case was adjourned from term to term until Michaelmas 9 Edw. II. when the plaintiff was non-suited. The erasure may have been made by some early owner of the manuscript who thought that the arguments used were better stated in the report of the first hearing than in that of the second.

been overlooked and a few errors made, so that some correction may be needed in a subsequent volume. A great effort, however, has been made to secure accuracy.

1 EDWARD II.—For this year we have reports in six manuscripts, namely *A*, *B*, *C*, *D*, *L* and *P*. Each of them contains twenty-eight cases, three being assigned to Michaelmas term, two to Hilary, thirteen to Easter and ten to Trinity; so that, compared with other years, the first year is poorly represented in our Year Books. An alternative report of a case of Trinity term appears in the first volume of our series, but it has been found in one manuscript only, and there occurs on a flyleaf.<sup>1</sup> With this exception it has not been found necessary to print alternative reports of any of the twenty-eight cases. The order of the cases is also the same in all the manuscripts, except that one case in *L* and two in *P* are misplaced,<sup>2</sup> and these two manuscripts are also peculiar in containing two brief notes<sup>3</sup> after the tenth case of Trinity term. These are trifling differences, and we may infer that one version only of the reports of the first year circulated at all widely.

2 EDWARD II.—In this year we have reports not only in the six manuscripts mentioned above, but also in three others, namely *M*, *Q*, and *R*; and in *X* we have a useful collection of abridged reports. Unfortunately *M* and *Q* are defective; the reports in *M* begin in Easter term, and those in *Q* late in Hilary term. Now in these ten manuscripts the reports of the same case sometimes appear in alternative versions; and some manuscripts contain cases which are absent in others. Nevertheless the manuscripts, when considered with reference to the cases in this year, fall into two well-defined groups.

As the cases are divided into terms differently in the manuscripts our late Literary Director abandoned this division, and numbered the one hundred and fifty cases of this year consecutively without regard to terms. But for the purpose of our present investigation the division into terms must be steadily kept in view. In *A* fifty-six cases

<sup>1</sup> This is (5) on folio 20, which also contains one extra report (7). For (1), (3) and (4) see footnotes on pp. 4, 6 and 10 of vol. i.:—

20 r<sup>o</sup>. (1) Case 2 of Michaelmas, 1 Edward II. (i. 4).  
 (2) An unprinted record of a *quare impedit*, also occurring in *R* (folio 11 v<sup>o</sup>) among the reports of Michaelmas, 3 Edward II.

(3) Case 1 of Hilary,

1 Edward II. (i. 6),  
 20 v<sup>o</sup>. (4) Case 2 of Hilary, 1 Edward II. (i. 10).  
 (5) Case 1b of Trinity, 1 Edward II. (i. 29).  
 (6) Case 16a of 2 Edward II. (i. 65).  
 (7) Case 14 of Easter, 1 Edward II. (i. 25).

<sup>2</sup> The order of the first five cases in *L* is 1, 5, 2, 3, 4, and in *P* 1, 5, 3, 2, 4.

<sup>3</sup> These two notes are printed in Appendix II. to this volume.

are assigned to Michaelmas term, and they are printed in the order in which they occur in the manuscript, except that 40 is placed in the manuscript after 51. In *B* and *D* the text, and the order of the cases, is as in the printed book except that in *D* 39 occurs between 37 and 38. Five of the fifty-six cases in these manuscripts—namely 2, 16, 20, 23, 51—are printed with the letters *a* after their distinguishing numbers, as different versions of them are found in other manuscripts.

In Hilary term of this year *A* contains seventeen cases, of which the last, a brief variant of 20 *a*, has not been printed. The remainder, numbered 57–72, occur in the same order as in the printed book. In *B* and *D* the same sixteen cases occur in this order, except that in *D* 72 has been transferred to the following term. In this term there are no variant reports.

In Easter term *A* has twenty-four cases, numbered from 73 to 96. Four of these—namely 74, 76, 77, and 78—have variant reports in some of the other manuscripts. In *B* and *D* the text of the twenty-four cases is the same as in *A*. In *B* they occur in the order in which they are printed; but in *D* 89 follows 84, 93 follows 90, and 72, which was omitted in the preceding term, is inserted after 96. Three short notes follow 72 in this manuscript. The first is the version of 20 mentioned above, which occurs at the end of Hilary term in *A*; the second and third are 118 and 119 of the printed book. They are here inserted in a column which had been left blank in order that the reports of the next term might begin on a new folio.

In Trinity term *A* has twenty-three cases, numbered from 97 to 119, ten of which appear in different versions in other manuscripts—namely 97–99, 101–104, 106, 114, 117. In *D* the text of twenty-one of these cases agrees with *A* and the order is the same, but 118 and 119 occur, as already explained, at the end of the reports of Easter term.

The reports of the second group—namely *C*, *L*, *M*, *P*, *Q*, *R*, and *X*—are less clearly related to one another than those of the first, but the relationship between some of them is closer than between others. The following are the numbers of the cases of the four terms as they are found in *C*, *P*, and *Q* respectively:

<i>C</i>	<i>P</i>	<i>Q</i>
MICHAELMAS.		
<i>Folio.</i> <i>Case.</i>	<i>Folio.</i> <i>Case.</i>	<i>Folio.</i> <i>Case.</i>
44 v <sup>o</sup> 27	12 v <sup>o</sup> 43, 44, 46, 50	
45 r <sup>o</sup> 28	13 r <sup>o</sup> 48 <i>note</i> , 31 <i>note</i> ,	[ <i>incomplete</i> ]
v <sup>o</sup> 29, 50	36, <i>unprinted</i>	
46 r <sup>o</sup> 33, 40, 43	<i>note</i> , 27, 28	



<i>C</i>	<i>P</i>
<i>Folio. Case.</i>	<i>Folio. Case.</i>
46 v <sup>o</sup> 44, 46, 48 <i>note</i> , 31 <i>note</i> , 36, <i>un-</i> <i>printed note</i> , <sup>1</sup> 135	13 v <sup>o</sup> 29, 33, 37 ( <i>ab-</i> <i>ridged</i> ), 40, 135
47 r <sup>o</sup> 54, 55	14 r <sup>o</sup> 54, 55
v <sup>o</sup> 30, 38	v <sup>o</sup> 30, 38, 2b
48 r <sup>o</sup> 32, 2a ( <i>erased</i> ), 3 ( <i>record</i> )	15 r <sup>o</sup> 3, 4 ( <i>record</i> ), 142 ( <i>record</i> ), 143
v <sup>o</sup> 4 ( <i>record</i> ), <sup>2</sup> 142 ( <i>record</i> )	v <sup>o</sup> <i>Appendix</i> (case 22), 5, 49
49 r <sup>o</sup> 143, <i>Appendix to</i> <i>vol. ii</i> (case 22), 5	16 r <sup>o</sup> <i>Appendix</i> (case i2), 41, 74b, 1, 6
v <sup>o</sup> 49, <i>Appendix</i> (case 12), 41	v <sup>o</sup> 51b, 4, 31, <i>Appen-</i> <i>dix</i> (case 13), 8, ( <i>Appendix</i> (case 14)
50 r <sup>o</sup> 74b, 1, 6	17 r <sup>o</sup> 56, <i>Appendix</i> cases 15, 16, 17), 15, <i>Ap-</i> <i>pendix</i> (case 18), 128b.
v <sup>o</sup> 51b, <i>unprinted</i> <i>case</i> <sup>3</sup>	
51 r <sup>o</sup> 4, 31, <i>Appendix</i> (case 13), 8, <i>Appendix</i> (case 14), <i>unprinted</i> <i>note</i> , <sup>4</sup> 56	
v <sup>o</sup> <i>Appendix</i> (case 15), 74b ( <i>re-</i> <i>peated</i> ), <i>Appen-</i> <i>dix</i> (case 16), <i>Appendix</i> (case 17), 15, <i>Appen-</i> <i>dix</i> (case 18)	

## HILARY.

52 r <sup>o</sup> 150 ( <i>record</i> )	18 r <sup>o</sup> 150 ( <i>record</i> )
v <sup>o</sup> 12, 9	v <sup>o</sup> 144, 12, 136, <i>Ap-</i> <i>pendix</i> (case 20) <sup>5</sup>
53 r <sup>o</sup> 10, 13, 148	
v <sup>o</sup> 145, 14	

<sup>1</sup> The text of this note in *C* is as follows:

*Nota.* Le baroun ne purra my receyvre homage en absence sa femme des tenementz qe sunt del dreit sa femme ne soul respoudre dez tenementz qe sunt del dreit sa femme.

<sup>2</sup> The identification of this case is doubtful.

<sup>3</sup> This is printed in Appendix ii.,

p. ciii below.

<sup>4</sup> The text of this note in *C* is as follows:

En un bref de forme de don le tenant demanda la vewe dez tenementz lessez a ly par l'auncestre le demandaunt.

*Hervy.* Vostre auncestre ne murust pas seisi, par quei eit la vewe.

<sup>5</sup> See note 1 on next page.

C		P		Q	
<i>Folio.</i>	<i>Case.</i>	<i>Folio.</i>	<i>Case.</i>	<i>Folio.</i>	<i>Case.</i>
54 r <sup>o</sup>	146, 141	19 r <sup>o</sup>	137, 10, 13, 9, <i>Appendix</i> (case 19) <sup>1</sup>	2 r <sup>o</sup>	141, 70, 7, 138, 11, 16 <i>a</i>
v <sup>o</sup>		v <sup>o</sup>	148, 145, 14	v <sup>o</sup>	16 <i>b</i> ( <i>record</i> )
55 r <sup>o</sup>	70, 7, 138, 11, 16 <i>a</i>	20 r <sup>o</sup>	146, 141	3 r <sup>o</sup>	20 <i>b</i>
v <sup>o</sup>	16 <i>b</i> ( <i>recorā</i> )	v <sup>o</sup>	70, 7, 138, 11, 139, 140, 16 <i>a</i>		
56 r <sup>o</sup>	20 <i>b</i>	21 r <sup>o</sup>	16 <i>b</i>		
		v <sup>o</sup>	<i>Appendix</i> (case 21)		
		EASTER.			
56 r <sup>o</sup>	120, 18	22 r <sup>o</sup>	20 <i>b</i> , 78 <i>b</i> , 120, 21	3 r <sup>o</sup>	120, 18, 76 <i>b</i>
v <sup>o</sup>	76 <i>b</i> , 122 <i>a</i>	v <sup>o</sup>	18, 121, 76 <i>b</i> , 122 <i>a</i>	v <sup>o</sup>	122 <i>a</i> , 78 <i>b</i> , 21
57 r <sup>o</sup>	78 <i>b</i> , 21	23 r <sup>o</sup>	77 <i>b</i> , 123, 124	4 r <sup>o</sup>	77 <i>b</i> , 123, 124, 17
v <sup>o</sup>	77 <i>b</i> , 123	v <sup>o</sup>	149, 17, 125, 105 ( <i>an unprinted note</i> ), 126, 19, 127	v <sup>o</sup>	128 <i>b</i>
58 r <sup>o</sup>	124, 128 <i>b</i>			5 r <sup>o</sup>	19
v <sup>o</sup>					
59 r <sup>o</sup>		TRINITY.			
v <sup>o</sup>	19	24 r <sup>o</sup>	105 <i>a</i> , 128 <i>a</i>	5 v <sup>o</sup>	105 <i>a</i>
		v <sup>o</sup>	98 <i>b</i>	6 r <sup>o</sup>	99 <i>b</i> , 129 <sup>2</sup>
60 r <sup>o</sup>	105 <i>a</i>	25 r <sup>o</sup>	129	v <sup>o</sup>	22, 2 <i>b</i>
v <sup>o</sup>	99 <i>b</i> , 129 <sup>2</sup>	v <sup>o</sup>	99 <i>b</i> , <sup>2</sup> 100	7 r <sup>o</sup>	23 <i>a</i> , 130, 24, 132
61 r <sup>o</sup>	22, 2 <i>b</i>	26 r <sup>o</sup>	101 <i>b</i> , 102 <i>a</i> , 103 <i>a</i>	v <sup>o</sup>	106 <i>a</i> , 100, 101 <i>b</i> , 112 <i>b</i> , 114 <i>b</i>
v <sup>o</sup>	23 <i>a</i>	v <sup>o</sup>	104 <i>a</i> , 106 <i>a</i> , 107, 108, 109, 110, 112 <i>b</i> , 113	8 r <sup>o</sup>	
62 r <sup>o</sup>	130, 24, 132	27 r <sup>o</sup>	117 <i>a</i> , 114 <i>b</i>	v <sup>o</sup>	133 <i>a</i> , 98 <i>b</i>
v <sup>o</sup>	106 <i>a</i> , <sup>3</sup> 100, 101 <i>b</i>	v <sup>o</sup>	<i>Appendix</i> (cases 1 and 2)	9 r <sup>o</sup>	
63 r <sup>o</sup>	112 <i>b</i> , 114 <i>b</i>	28 r <sup>o</sup>	<i>Appendix</i> (cases 3, 6, 4)	v <sup>o</sup>	97 <i>b</i>
v <sup>o</sup>		v <sup>o</sup>	<i>Appendix</i> (cases 5, 10, 9, 7, 8, 11), 129 ( <i>a second report</i> )	10 r <sup>o</sup>	134
64 r <sup>o</sup>	133 <i>a</i>			v <sup>o</sup>	25
v <sup>o</sup>	98 <i>b</i>	29 r <sup>o</sup>	22, 2 <i>b</i>		
65 r <sup>o</sup>		v <sup>o</sup>	130, 24, 132, 25		
v <sup>o</sup>	97 <i>b</i>	30 r <sup>o</sup>	97 <i>b</i> , 134		
66 r <sup>o</sup>	134				
v <sup>o</sup>					
67 r <sup>o</sup>	25				

<sup>1</sup> Cases 19 and 20 in the Appendix are written in a later hand in the lower margin.

<sup>2</sup> Case 129 is probably another version of 99. The words 'melius infra

eodem termino' are written in the margin of 129 in *P*.

<sup>3</sup> The report in *C* and *Q* of case 106 is rather different from that in *P*, and in some respects resembles 106*b*.

These three lists obviously agree very closely in contents and generally in arrangement, though *P* has many more cases than *C*. The chief differences may be briefly noted. In Michaelmas term two cases (one a report of case 4, the other an unprinted case<sup>1</sup> of *ael*) occur in *C* and not *P*; case 32 is represented by a brief note in *C* and is altogether absent in *P*; and in *C* the second report of case 74 is repeated on folio 510° in almost the same words as on folio 502°. On the other hand, case 128*b* occurs in this term in *P*, but in Easter term in *C*. The reports of this term in *Q* have unfortunately disappeared.

For Hilary term *P* has eight more cases than *C*—136, 137, 139, 140, 144, and the three cases 19, 20, and 21 printed in the appendix to the second volume of this series. All these cases are short, and none of them are important. In *Q*, which is defective at the beginning, the reports, as far as they go, are in complete agreement with *C*. Both manuscripts include case 20 in this term; but in *P* it is assigned to Easter.

For Easter term *P* has six more cases than *C*—17, 121, 125, 126, 127, 149—all of them short notes, but 128*b*, which occurs in *C*, is missing in *P*, having been placed in that manuscript, as already mentioned, amongst the cases of Michaelmas term. In *Q* the cases are once again in complete agreement with *C*, except that 17 is not missing.

Finally, in Trinity term *C* and *Q* contain case 23 which *P* lacks, but on the other hand several cases appear in *P* and not in *C* and *Q*—namely 102, 104, 107–110, 113, 117, and a second report of 128, together with cases 1–11 in the appendix at the end of the second volume of this series. As in the three earlier terms most of these additional cases in *P* are notes rather than reports. For convenience of reference the numbers of the cases in these three manuscripts may be here noted in the order in which they are printed.

*C*: 1–16, 18–25, 27–33, 35, 36, 38, 40, 41, 43, 44, 46, 48–51, 54–56, 70, 74, 76–78, 97–101, 105, 106, 112, 114, 120, 122–124, 128–130, 132–135, 138, 141–143, 145, 146, 148, 150.

*P*: 1–22, 24, 25, 27–31, 33, 36–38, 40, 41, 43, 44, 46, 48–51, 54–56, 70, 74, 76–78, 97–110, 112–114, 117, 120–130, 132–146, 148–150.

*Q*: 2, 7, 11, 16–25, 70, 76–78, 97–101, 105, 106, 112–114, 120, 122–124, 128–130, 132–134, 138–141.

The facts narrated above suggest that in spite of some slight difference of arrangement, *C*, *P*, and *Q* are ultimately derived from the same

<sup>1</sup> This case is printed in Appendix ii., p. ciii below.



text, that some additional matter has been introduced into *P* or one of its intermediate texts, and that in the course of transmission a few cases have disappeared from each of the three manuscripts just discussed. This view of the text is confirmed by the contents of *X*. Its cases, though abridged, can easily be identified, and are found to occur in the following order :

## MICHAELMAS.

<i>Folio.</i>	<i>Cases.</i>
1.	27, 28, 29, 33, 40, 43, 44, 46.
2.	50, 31, 135, 54, 55, <i>a note</i> .

## HILARY.

2. 150 (*abridged report*), 12.
3. 10, 13, 9, 144 (*abridged report*), 136, 137, 148, 145, 14, 102*b*,  
*a note*.<sup>1</sup>
4. 146, 141, 70, 7, 138, 11, 16*a*.

## EASTER.

5. 20*b*, 120, 18, 121, 76*b*, 122*a*, 123, 124, 78*b*, 21 (*twice noted*).
6. 77*b*, 17, 125, 128*b*, 99*b*, 129.

## TRINITY.

6. 2*a*.
7. 105, 117*a*, 130, 131*a*, 24, 132, 106*b*, 100, 101, 112 *note*.
8. 114, 133, 98, 102*b*.
9. 97*b*, 134, 25.

In Michaelmas term these cases are abridgements of the early cases in *C*, and occur in nearly the same order. Similarly the cases for Hilary, Easter and Trinity terms are in general agreement in point of order sometimes with those in *C* and *Q*, and sometimes with those in *P*; but many cases which occur in these manuscripts are not found in *X*. An interesting feature of *X* is that cases 144 and 150 appear as Latin records in *P*, but as abridged reports in *X*. It would seem that the compiler of the latter manuscript in making his abridgement has changed the language. Perhaps the most striking feature of the abridged reports for this year is the fact that though they correspond closely with the reports in *C* and *P* they contain no abridgements of the later cases of Michaelmas term—that is to say, of Nos. 30 to case 18 of the appendix, taken in the order in which they occur in these manuscripts. This disagreement, however, is exceptional.

<sup>1</sup> This is a brief note written in a later hand in the lower margin.

When we find four manuscripts with reports or abridgements of the year 2 Edward II. agreeing with one another so closely as *C*, *P*, *Q*, and *X*, we may infer that they represent one original text of the reports of that year with no small circulation.

Three other manuscripts remain for consideration—*L*, *M*, and *R*. For Michaelmas term 2 Edward II. the early reports in *L* agree generally both as regards text and order with those in *C*, but the later reports in *C*, that is to say, 30 to case 18 of the appendix, are missing in *L*. It will be remembered that these reports were also missing in *X*. For Hilary term *L* has no report of 12 and 141, which occur in *C* and *P*, but it contains 136, 137, 139, and 140, which occur in *P* but not in *C*. In Easter term 21 which occurs in *C* and *P* and 17 which occurs in *P* are both missing in *L*, and in Trinity term *L* lacks 138 which occurs in *C* and *P*. On the other hand, 115, 116, 118 and 119 occur in *L* and in none of the other manuscripts. The following is the order in which the cases occur in *L*:

## MICHAELMAS.

<i>Folio.</i>	<i>Case.</i>	<i>Folio.</i>	<i>Case.</i>
5 v°	43, 44, 46	6 v°	29, 33, 37, 40,
6 r°	48 <i>note</i> , 31, 36, <i>an unprinted</i> <i>note</i> , <sup>1</sup> 27, 28		135
		7 r°	54, 55

## HILARY.

<i>Folio.</i>	<i>Case.</i>	<i>Folio.</i>	<i>Case.</i>	<i>Folio.</i>	<i>Case.</i>
7 v°	150 ( <i>record</i> )	8 v°	9, 148, 145, 14	9 v°	16a, 16b
8 r°	144 ( <i>record</i> ), 136, 137, 10, 13	9 r°	146, 147, 70, 7, 138, 139, 140, 11		

## EASTER.

<i>Folio.</i>	<i>Case.</i>	<i>Folio.</i>	<i>Case.</i>
10 r°	20b, 78b, 120	11 r°	123, 124, 149, 17, 125, 126, 19
v°	18, 121, 76b, 122a, 77b	v°	127

## TRINITY.

<i>Folio.</i>	<i>Case.</i>	<i>Folio.</i>	<i>Case.</i>	<i>Folio.</i>	<i>Case.</i>
11 v°	127, 128a	13 v°	104a, 106a, 107, 108	15 v°	115, 116
12 r°	105a, 98			15 r°	118, 119
v°	129, 100	14 r°	109, 110, 111, 112, 113, 117a, 114a		
13 r°	99a, 101a, 102, 103a				

<sup>1</sup> This is note 1 on p. lxxi above.

In the order in which they are printed these cases may be arranged as follows :

7, 9-11, 13, 14, 16-18, 27-29, 31, 33, 36, 39, 43, 44, 46, 48, 70, 76-78, 98-129, 135-140, 144-150.

*L* obviously belongs to the same group as *C* and *P*, but it contains fewer cases. This is largely due to the absence of the later cases of Michaelmas term which has already been noticed.

In *M* we unfortunately have reports of Easter and Trinity terms only. They include cases 102, 117, and the short notes 121, 125, 126, 127 which occur in *P* but not in *C*, and 23 which occurs in *C* but not in *P*. All the other cases in *M* which belong to this year (except 131) occur in both *C* and *P*; but 103 and 104 and second versions of 23 and 106, which are printed in our series as in 2 Edward II., are attributed in *M* to Michaelmas term 3 Edward II.<sup>1</sup> The following are the particulars of the cases in *M* for 2 Edward II. :

## EASTER.

<i>Folio.</i>	<i>Case.</i>	<i>Folio.</i>	<i>Case.</i>	<i>Folio.</i>	<i>Case.</i>
9 r°	20 <i>b</i> , 120, 18, 121,	10 r°	21, 77 <i>b</i> , 125, 126,	11 r°	99 <i>b</i> , 129
	76 <i>b</i>		127, 128 <i>b</i>	v°	22
v°	122 <i>a</i> , 123, 124, 78 <i>b</i>	v°			

## TRINITY.

<i>Folio.</i>	<i>Case.</i>	<i>Folio.</i>	<i>Case.</i>	<i>Folio.</i>	<i>Case.</i>
11 v°	2 <i>b</i> , 105 <i>a</i>	12 v°	106 <i>b</i> , 100, 101 <i>b</i> ,	14 r°	102 <i>b</i> , 97 <i>b</i>
12 r°	23 <i>a</i> , 117 <i>b</i> , 130,		112 <i>note</i> , 114 <i>b</i>	v°	134
	131 <i>b</i> , 24, 132	13 r°		15 r°	25
		v°	133 <i>a</i> , 98 <i>b</i>		

In the order in which these cases are printed they are :

2, 18, 20-25, 76-78, 97-102, 105, 106, 112, 114, 117, 120-134.

Thus, although we have only two terms of 2 Edward II. in *M*, we may be pretty sure that the text of its cases for this year is derived from the same source as *C* and *P*.

The cases in *R* for this year are assigned partly to Michaelmas and partly to Hilary term, no cases being assigned to the two following terms. As, however, a large number of them are differently dated in other manuscripts, the headlines in *R* are probably incorrect. The order of the cases is as follows :

<sup>1</sup> Cases 102, 103, 121, 125-127 are also found in *L*.



## MICHAELMAS.

<i>Folio.</i>	<i>Case.</i>	<i>Folio.</i>	<i>Case.</i>	<i>Folio.</i>	<i>Case.</i>
1 r <sup>o</sup>	27, 28, 29,	2 r <sup>o</sup>	31, <sup>1</sup> 36 <i>unprinted</i>	3 r <sup>o</sup>	136, 10, 9, 13
v <sup>o</sup>	40, 43, 44, 46,		<i>note,</i> <sup>2</sup> 135, 55	v <sup>o</sup>	70
	50	v <sup>o</sup>	12		

## HILARY.

<i>Folio.</i>	<i>Case.</i>	<i>Folio.</i>	<i>Case.</i>	<i>Folio.</i>	<i>Case.</i>
3 v <sup>o</sup>	14	5 v <sup>o</sup>	122 <i>a</i> , 77 <i>b</i>	7 v <sup>o</sup>	129, 2 <i>b</i>
4 r <sup>o</sup>	141, 138	6 r <sup>o</sup>	123, 124, 17, 125,	8 r <sup>o</sup>	112, 114 <i>b</i>
v <sup>o</sup>	139, 11, 20 <i>b</i> , 16 <i>b</i>		126, 19	v <sup>o</sup>	104 <i>b</i>
	( <i>record</i> )	v <sup>o</sup>	128 <i>b</i>	9 r <sup>o</sup>	23 <i>b</i> , 106 <i>b</i>
5 r <sup>o</sup>	78 <i>b</i> , 120, 21	7 r <sup>o</sup>		v <sup>o</sup>	98 <i>a</i>

If we arrange these cases in the order in which they are printed, we have :

2, 9-14, 16, 17, 19-21, 23, 27-29, 31, 36, 40, 43, 44, 46, 50, 55, 70, 77, 78, 98, 104, 106, 112, 114, 120, 122-126, 128, 129, 135, 136, 138, 139, 141.

Cases 31, 49, and 133,<sup>3</sup> which are printed in this edition in 2 Edward II., are attributed in *R* to 3 Edward II.

It is impossible within the limits of this introduction to discuss the arrangement of these cases. It is sufficient to notice that *R* like *L* contains fewer cases than *C* and *P*, but for this year it bears a general resemblance to these manuscripts alike as regards contents, order, and text.

At first sight it might appear that the original versions of our two groups of texts were the work of two different men. Further investigation, however, seems to point to the conclusion that they had a common origin. Let us begin with Michaelmas term. The first group gives fifty-six cases, some of which are mere notes. Now thirty-four out of the first thirty-five of these cases all appear either in *C* or in *P*, and with a few exceptions they appear both in *C* and *P*. Of the remaining twenty-one cases, Nos. 34, 39, 42, 45, 47, 52 and 53 occur in neither *C* nor *P*, while the rest appear in one or other of these manuscripts. Five, however, of the omitted cases—namely 34, 39, 42, 52, and 53—are mere notes of little consequence, and are possibly accretions to the original text of the reports. On the other

<sup>1</sup> This is a brief note. A fuller report is found on folio 12 r<sup>o</sup>.

<sup>2</sup> For the text of this note see p. lxxi note 1 above.

<sup>3</sup> The version of 133 which occurs in *R* is not found in any of the other manuscripts.

hand, Nos. 42 and 45, which are longer cases, may have been accidentally omitted from some early copy of the reports through which our texts of the second group are derived.

In Hilary term there are sixteen cases, numbered 57-72 in our first group, and of these one only—No. 70—occurs in the second group. This is a short note in the first group, and in the second group it is reduced to about one-third of its length. In Easter term the first group contains twenty-four cases in all, which are numbered 73-96, and four only of these appear in the second group. Finally, we come to the twenty-three cases numbered 97-119, which the first group ascribes to Trinity term. With the exception of case 111, which is a very short note, the first eighteen of these cases occur in *P*. The five remaining cases (115-119) are found in *L*, the text of which belongs to our second group, and one of these five also occurs in *P* and *M*.

Now when we find that out of thirty-five consecutive cases in our first group, thirty-three appear in *C* and thirty in *P*, and that fourteen out of the remaining twenty-one appear both in *C* and *P*, which are the principal manuscripts of our second group, we can scarcely doubt that the compiler of the original version of the second group had before him a text (though possibly an imperfect text) of the first group. Again, when we find that of the sixteen cases of Hilary term in the first group one only occurs in the principal manuscripts of the second group, we may strongly suspect that its compiler was unable to procure a text of the first group and that he obtained the one case which occurs in both groups (but in the second as an insignificant note) from some other source. In Easter term four only of the twenty-four cases of the first group appear in the second group—namely 74, 76-78. Here again we may suspect that the compiler of the second group had before him a text of the first group in which all save the first four or five cases of this term were missing owing to the loss of some of its folios. Lastly, out of the twenty-three cases of Trinity term occurring in the first group the first fourteen also occur in *P*, the fifteenth is an insignificant note, and the next three occur in this manuscript. In this term, as in Michaelmas term, it is hardly possible to doubt that the compiler of the original version of the second group had before him a good text of the first group.

These facts point strongly to the second group having been derived from the first group. It contains, however, a considerable number of additional cases,<sup>1</sup> some of which are substantial and not mere notes.

<sup>1</sup> Of the thirty-one additional cases only, and another (147) in *L* only. In (120-150) one (131) occurs in *M* and *X* *P* cases 128, 135, 142 and 143 are attri-

They may have been the additions of the original compiler of the second group, who had himself made a few reports of cases which interested him. They may even have been reports which were supplied by the direction of the original reporter of the first group, and rejected by him as unsatisfactory. Whatever may be the explanation of this additional matter, there can be little doubt that the first group represents the older version. Its three manuscripts are in far closer agreement with one another than any two of the manuscripts of the second group; and it is impossible to avoid noticing that many of the cases of the latter group are attributed in different manuscripts to different terms. They seem to have been derived from a pamphlet which was much copied and much altered.

3 EDWARD II.—In this year we are able to use three new manuscripts, *G*, *S*, *T*, of which *G* and *T* are obviously imperfect. *G* begins with Hilary term, and *T* has seventeen cases only of Michaelmas term. *S* contains cases of all four terms; but they are improperly divided, and Easter and Trinity terms have no headings.

For Michaelmas term the cases in *A* are arranged as follows:

1–34,<sup>1</sup> 104b (of 2 Edward II.), 35, 106b (of 2 Edward II.), 10b  
36, 37, 49, 50–53, 41, 54, 55.

Cases 1, 4, 6, 10, 23, 31, 41 and 55 are distinguished in this edition by the addition of the letter *a*, as different versions of them appear in other manuscripts. Case 10, however, appears in *A* in two forms, which are designated as 10*a* and 10*b*. The order of the cases of this term is precisely the same in *D* as in *A*, and the text of these manuscripts is also in close agreement. But an important difference between the reports of the second year and those of the third year now becomes apparent. In the second year *A*, *D*, and *B* agreed in text and in order of cases, but in the other manuscripts, including *C* and *Q*, different versions of several cases were noticed, and the order was decidedly different. In 3 Edward II., however, *C* and *Q* are, as will be seen from the following particulars, in substantial agreement with *A* and *D*. In *C* the order of the cases is

2–5, 8–10, 12–22, 24–34, 104b (of 2 Edward II.), 35, 106b  
(of 2 Edward II.), 10b, 36, 37, 7, 49, 11, 52, 53, 50, 51, 1, 41,  
54, 55.

buted to Michaelmas term, 136–141, 144–146, 148 and 150 to Hilary, 120–127, 149 to Easter, and 129, 130, 133, 134 to Trinity. In *C* 128 is attributed to Michaelmas, 121, 125–127, 136, 137, 139, 140, 144 and 149 are missing, and the rest are attributed to the same terms

as in *P*. It will be noticed that twenty out of the twenty-nine additional cases in *P* are attributed to Hilary and Easter terms, in which that manuscript has five cases only which occur in *A*.

<sup>1</sup> Case 20*a* of 2 Edward II. is inserted after 31 in *A* and *D*.



In *Q* it is

1-3, 4 (*part*), 2 (*a second report*), 3 (*a second report*), 4 (*residue*), 5, 8-10, 12-28, 30, 29, 31-34, 104*b* (of 2 Edward II.), 35, 106*b* (of 2 Edward II.), 10*b*, 36, 37, 7, 49, 11, 50-53, 41, 54, 55.

The chief features of interest in these lists are that 10*b* precedes 36 in *A*, *C*, and *Q*, that 41 comes between 53 and 54 in *A* and *Q*, and that 7 and 11 occur in precisely the same place towards the end of the lists in both *C* and *Q*. On the other hand 1 is placed almost at the end in *C* but not in *Q*, and there are some peculiarities of text and arrangement in 2, 3 and 4 in *C*. In spite, however, of a few slight differences, there can be no doubt that the reports of this term in *A*, *C*, *D*, and *Q* are derived from the same source.

The cases in Hilary term of this year are arranged thus in *A* :

1-13, 35*c*, 14, 15, 17-20, 16, 21-29,<sup>1</sup> 14*b*.

Of these 7, 9, 10, 14-20, 27 are designated by the addition of the letter *a*, 21 by the addition of *b*, and 35 by the addition of *c*, as variants of them occur in other manuscripts. Moreover, two versions of 14 occur in *A*, which are distinguished as 14*a* and 14*b* respectively.

In *C*, *D* and *Q* the order is much the same as in *A*, and the texts of these three manuscripts also agree with that in *A*. The order of the cases is as follows :

*C*. 1-11, 13, 35*c*, 14, 15, 17-20, 16, 21-29, 14*b*.

*D*. 1-13, 35*c*, 14, 15, 17-20, 16, 21, 22-29, 14*b*.

*Q*. 1-12, 35*c*, 14, 15, 17-20, 16, 21, 22, 24-29.

The absence from *Q* of the second version of 14, which occurs as the last case in *A*, *C*, and *D*, is interesting. It would seem that one version only occurred in the earliest copies of these reports, and that 14*b* was inserted as a postscript in a blank space at the end of the term in some later copy from from which *A*, *C* and *D* were derived.

In *A* thirteen cases are assigned to Easter term which occur in the order in which they are printed in this edition. Eight of them—namely 1, 3, 4, 6, 7, 8, 10, 13—having variant reports in other manuscripts, are designated respectively by the addition of the letter *a*. These thirteen cases also occur in the same order in *C* and *D*, together with 15, which is not found in *A*, but is placed in *C* between 3 and 4. Owing to the loss of several folios *Q* contains no reports of this and the following term.

In Trinity term *A* has eleven cases which occur in the order in which they are printed in this edition. Four of them, having variants in other manuscripts, are distinguished as 2*b*, 3*a*, 4*a* and 9*a* respectively. The text and order of the cases in this term in *C* and *D* are the same as in *A*.

In the third year we have our earliest reports in *T*, which, owing

<sup>1</sup> Cases 1 to 21 are ascribed to Michaelmas term in *A*.

to the loss of a few folios, begins abruptly in the course of Michaelmas term. For this and Hilary term the order of the cases in *T* is different from that in *A*, *C*, *D*, and *Q*, and many cases occur in *T* which are not found in those four manuscripts. For the moment it need only be noticed that the last four cases assigned to Hilary term in *T* are 1, 2, 3 and 13 of Trinity term. In Easter term, however, the difference between *T* on the one hand and *A*, *C*, *D* and *Q* ceases, and the text of *T* becomes almost the same as that of *C*, except that 13 is missing. This is probably because the misplaced report of it occurs among the cases of the preceding Hilary term. In Trinity the text agrees with *A*, *C* and *D*, except that the first three cases of this term are here missing, having been, as already mentioned, misplaced and assigned to Hilary term. This change in the text of *T* from complete disagreement to close agreement with that of *A*, *C* and *D* strongly supports the 'pamphlet' theory of the Year Books. The change on this theory is due to the compiler using one pamphlet which ended with Hilary term 3 Edward II., and then another pamphlet containing reports of the two following terms which was the same as that used by the compiler of *A*, *C* and *D*.

We may now return to the reports in *T* for Michaelmas and Hilary terms. The early cases of the former term are unfortunately missing in *T*; but the seventeen cases which have been preserved agree closely with the reports in *S*. The contents of the two manuscripts as regards this term may therefore be conveniently studied together.

## MICHAELMAS.

<i>S</i>	<i>T</i>
33 r <sup>o</sup> 1a, 2, 3	1 r <sup>o</sup> 33, 34, 104b (of 2 Edward II.),
v <sup>o</sup> 4a, 6a, 7, 5, 8	23b (of 2 Edward II.), 35,
34 r <sup>o</sup> 9, 10a, 11, 12	106b (of 2 Edward II.), 45,
v <sup>o</sup> 38, 13, 14	103b (of 2 Edward II.), 46
35 r <sup>o</sup> 15, 16, 17	v <sup>o</sup> 55b, 31b, 6b, 10b, 47, 26, 37,
v <sup>o</sup> 18, 19, ( <i>an unprinted case</i> ) <sup>1</sup>	48
36 r <sup>o</sup> 49 (of 2 Edward II.), 47 (of	
2 Edward II.), 50 (of	
2 Edward II.), 31 (of	
2 Edward II.), 20, 23b	
v <sup>o</sup> 21, 40, 41b, 42, 43, 32, 44, 33	
37 r <sup>o</sup> 34, 104b (of 2 Edward II.), 23b	
(of 2 Edward II.), 35, 106b	
(of 2 Edward II.)	
v <sup>o</sup> 45, 103b (of 2 Edward II.),	
46, 55b, 31b, 6b	
38 r <sup>o</sup> 10b, 47, 26, 37, 48	

<sup>1</sup> *Howe v. Howe*, a case of ael heard in the last Norfolk eyre.

In both manuscripts 49 of Michaelmas term is assigned to Hilary term and there appears as the first case. For convenience of reference these cases in *S* (including 49) may be arranged in the order in which they are printed in this edition :

23, 31, 47, 49, 50, 103, 104 and 106 (all of 2 Edward II.)  
and 1-21, 23, 26, 31-35, 37, 38, 40-49, 55.

Eight of these cases, namely 40, 42-48, are not found in *A* ; but on the other hand twelve cases, namely 22, 24, 25, 27-30 and 50-54, which occur in *A*, are not found in *S*.<sup>1</sup> This leaves thirty-one Michaelmas cases which are common to *A* and *S*—namely 1-21, 23, 26, 31-35, 37, 49, 55—and also two cases of the year 3 Edward II., namely 104 and 106. Of the eight cases in *A* of which different versions occur in other manuscripts four—namely 1, 4, 6 and 10—appear in the same versions in *A* and *S*, and the other four—namely 23, 31, 41 and 55—appear in different versions. As regards the order of the cases there is some similarity between *A* and *S* during the greater part of the term, but towards the end the similarity ceases. In spite, however, of the absence of twelve cases from *S* which occur in *A*, and the insertion in the former manuscript of eight cases which are not found in the latter, it is far from improbable that in both manuscripts the reports of this term are ultimately derived from a common original. The compilers of *A* and *S* may have used different editions (in pamphlet form) of the reports of this term, each of which lacked certain of the cases of the original compiler. It is also possible that some of the cases which are found in one of these manuscripts and not in the other are accretions to the original text.

In both *S* and *T* the cases assigned to Hilary term include not only seventeen cases which belong to Easter and six to Trinity terms but also eleven cases which are printed as undated cases in the fourth volume of this series. They occur in the following order, the undated cases being distinguished in this edition by the addition of the word *Extra*.

<i>S</i>		<i>T</i>	
38 v <sup>o</sup>	49 <i>Mich.</i> , 21c	2 r <sup>o</sup>	49 <i>Mich.</i> , 21c
39 r <sup>o</sup>	24 <i>Easter</i>	v <sup>o</sup>	24 <i>Easter</i> , 4
	v <sup>o</sup> 4	3 r <sup>o</sup>	11 <i>Extra</i> , 10b, 11, 8
40 r <sup>o</sup>	11 <i>Extra</i> , 10b, 11, 8	v <sup>o</sup>	23, 9b, 31a, 15c
	v <sup>o</sup> 23, 9b, 31a, 15c	4 r <sup>o</sup>	32a, 33, 24, 20b, 26, 27a, 12
41 r <sup>o</sup>	32a, 33, 24, 20b	v <sup>o</sup>	35a, 29, 19b
	v <sup>o</sup> 26, 27a, 12, 35a	5 r <sup>o</sup>	1a <i>Extra</i> , 2 <i>Extra</i> , 1, 12
42 r <sup>o</sup>	29, 19b, 1a <i>Extra</i>		<i>Extra</i> , 13 <i>Extra</i> , 18a

<sup>1</sup> Nor are they found in any other manuscripts except *C*, *D*, and *Q*.



## S

- 42 v<sup>o</sup> 2 *Extra*, 1, 12 *Extra*  
13 *Extra*, 18a
- 43 r<sup>o</sup> 3 *Extra*, 14b, 7b  
v<sup>o</sup> 27a *Easter*, 4a *Extra*, 49c  
5a *Extra*, 42i *Easter*
- 44 r<sup>o</sup> 43c *Easter*, 12 *Easter*  
44 *Easter*, 6 *Extra*  
10a *Easter*
- v<sup>o</sup> 34a *Easter*, 47 *Easter*  
4b *Easter*, 22b *Easter*  
45b *Easter*, 7 *Extra*, 8 *Extra*  
15 *Easter*
- 45 r<sup>o</sup> 9 *Extra*, 21b *Trinity*, 22  
*Trinity*, 46 *Easter*, 13a  
*Easter*
- v<sup>o</sup> 38 *Easter*, 1 *Trinity*, 2b  
*Trinity*, 3a *Trinity*, 13a  
*Trinity*

## T

- 5 v<sup>o</sup> 3 *Extra*, 14b, 7b, 27a *Easter*
- 6 r<sup>o</sup> 4a *Extra*, 49, 5a *Extra*, 42i  
*Easter*, 43c *Easter*, 12  
*Easter*
- v<sup>o</sup> 44 *Easter*, 6 *Extra*, 10a  
*Easter*, 34a *Easter*, 47  
*Easter*
- 7 r<sup>o</sup> 4b *Easter*, 22b *Easter*, 45b  
*Easter*, 7 *Extra*, 8 *Extra*,  
15 *Easter*, 9 *Extra*, 21b  
*Trinity*, 22 *Trinity*, 46  
*Easter*
- v<sup>o</sup> 13a *Easter*, 38 *Easter*, 1  
*Trinity*, 2b *Trinity*, 3a  
*Trinity*
- 8 r<sup>o</sup> 13a *Trinity*

Arranged in the order in which these cases are printed in this edition they are :

HILARY. 1, 4, 7b, 8, 9b, 10b, 11 (*second part*), 12, 14b, 15c, 18a, 19b, 20b, 21c, 23, 24, 26, 27a, 29, 31a, 32a, 33, 35a.

EASTER. 4b, 10a, 12, 13a, 15, 22b, 24, 27a, 34a, 38, 42i, 43c, 44, 45b, 46, 47, 49c.

TRINITY. 1, 2b, 3a, 13a, 21b, 22.

EXTRA. 1-9, 11-13.

Thus any resemblance between *A* and *S* in the reports of Hilary term must be very faint. Of the thirty cases assigned to this term in the former manuscript twenty only are found in the latter; and nine of these twenty—namely 7, 9, 10, 11, 14, 15, 19-21—appear in different versions. Moreover, three cases—namely 31-33—occur in *S* which are not found in *A*.<sup>1</sup> It will be seen presently that *S* is less remotely related to *M*.

With case 13a (*Trinity*), the reports assigned to Hilary term in *T* cease, and the reports already mentioned, which are definitely assigned to *Easter* and *Trinity* terms, begin. In *S*, however, after 13a (*Trinity*) we have (1) an unprinted report of a formedon in remainder which is not found among the reports of this term in other manuscripts, (2) a report of a case on a writ of entry with the words 'anno xiiij' in the margin, and (3) four cases of *Trinity* term—namely 5, 6, 7, 8. Thus, although the compiler of *S* has definitely assigned no cases to *Trinity* term, he

<sup>1</sup> Case 30 occurs in *R* only.

has included in his collection ten cases of this term—namely 1–3, 5–8, 13, 21 and 22; and another case, namely 11, occurs among his reports of Michaelmas term 4 Edward II.

Seventeen cases of Easter term are included among the Hilary cases in *S* and *T*; but *T*, as already mentioned, also contains separate collections of reports for Easter and Trinity terms under their proper headings. Four only of these Easter cases in *S* appear in *A*—namely 4, 10, 12 and 13; and nine in *M*, cases 34 and 42–47 and 49 not appearing in the latter manuscript. The reports of this term in *S* are obviously not closely related, either as regards contents or order, to those in any of the other manuscripts. It is worthy of notice, however, that of the seventeen cases of this term in *S* and *T*, nine occur in *M* and *P*—namely 4, 10, 12, 13, 15, 22,<sup>1</sup> 24, 27 and 38—two, namely 34 and 49, occur in *L*, a manuscript closely related to *M* and *P*, and the six remaining cases, namely 42–47, which are missing in *M* and *P*, all occur in *R*.

The reports in *M* and *P* for this year are almost in complete agreement; and those in *L* differ from them but little. The cases of Michaelmas term in *M* are in the following order:

1*a*, 2, 3, 4*a*, 5, 6*a*, 7, 8, 9, 10*a*, 11, 12, 38, 13, 14, 15, 16, 17, 18, 19, 20, 23*b*, 39, 21, 40, 41*b*, 42, 43, 32, 44, 33, 34, 104*b* (of 2 Edward II.), 23*b* (of 2 Edward II.), 35, 106*b* (of 2 Edward II.), 45, 103*b* (of 2 Edward II.), 46, 55*b*, 31*b*, 6*b*, 10*b*, 47, 26, 37, 31 *record*, 48.

Arranged in the order in which they are printed in this edition (and including case 49 assigned to Hilary term) they are:

1–21, 23, 26, 31–35, 37–49, 55,

with

23, 103, 104, and 106 of 2 Edward II. and a second version of 6.

In *P* the order is exactly the same, except that 6*a* precedes 5 and that 17 is repeated between 26 and 37. In *L* the order is the same as in *P*, but the reports end with 19 and are followed by three brief notes which are printed in this edition as case 56. In *X* also the abridged cases of this term are in the same order as in *P*. Moreover, on referring back to the particulars of the reports in *S* we find that the reports in that manuscript agree with those in *P*, except that 39, an insignificant note, is omitted in *S* and that the second version of 10 and four cases of 2 Edward II. are omitted in *P*. For this term, therefore, the reports in *L*, *M*, *S*, *P*, *T* and *X* are no doubt derived from the same source.

<sup>1</sup> Case 22 is a mere note in *M* and *P*.

In *M* the cases assigned to Hilary term of this year are the following,  
49 *Mich.*

4, 11 (*second part*), 8, 22, 23, 9*b*, 31*a*, 15*c*, 32*a*, 33, 24, 25, 34,  
20*b*, 26, 27*a*, 28*ii*, 12, 26 *Easter*, 35*a*, 29, 21*c*, 18*b*, 14*b*.

This is also the order in *P* and *X*, except that in the latter manuscript the abridgements of the six cases which follow 15*c* are omitted. In *L* the first three cases are 49 *Mich.*, 10*b*, 23*i* *Extra*; but the remaining cases are in the same order as in *P* from 8 to 14*b*, except that the six cases which follow 15*c* are omitted, as in *X*. Four, however, of these six cases—namely 20*b*, 32*a*, 33, 34—are assigned to Easter term in *L*. Arranged in the order in which they are printed the cases in *M* for this term are the following :

49 *Mich.*

4, 8, 9, 11, 12, 14, 15, 18, 20–29, 31–35.

26 *Easter*.

The reports for this term in *M* and *P* no longer agree closely with those in *S* and *T*. Even if we exclude the intrusive Easter, Trinity and *Extra* cases which are a prominent feature of this term in *S* and *T*, we shall still have noteworthy differences. Cases 1, 7, 10 and 19 occur in *S* and *T*, but not in *M* and *P*; and 22, 25, 28 and 34 occur in *M* and *P*, but not in *S* and *T*. On the other hand, ten cases appear in both *M* and *S*, of which more than one version is printed in this edition. In nine of these cases—namely 9, 14, 15, 20, 21, 27, 31, 32, 35—the same version appears in both *M* and *S*, and it is only in case 18 that we have different versions. Moreover, in spite of some differences in their contents, there is a remarkable agreement in the order of the cases which *M* and *S* have in common. When we find seven consecutive cases—namely 23, 9, 31, 15, 32, 33, 24—occurring in precisely the same order, it is impossible to doubt that they have a common origin. Indeed, it may be taken as almost certain that, as in Michaelmas, so in Hilary term, *L*, *M*, *P*, *S*, and *T* are ultimately derived from the same source.

The reports of Easter term in *M* and *P* agree in text and order.

1*a*,<sup>1</sup> 2, 14, 3*a*, 15, 4*a*, 5, 16*a*, 18*i*, 19, 20, 21, 22*a*, 6*a*, 7*a*, 8*a*,  
23, 9, 24, 25 *iii*, 26 (*repeated*), 10*a*, 27*b*, 35, 11, 12, 13*a*, 5 (*repeated*),  
29, 9*c* *Trinity*, 28, 38.

Arranged in the order in which they are printed they are :

1–16, 18–29, 35,<sup>2</sup> 38.

The abridged cases in *X* are in the same order as the cases in *M* and *P*. In *L*, however, the reports of this term are no longer in close agreement with *M* and *P*. They occur in the following order :

<sup>1</sup> The first sixteen of these cases are attributed to Hilary term in *M*.

<sup>2</sup> Case 35 is a mere note in *M* and *P*.



2, 3a, 15, 4a, 5, 16a, 24, 25iii, 27b, 10a, 11, 12, 7a, 18i, 19 note, 22a, 20, 21, 42, 14, 32a *Hilary*, 33 *Hilary*, 34 *Hilary*, 20b *Hilary*, 14a *Extra*, 23iii *Extra*, 10 *Extra*, 43b, *unprinted note*, 17a, 16b, 15 *Extra*, 24 (iv and v) *Extra*, 16a *Extra*, 17 *Extra*, 49b, 33 note 1, 30a, 18 *Extra*, 23ii *Extra*, 6b, 19 *Extra*, 20 *Extra*, 13a, 21 *Extra*, 31, 33 note 2, 34b, 5b *Extra*, 8b, 48, 22 *Extra*, 32, 33.

Arranged in the order in which they are printed, they are :

HILARY. 20, 32–34.

EASTER. 2–8, 10–22, 24–27, 29–34, 42, 43, 48, 49b.

EXTRA. 5, 10, 14–23.

If, however, we exclude the Hilary and Extra cases, the difference between the reports of Easter term, in *L* on the one hand and *M* and *P* on the other hand, becomes less striking. Cases 1, 9, 23, 28, 38 occur in *M* but not in *L*. Possibly some of these omissions are due to carelessness ; but it should not be overlooked that owing to defects in the manuscript the reports of this term in *L* end in the middle of a case. On the other hand, ten cases—namely 17, 30–34,<sup>1</sup> 42, 43, 48, 49, and a second report of 16—occur in *L* and not in *M*. They mostly occur towards the end of the reports among the Extra cases, and not improbably, like them, they are accretions to the original text. Lastly, we may notice that though different versions of no less than twelve cases occurring in both *L* and *M*—namely 3, 4, 6, 7, 8, 10, 13, 16, 18, 22, 25, 27—are printed in this edition, the same versions of all of them, except cases 6, 8 and 16, appear in both manuscripts. It is therefore probable that in this term as in the two preceding terms the reports in *L* are derived from the same source as *M*, but the relationship between the two manuscripts is obviously somewhat remote.

The reports of this term in *L* differ from those in *S* much more than from those in *M*. There are thirty-four cases in *L* and seventeen in *S*. Of these twelve only are common to both manuscripts—namely 4, 10, 12, 13, 15, 22, 24, 27, 34, 42, 43 and 49—and six of them appear in different versions. It is, however, very remarkable that in both *L* and *S* a considerable number of Extra cases are interspersed among those of Easter term, eleven in *S* and twelve in *L*; and that of these only one occurs in both manuscripts.

For Trinity term the cases in *M* and *P* are as follows :

1, 2b, 3a, 12, 4a, 13a, 5, 6, 7, 8, 2a, 14a, 9a, 15,<sup>2</sup> 10, 11, 17, 18, or, in the order in which they are printed, 1–15, 17, 18, with a second report of 2. In *L*, owing to the defect already mentioned, there are no

<sup>1</sup> Case 30 is a mere note in *L*. See also p. xciii below.

<sup>2</sup> The case of *Thorgrim v. Hereford*

which is printed in this edition among the Michaelmas cases of 4 Edward II. occurs here in these manuscripts.

reports for this term. In *X* the order of the abridged cases agrees with *M* and *P*.

These particulars suggest that the reports of the third year as they are found in *M* and *P* circulated as a pamphlet, and that a somewhat similar version of this pamphlet, perhaps an earlier one, perhaps a later one but with some variant texts and a considerable number of extra cases for Easter term, was used by the compiler of *L*. It is important to notice that the relation between *M* and *P* is closer in the third than in the second year.

We must now consider the relation between *A* and *M*. In Michaelmas term these manuscripts have thirty-two cases in common, and there are thirteen cases which occur in *A* but not in *M*, and ten which occur in *M* but not in *A*.<sup>1</sup> No doubt the proportion of the number of cases common to *A* and *M* to the total in either of these manuscripts is not very high; but, on the other hand, the fact that the first twenty-one cases in *A* occur also in *M*, and in the same version, makes it almost certain that the reports for this term in *A* and *M* had a common original.

In Hilary term *A* and *M* have nineteen cases in common. Eleven others occur in *A* but not in *M*, and four occur in *M* but not in *A*. No less than ten of the cases which are common to the two manuscripts are consecutive in *A*. It is therefore almost certain that in Hilary term, as in Michaelmas term, the reports in *A* and *M* had a common original.

In Easter term *A* has thirteen cases only, all of which appear in the same versions in *M*, but *M* contains sixteen more cases than *A*. It is obvious that as regards the first thirteen cases in *A* that manuscript and *M* had a common original, but whether the sixteen other cases which appear in *M* but not in *A* were also in the common original, and were omitted in some more recent copy from which the text in *A* is derived, must remain for the present uncertain. In Trinity term *A* has eleven cases only, all of which occur in the same versions in *M*, but *M* contains sixteen more cases than *A*. Here again there can be no doubt that the two manuscripts had a common original as regards the first eleven cases in *A*; but, as in Easter term, it is uncertain whether or not the common original contained the cases which appear in *M* but not in *A*.

The reports of this year in *R* are less numerous than in the other manuscripts; but, on the other hand, they are conspicuous for their individuality, no less than 22 out of a total of 46 appearing in versions which are not found elsewhere. Such individuality is the more remarkable, as it is not a feature of the reports of the second and fourth

<sup>1</sup> See pp. lxxix and lxxx above. Cases of 2 Edward II. are excluded from these particulars.

years in this manuscript ; but comment on it, owing to lack of material, must be reserved until more of the Year Books of Edward II. have been published in this edition. In Michaelmas term there are eight cases of this term—namely 1–5, 12, 13, 15 ; two others which are printed among the cases of 2 Edward II., namely 31 and 49 ; a brief note, and the record of a *quare impedit*. These occur in the following order :

10 r<sup>o</sup> 1a, 2, 3

v<sup>o</sup> 4a, 5

11 r<sup>o</sup> 12, a note,<sup>1</sup> 15, 13

v<sup>o</sup> 49 (of 2 Edward II.), a *Latin record*,<sup>2</sup> 31 (of 2 Edward II.)

The eight cases of this term agree in text with the corresponding reports in *L, M, P, R*, and *S*.

In Hilary term there are thirteen cases of this term—namely 7–9, 12, 15–17, 20, 21, 30–32, 35 ; one case of 2 Edward II. (133*b*), and one case of Easter term 3 Edward II. (27*c*). Their order is as follows :

12 r<sup>o</sup> 35*b*

v<sup>o</sup> 7*b*, 30, 16*b*

13 r<sup>o</sup> 27*c* Easter, 31*b*, 32*b*, 20*c*

v<sup>o</sup> 15*b*

14 r<sup>o</sup> 21*a*, 133*b* (of 2 Edward II.)

v<sup>o</sup> 12, 9*c*

15 r<sup>o</sup> 8, 17*b*

The versions which we find in *R* of ten of these cases—namely 9, 15–17, 20, 21, 30–32, 35—are unique, and case 30 occurs in none of the other manuscripts ; that of 7 is found in *S* and *T*, and those of 8 and 12 in *A, B, C, D, G, L, M, P, Q, S* and *T*.

Of Easter term *R* contains 17 cases—namely 4, 13, 15, 17, 18, 22, 25, 39–47, 49—which occur in the following order :

16 r<sup>o</sup> 39*b*, 25ii, 40, 18ii, 41, 17*b*, 49*d*

v<sup>o</sup> 42ii, 43*a*, 44, 13*b*, 22*b*

17 r<sup>o</sup> 45, 15, 46

v<sup>o</sup> 4*b*, 47

Case 27 of this term has already been noticed as occurring among the reports of Hilary term. Eight of these cases—namely 13*b*, 17*b*, 18ii, 25ii, 39*b*, 42ii, 43*a* and 49*d*—appear in *R* in versions which are different from those in other manuscripts ; two of them, namely 40 and 41, are not found elsewhere ; and one of them, 39, is found in *Y* in another version but in no other manuscript. Six cases occur in the same version in *S* and *T* as in *R*, but not elsewhere—namely 4*b*, 22*b*

<sup>1</sup> En un *cui in uita* le bref se abati pur ceo qe le baroun fut en pleyne vie le jour du bref purchacé qe ele par son bref suppose estre mort, et si fust il

mort le jour du play.

<sup>2</sup> This is the Latin record mentioned on p. lxix (note 1) above, which also occurs on folio 20 r<sup>o</sup> of *A*.



45, 46, 47, 48; one (case 27) in *B* and *G* only; one (case 44) in *B* and *G* and also in *S* and *T*, and one (case 15) in *B*, *G*, *L*, *M*, *P*, *S* and *T*.

*R* contains eight cases only in its reports of Trinity term of this year, which are arranged as follows :

17 v<sup>o</sup> 2a  
 18 r<sup>o</sup> 9a, 19, 3a  
 v<sup>o</sup> 20, 21a, a note,<sup>1</sup> 22

Case 10 and 11 of this term occur in this manuscript,<sup>2</sup> but are placed in Michaelmas term of 4 Edward II. Of these ten 21a and the note are the only cases of which the versions in *R* are unique. Of the rest case 2a occurs in *M* and *P*, 3a in *A*, *C*, *D*, *M*, *P*, *S* and *T*, 9a in *M*, *P* and *T*, 10 in *A*, *C*, *D*, *M*, *P*, *T*, 11 in *A*, *B*, *D*, *G*, *M*, *P*, *S*, *T*, 19 and 20 in *B* and *G*, and 22 in a brief note of a case more fully reported in *S* and *T*.

It should be noticed that the versions which are peculiar to *R* in this year with one exception belong to Hilary and Easter terms, ten to the former and eight to the latter. *R* also contains one case in Hilary term and three cases in Easter term which occur in no other manuscript (except *Y*) either in the same or in any other version.

Lastly, we come to the reports in *B* and *G*, which for the last three terms<sup>3</sup> of this year are in close agreement with one another. Now just as *C*, which agreed in text with *P* and differed from *A* in the second year, agreed with *A* and differed from *P* in the third year, so we have a somewhat similar change in *B*. Closely agreeing with *A* in the second year, it differs entirely, not only from that manuscript in the last three terms of the third year, but also from all the other manuscripts except *G*.

The cases in Michaelmas term are arranged as follows :

1b, 2, 3, 4a, 5, 8, 9, 10a, 13, 6a, 7, 12, 38, 14, 15, 16, 17, 18, 19, 20, 23b, 39, 21, 40, 41b, 42, 43, 32, 44, 33, 34, 104b (of 2 Edward II.), 23 (of 2 Edward II.), 46, 55b, 10 repeated, 47, 26, 17 repeated, 37, 31 record, 48.

or, arranged in the order in which they are printed in this edition,

1-10, 12-21, 23, 26, 31-34, 37-44, 46-48, 55.

The differences between the reports of this term in *B* and *A*, though not so great as in the three following terms, are yet considerable. There are no reports in *B* of 11, 22, 25, 27-31,<sup>4</sup> 35, 36, 45, 49-54, all of which occur in *A*, but 38-40, 42-44, 46-48, which occur in *B*, are not found in *A*. On the other hand, the resemblance between *B* and *P* is

<sup>1</sup> Un bref de mortdauncestre fut porté vers iij. Le un morust. Le bref ne se abati poynt par *Inge*, pur ceo que les tenements furent de lour purchaz Secus est si de hereditate.

<sup>2</sup> Case 11 is also placed in Michaelmas

term 4 Edw. II. in *B* and *G*.

<sup>3</sup> It will be remembered that *G* begins with Hilary term 3 Edward II.

<sup>4</sup> Case 31 appears as a record only in *B*.

fairly close. *B* lacks 11, 35, 45, and 49, which occur in *P*, but *P* contains every case which occurs in *B*. Moreover, there are no cases in which *B* agrees in text with *A* and disagrees with *P*. In 23, 41 and 55 the text in *B* agrees with *P*, and disagrees with *A*; in 1 it disagrees with both *A* and *P*. In point of order there is a general agreement between *A*, *B*, and *P*, and if the reports of this term in *P* are derived, as suggested on an earlier page, from the same source as *A*, it is probable that those in *B* are also ultimately derived from that source.

In Hilary term the cases in *B* and *G* are

10*b*, 11, 8, 22, 9*b*, 15*c*, 24, 20*b*, 26, 12, 27*a*, 35*a*, 21*c*, 18*b*, 14*b*  
or, in the order in which they are printed,  
8-12, 14, 15, 18, 20-22, 24, 26, 27, 35.

Thus no less than fifteen of the thirty cases which *A* contains are omitted in *B*. Moreover, eight of the fifteen cases which are common to *A* and *B* appear in different versions in the two manuscripts.<sup>1</sup> Once again, however, *B* agrees with *P*. Every case which appears in *B*, except 10, appears also in *P*, and in all these cases the same version appears in both *B* and *P*.<sup>2</sup> The order of the cases in the two manuscripts is much the same, though *P* contains more than *B*.

It is in Easter term that the individuality of *B* and *G*<sup>3</sup> becomes conspicuous. The order of the cases in *B* is as follows :

30*a*, 12, 24, 14, 42*iv*, 2, 3*b*, 43*b*, 15, 17*a*, 19, 22*a*, 18*iii*, 49*b*,  
1*b*, 31, 25*i*, 32, 33, 27*c*, 4*c*, 35, 36, 4 *Extra*, 44, 37, 42 (of  
2 Edward II.), 19 *Trinity*.

Cases 38 and 42*iv* (*repeated*) occur among the Trinity cases in these manuscripts. The order in which the cases of Easter term are printed in this edition is as follows :

1-4, 12, 14, 15, 17-19, 22, 24, 25, 27, 30-33, 35-38, 42-44, 49.

The reports in *B* and *G* for this term are obviously not in agreement with those in *A*, for that manuscript contains thirteen cases only, whereas *B* contains as many as twenty-six cases. Moreover, *B* contains five only of the thirteen cases in *A*, and three of these five appear in different versions in the two manuscripts. The resemblance between *B* and *P* is scarcely any closer than between *B* and *A*. The order is

<sup>1</sup> Cases 9, 10, 11, 15, 18, 20, 21 and 35.

<sup>2</sup> Case 10*b* appears in *L*, *S* and *T*.

<sup>3</sup> Two short notes occur among the cases of this term in *G* which are not found in *B*.

(1) Si un homme truve les avers un estraunge pessaunt sa commune il purra avouwer saunt ces comuners

com pur damage fesaunt en sa commune et en son several quant a ly quei avers sunt pris etc. (fol. 5 v°).

(2) Nota en une annuité si l'especialté veut *dedi* la ne covent mye lier seisine, et la put homme traverser la seisine. Mes s'il vet *concessi* saunt *dedi* la ne covent mye lier seisine, car homme ne traversera pas (fol. 8 r°).

decidedly different ; and out of twenty-six cases in *B* there are only fifteen<sup>1</sup> which also occur in *P*, and out of thirty cases in *P* there are fourteen<sup>2</sup> which are not found in *B*. Lastly, four of the fifteen cases which occur in both *B* and *P*—namely 14, 19, 22, 35—are represented in the latter manuscript by mere notes, and five—namely 1, 3, 4, 18, 27—appear in entirely different versions.

As it has already been noticed that *L* in this term is probably related to *P*, though not very closely, a comparison between *B* and *L* may be of interest. *L* contains thirty-four cases for this term, of which twenty<sup>3</sup> occur in *B*; while *B* contains six<sup>4</sup> cases which are not found in *L*. Thus of the twenty-six cases which occur in *B*, *L* contains five more than *P*. Of the twenty cases occurring in both *L* and *B*, six<sup>5</sup> appear in different and eleven in the same versions in the two manuscripts, and three<sup>6</sup> are represented in *L* by mere notes. In this respect also *B* is less different from *L* than from *P*.

In Trinity term the cases in *B* and *G* are :

24a, 23, 25, 38 *Easter*, 26, 3b, 16, 14b, 42iv *Easter*, 18, 29, 4b, 30a, 20, 27a, 28.

Case 19 occurs among the *Easter* cases of this year, and case 11 among those of Michaelmas 4 Edward II. Including these two cases and excluding the two *Easter* cases, the Trinity cases are printed in the following order :

3, 4, 11, 14, 16, 18–20, 23–30.

Three only of these cases, namely 3, 4 and 11, occur in *A*, and the versions of 3 and 4 in that manuscript are not the same as in *B*. Cases 3, 4, 11, 14 and 18 occur in *P*. The versions of 3, 4 and 14 are different in *B* and *P*, but those of 11 and 18 are the same. Of the remaining eleven cases, 19 and 20 occur in *R*, but 16, 23–30 are found only in *B* and *G*.<sup>7</sup> Cases 3 and 11 also occur in *R* in the same version as in *P*. It is obvious that for this term the reports in *B* and *G*, which are in complete agreement, are independent of those in our other manuscripts, though seven out of the sixteen appear in some of them.

Thus the reports of the third year when regarded as a whole strongly support the 'pamphlet' theory. We have in the second year *C* and *Q* closely agreeing with *P* and differing from *A* and *D*, but in the third year agreeing with *A* and *D* and differing from *P*. Again, *B* agrees with *A* and *D* in the second year, but in the third year it is very different. Also *P* and *M* are more closely related to one another in the third year

<sup>1</sup> Namely, 1–4, 12, 14, 15, 18, 19, 22, 24, 25, 27, 30–33, 42, 43, 49.  
22, 24, 25, 27, 35, 38.

<sup>2</sup> Namely, 5–11, 13, 16, 21, 23, 26, 28, 29.

<sup>3</sup> Namely, 2–4, 12, 14, 15, 17–19,

<sup>4</sup> Namely, 1, 35–38, 44.

<sup>5</sup> Namely, 3, 4, 18, 25, 27, and 42.

<sup>6</sup> Namely, 19, 22 and 30.

<sup>7</sup> Cases 24, 27 and 30 appear in *Y*.



than they are in the second; and *S* and *T* agree with one another remarkably closely in the first two terms of the third year; but in Easter and Trinity terms *T* agrees with *A* and *D*. All this is easy to understand if the reports of the reign of Edward II. were in the course of his reign circulating as pamphlets containing a few terms. The pamphlets containing reports of the early years probably grew larger as time went on, and sometimes contained the reports of a few years instead of a few terms. The men who compiled our large Year Books of Edward II., written in the reign of Edward III., used such pamphlets, some large and others small, as they were able to obtain. Thus two manuscripts of the Year Books might be in close agreement for several years, and then become quite different. It is also likely enough that a compiler sometimes obtained more than one pamphlet of the same period, so that his reports of a few terms were compiled partly from one pamphlet and partly from another.

We are on less sure ground with regard to the ultimate origin of the various reports of this year. They certainly cannot be claimed either as proving or disproving that the Year Books of this period were derived wholly or partially from a single version. Leaving *R* on one side, since it has some marked peculiarities of its own, let us confine our attention to *A*, *B*, *C*, *D*, *G*, *L*, *M*, *P*, *Q*, *S*, *T* and *X*. As regards Michaelmas term these manuscripts fall into three groups, the first consisting of *A*, *C*, *D* and *Q*, the second of *L*, *M*, *P*, *S*, *T* and *X*, and the third of *B* and *G* only. Nevertheless, the particulars printed above show that, in spite of some difference in detail, they are probably based upon a common original.

In Hilary term, we have four groups, since *S* and *T* now differ from *L*, *M*, *P*, and *X*; we also have reports in *G* which are in close agreement with those in *B*. The reports in the first of these groups are almost certainly derived from the same original as those in the second; and so also, it would seem, were the reports of the third group—that is, *S* and *T*, though they are no longer closely related to them. Similarly the reports of the fourth group—that is, *B* and *G*—though very different from those in the first group, probably had the same original as the reports in the second group. In short, we may suspect that as in Michaelmas term, so in Hilary term, the reports in all the manuscripts now under discussion had a common original; but it must be remembered that there are twelve Extra cases in *S* and *T* of which nine are not found in any of the other manuscripts.<sup>1</sup>

As regards Easter term the groups are the same as in Hilary term except that *T* contains two sets of reports, the one occurring, as in *S*, among the Hilary cases and belonging to the third group, and the other

<sup>1</sup> Case 1 occurs in *Y*, 4 in *B* and *G*, and 5 in *L*.

occurring under its proper heading of Easter term and belonging to the first group. Moreover, though *L* may still be classified as belonging to the second group, it differs considerably from *M* and *P*. The reports in the first group and the early reports of the second group agree sufficiently for them to have been derived from the same original, but none of the cases of the latter part of the second group occur in the first. Twelve Extra cases also occur in *L* which are not found in the other manuscripts of the second group (that is, *M* and *P*), nor, with three exceptions, namely 5, 14 and 16, in any of the other manuscripts. In the third group the reports of this term are few, but as far as they go they seem to be drawn from the same original as the second group. Lastly, with two exceptions—that is to say 36 and 37—all the cases in the fourth group (that is *B* and *G*) occur in one or more manuscripts of the other groups, but in a decidedly different order; and four of them, namely 30 to 33, occur in no other manuscripts except *L*. Moreover, certain of them, notably 19, 22, 30<sup>1</sup>, 35, appear in the second group as short notes rather than as reports. In spite, however, of these differences the reports of the fourth group may perhaps be derived from the same original as the second group; but this original in the course of its transmission into the forms which it has assumed in these groups must have been very much altered. Certain cases in each group must have been omitted, others inserted, and some replaced by improved versions. The outstanding feature, however, of the reports of this term are the small number of cases in the first group, and the Extra cases in *L*, *S* and *T*.

Finally, we come to Trinity term. Here our first group (*A*, *C*, *D*, *T*) contains eleven cases only, all of which are found in *M* and *P* in the same versions. Seven of them also occur in the same version in *S*, three among the Hilary cases of that manuscript, and four more after the insertion of other matter at the end of Hilary term and without a special heading. On the other hand, not more than three of these cases—namely 3, 4 and 11—are found in *B* and *G*, and two of these are in different versions. There remain, however, nineteen cases of this term not one of which is found in *A*, *C* or *D*, and not more than three of them in *S* and *T*. Of these nineteen cases three—namely 12, 15 and 17—occur in *M* and *P* only, and two of them—namely 21 and 22—in *S* and *T* only; but thirteen of them appear in *B* and *G*, and eleven of these in none of the other manuscripts now under discussion. Thus as regards this term *B* and *G* contain a number of cases which are scarcely represented in our other manuscripts. They must be derived either from entirely different originals or from one which has been divided

<sup>1</sup> Case 30 occurs in *Y*, a manuscript not now under discussion.

into two parts, the cases in *A*, *C* and *D* being derived from one part, and those in *B* and *G* from the other.

So far nothing has been said of *R*. This manuscript appears, at any rate as regards much of the four earliest years of the reign of Edward II., to consist of selections; but in two terms of the third year the reports selected are conspicuous for their individuality, and differ considerably from those found elsewhere. In Michaelmas term, excluding a brief note, we have eight cases only, and they are derived from the same original as the reports in the other manuscripts. In Hilary term, though one case only occurs which is not found in other manuscripts,<sup>1</sup> as many as ten cases out of a total of thirteen are so differently reported as to require printing in this edition in special versions. Of the seventeen Easter cases in *R* eight occur in special versions, two, namely 40 and 41, are missing in all the other manuscripts, and one, namely 39, is only found in *Y*. Lastly, in Trinity term the reports in *R* are represented by a selection of seven cases and a note, but only one of these cases, namely 21, occurs in a special version. In spite, however, of the large proportion of special cases which occur among them in Hilary and Easter terms, there is no strong reason for thinking that the reports of this year in *R* are not derived from the same original or originals as those in the other manuscripts. They seem to be selected reports, some of which have been much revised by a frequenter of the courts or perhaps by one of the serjeants.

Now it may be said that the Extra Cases which appear in *L*, *S* and *T*, the small number of cases which appear in Easter and Trinity terms in *A*, *C*, *D*, and the fact that most of the Trinity cases appearing in *B* and *G*, two of our most important manuscripts, are not found elsewhere, tend to show that the reports of this period were not based upon a common original. But before we accept this conclusion it will be well to reflect on some other possibilities. We have the admirable reports by the compiler of *Y*, whose own observations show that he busied himself seeking information and making notes in court. Most of his reports in the following pages appear to be entirely different from those in the other manuscripts, and they were in all probability his own work, while a considerable number of his cases were not reported elsewhere. He was evidently an independent reporter, and there may have been others like him. But if there were men in court taking notes and reporting cases for their own instruction and pleasure, we need not assume that there were not other men who reported cases as a business. Supposing that there were two such persons working, let us say, on alternate days. Their reports might circulate in some

<sup>1</sup> Case 30.



terms, in separate pamphlets ; in others, as a single pamphlet. If they circulated separately, one might be copied much more extensively than the other. In short, the work of one of these reporters might eventually constitute the main body of the reports of a given term as generally known to those who studied such literature, while the work of his colleague might be preserved, if at all, in a few manuscripts only. Again, suppose that there were only one such professional reporter. From time to time, when he needed relief, others would have been found to take his place. Various reports of a case which he had been unable to hear may have been made for him by others. The one which he selected and incorporated in his own reports of the particular terms may have been the best, but the author of a rejected version would probably prefer his own. And if at some later date this author should have chanced to copy the manuscript of the professional reporter, he would substitute his own version for that of his successful rival whose report had been accepted. Possibly a man who had acted as, or endeavoured to act as, a deputy in this way may have afterwards acquired a good reputation as a professional reporter, and his revised version of earlier reports would be much prized. If, then, we accept the pamphlet theory we may well consider the possibility that the Year Books, as we know them, were for the most part the work of one or more professional reporters. The first three years of the reign of Edward II., however, afford insufficient material for determining this question ; and for this purpose a careful analysis of the reports of subsequent years will be required.

4 EDWARD II.—The reports of Michaelmas term of this year appear in the fourth volume of this series, and those of Hilary term and the greater part of Easter term in the present volume. An examination of the relation of the reports of this year in the different manuscripts to one another must be deferred until the year is completed. Meanwhile it may be observed that in Michaelmas and Hilary terms the reports in *A*, *D* and *T* agree with one another very closely ; and this is also the case with those in *C*, *P*, *Q* and *R*. On the other hand, the reports in *M* no longer agree with those in *P*.

If the detailed particulars of the relations of the manuscripts to one another which have been related in this Introduction are long and tedious, they may at least provide material for some useful and interesting conclusions about the origin of the Year Books.

## APPENDIX I

PARTICULARS<sup>1</sup> OF THE QUIRES AND FOLIOS OF THE MANUSCRIPTS  
USED IN THIS EDITION.

## A

MS. Ff.—3—12 in the Cambridge University Library.

30 × 22 centimetres.

Folio 1, a flyleaf.

2—5 <i>detached</i>	$\frac{6-17}{11}$	18, 19,	$\frac{20-29}{24}$	$\frac{30-41}{35}$	$\frac{42-53}{47}$
$\frac{54-65}{59}$	$\frac{66-73}{69}$	$\frac{74-83}{78}$	$\frac{84-97}{90}$	$\frac{98-105}{101}$	$\frac{106-113}{109}$
$\frac{114-125}{119}$	$\frac{126-137}{131}$	$\frac{138-149}{143}$	$\frac{150-161}{155}$	$\frac{162-169}{165}$	$\frac{170-181}{175}$
$\frac{182-193}{187}$	$\frac{194-203}{199}$	$\frac{204-215}{209}$			

## NOTE.

Folio 84 has been misplaced by the binder and should follow 97.

## B

Add. MS. 35094 at the British Museum.

27·5 × 18·5 centimetres.

Folio 1, a flyleaf of paper.

$\frac{2-13}{7}$	$\frac{14-25}{19}$	$\frac{26-37}{31}$	$\frac{38-45}{41}$	$\frac{46-57}{51}$	$\frac{58-63}{60}$
$\frac{64-75}{69}$	$\frac{76-87}{81}$	$\frac{88-99}{93}$	$\frac{100-111}{105}$	$\frac{112-120}{115}$	$\frac{121-124}{122}$
$\frac{125-134}{129}$	$\frac{135-146}{140}$	$\frac{147-150}{148}$	$\frac{151-162}{156}$	$\frac{163-174}{168}$	$\frac{175-186}{180}$
$\frac{187-198}{192}$	$\frac{199-208}{204}$	$\frac{209-224}{216}$	$\frac{225-229}{227}$	$\frac{230-237}{233}$	$\frac{238-248}{243}$
$\frac{249-264}{256}$	$\frac{265-278}{271}$	$\frac{279-289}{284}$	$\frac{290-305}{297}$	$\frac{306-318}{312}$	$\frac{319-334}{326}$
$\frac{335-342}{338}$					

## NOTES.

There is an old numeration of the folios in very small finely drawn Arabic figures of the early eighteenth or possibly seventeenth century at the left-hand side of the bottom margin. Apparently 331 (a half folio) of the modern pencil foliation was unmarked in this old numeration, which owing to an oversight runs 329, 340, 341 . . . ; 329 corresponds to the modern 330 and 340 to the modern 332. This old numeration shows that the present defects of the manuscript are not of recent date.

The conjugates or half folds of 120, 199, 200, 225, 238, 279, 306, 307, and 316, which should follow 111, 208 (*two folios*), 229, 248, 289, 318 (*two folios*), and 309 have been cut away. All these except the conjugates of 120, 316—and possibly 306 and 307—were probably blank folios.

<sup>1</sup> As to these particulars see p. lxi, above.

## C

Add. MS. 37658 at the British Museum.

40 × 17·5 centimetres.

Folio 1, a flyleaf.

Folio 2 (*detached* record of an assize of novel disseisin).

<i>Noue Narrationes</i>	$\frac{3-10}{6}$	$\frac{11-18}{14}$	19—21 ( <i>detached</i> )		
<i>Table of Cases</i> 22,	$\frac{23-28}{25}$	$\frac{29-38}{33}$			
<i>Year Book of Edward II</i>	$\frac{39-46}{42}$	$\frac{47-54}{50}$	$\frac{55-62}{58}$	$\frac{63-70}{66}$	
$\frac{71-78}{74}$	$\frac{79-86}{82}$	$\frac{87-94}{90}$	$\frac{95-102}{98}$	$\frac{103-110}{106}$	$\frac{111-118}{114}$
$\frac{119-126}{122}$	$\frac{127-134}{130}$	$\frac{135-142}{138}$	$\frac{143-150}{146}$	$\frac{151-158}{154}$	$\frac{159-166}{162}$
$\frac{167-174}{170}$	$\frac{175-176}{175}$	$\frac{177-184}{180}$	$\frac{185-192}{188}$	$\frac{193-200}{196}$	$\frac{201-208}{204}$
$\frac{209-216}{212}$	$\frac{217-224}{220}$	$\frac{225-232}{228}$	$\frac{233-239}{235 \text{ blank}}$	$\frac{240-247}{243}$	$\frac{248-259}{253}$
$\frac{260-266 \text{ blank},}{263}$	$\frac{267-274}{270}$				

## NOTE.

The blank folios between 235 and 236 and between 266 and 267 are unnumbered.

## D

MS. 139 in the Library at Lincoln's Inn.

30·5 × 22·5 centimetres.

<i>Nouae Narrationes</i>	$\frac{1-8}{4}$	$\frac{9-16}{12}$	$\frac{17-22}{20}$		
<i>Year Book of Edward II</i>	$\frac{23-30}{20}$	$\frac{31-42}{36}$	$\frac{43-50}{46}$	$\frac{51-58}{54}$	
$\frac{59-66}{62}$	$\frac{67-74}{70}$	$\frac{75-82}{78}$	$\frac{83-90}{86}$	$\frac{91-98}{94}$	$\frac{99-104}{102}$
$\frac{105-112}{108}$	$\frac{113-120}{116}$	$\frac{121-128}{124}$	$\frac{129-136}{132}$	$\frac{137-144}{140}$	$\frac{145-150}{148}$
$\frac{151-158}{154}$	$\frac{159-166}{162}$	$\frac{167-174}{170}$	$\frac{175-182}{178}$	$\frac{183-190}{186}$	$\frac{191-198}{194}$
$\frac{199-202}{200}$	$\frac{203-210}{206}$	$\frac{211-218}{214}$	$\frac{219-226}{222}$	$\frac{227-234}{230}$	$\frac{235-242}{238}$
$\frac{243-250}{246}$	$\frac{251-258}{254}$	$\frac{259-266}{262}$	$\frac{267-272}{270}$	$\frac{273-280}{276}$	$\frac{281-288}{284}$



<u>289—296</u>	<u>297—304</u>	<u>305—312</u>	<u>313—318</u>	<u>319—326</u>	<u>327—334</u>
292	300	308	316	322	330
<u>335—342</u>	<u>343—350</u>	<u>351—358</u>	359, 360	<u>361—370</u>	
338	346	354		366	

## NOTES.

The half-folds or conjugates of 17 and 18 have been cut away.

"	"	100 and 101	"
"	"	145 and 146	"
"	"	267 and 268	"
"	"	313 and 314	"

## G

MS. Gg—5—20 in the University Library at Cambridge.

29·3 × 17 centimetres.

<u>1—8</u>	<u>9—16</u>	<u>17—24</u>	<u>25—32</u>	<u>33—40</u>	<u>41—48</u>
4	12	20	28	36	44
<u>49—60</u>	<u>61—68</u>	<u>69—78</u>	<u>79—86</u>	<u>87—96</u>	<u>97—104</u>
54	64	73	82	91	100
<u>105—112</u>	<u>113—120</u>	<u>121—128</u>	<u>129—136</u>	<u>137—143</u>	<u>144—149</u>
108	116	124	132	140	146
150	<u>151—160</u>	<u>161—165</u>	<u>166—173</u>	<u>174—185</u>	186
	155	163	169	179	
<u>187—196</u>					
191					

## NOTES.

Two folios have been cut away after 143, one was the conjugate or half-fold of 137, and the other of 150.

A folio between 164 and 165, being the conjugate of 162, has been cut away.

The conjugate of 186 has been cut away from the end of the volume.

## L

Add. MSS. 25183 at the British Museum.

30·5 × 22 centimetres.

Folio 1, a paper flyleaf.

<u>2—9</u>	<u>10—17</u>	<u>18—27</u>	<u>28—29</u>	<u>40—46</u>	<u>47—58</u>
5	13	22	33	43	52
<u>59—63</u>	<u>64, 65</u>	<u>66—77</u>	<u>78—87</u>	<u>88—95</u>	<u>96—106</u>
61	64	71	82	91	101
<u>107—116</u>	<u>117—128</u>	<u>129—138</u>	<u>139—150</u>	<u>151—162</u>	
111	122	133	144	156	

## NOTES.

Folios 28—29, 40—46 and 59—63 are on guards.

The conjugates of 40 and 59 have been cut away.

Two folios which preceded 88 and two which followed 95 are now missing.

The conjugate of 96 has been cut away.

## M

MS. Ff—2—12 in the Cambridge University Library.

29 × 20·5 centimetres.

There is no modern foliation in this manuscript. The ancient foliation begins with 9.

9—12 <i>detached</i>	$\frac{13-24}{18}$	$\frac{25-36}{30}$	$\frac{37-45}{40}$	$\frac{46-57}{51}$	$\frac{58-67}{62}$
$\frac{68-79}{73}$	$\frac{80-91}{85}$	$\frac{92-103}{97}$	$\frac{104-115}{109}$	$\frac{116-119}{117}$	$\frac{120-131}{125}$
$\frac{132-143}{137}$	$\frac{144-155}{149}$	$\frac{156-167}{161}$	$\frac{168-179}{173}$	$\frac{180-183}{181}$	

## NOTES.

A folio between 36 and 37, being the conjugate of 45, has been cut away.

Folios 90 and 101 are missing.

Folio 183 v<sup>o</sup> is blank.

## P

Harleian MS. 835 at the British Museum.

31 × 20·5 centimetres.

The folios of this manuscript are all fixed in guards, so that it is now impossible to distinguish the quires.

## Q

Hargrave MS. 210 at the British Museum.

30 × 21 centimetres.

Folio 1, *paper*.

$\frac{2-13}{7}$	$\frac{14-25}{19}$	<i>a quire missing</i>	$\frac{26-37}{31}$	$\frac{38-49}{43}$	$\frac{50-61}{55}$
$\frac{62-72}{67}$	$\frac{73-84}{75}$	$\frac{85-96}{90}$	$\frac{97-107}{101}$	$\frac{108-119}{113}$	$\frac{120-131}{125}$
132, 133	$\frac{134-145}{139}$	$\frac{146-157}{151}$	158, 159	$\frac{160-163}{161}$	$\frac{164-175}{169}$
176—180 <i>now detached</i>	$\frac{181-191}{185}$	$\frac{192-203}{195}$			

## NOTES.

The lower half of folio 72 has been cut away.

A folio following 72, being the conjugate of 62, has been cut away.

A folio following 101, being the conjugate of 102, has been cut away.

A folio following 181, being the conjugate of 190, has been cut away.

Folio 180 is intrusive, and was perhaps a flyleaf to the two quires following it.

## R

MS. Dd—9—64 at the Cambridge University Library.

27 × 17·5 centimetres.

$\frac{1-8}{4}$	$\frac{9-16}{12}$	$\frac{17-24}{20}$	$\frac{25-32}{28}$	$\frac{33-40}{36}$	$\frac{41-48}{44}$
$\frac{49-55}{52}$	$\frac{56-63}{59}$	$\frac{64-71}{67}$	$\frac{72-79}{75}$		

## NOTE.

A folio between 55 and 56 has been cut away.

## S

Harleian MS. 1062 at the British Museum.

30·5 × 32 centimetres.

$\frac{1-12}{6}$	$\frac{13-24}{18}$	$\frac{25-26}{25}$	$\frac{27-32}{29}$	$\frac{33-42}{37}$	$\frac{43-53}{48}$
$\frac{54-65}{59}$	$\frac{66-71}{68}$	$\frac{72-83}{77}$	$\frac{84-95}{89}$	$\frac{96-107}{101}$	$\frac{108-117}{112}$
$\frac{118-129}{123}$	$\frac{131-146}{138}$	$\frac{147-160}{153}$			

## NOTES.

Single folios are missing between 35 and 36, 39 and 40, 48 and 49, and possibly between 150 and 151 and 156 and 157.

The last quire has been wrongly folded and the true order of the folios seems to be 154-160, 145-153.

## T

Harleian MS. 3639 at the British Museum.

33 × 23 centimetres.

$\frac{1-12}{6}$	13—20 <i>detached</i>	$\frac{21-32}{26}$	$\frac{33-44}{38}$	$\frac{45-56}{50}$	(12 folios missing)
$\frac{57-68}{62}$	69, 70	$\frac{71-82}{76}$	$\frac{83-90}{86}$	$\frac{91-101}{95}$	102—106
$\frac{107-118}{112}$	119,	$\frac{120-131}{125}$	$\frac{132-143}{137}$	$\frac{144-155}{149}$	156, 157
$\frac{158-169}{164}$	170, 171	$\frac{172-183}{177}$	$\frac{184-194}{189}$		

## NOTES.

13—18. The true order of these folios is 13, 14, 18, 17, 15, 16.

19, 20. Four folios are probably missing before 19.

69, 70. These belong to the preceding quire.

83—90. Four folios are missing in the middle of this quire.

91—101. One folio between 91 and 92, being the conjugate of 100, is missing.

102—106. The true order of these folios is 104, 106, 105, 102, 103. Some folios have disappeared at the beginning of the quire.

119. This belongs to the preceding quire.

156, 157. These belong to the preceding quire.

170, 171. These belong to the preceding quire.

The last case on folio 194 v<sup>o</sup> is unfinished, and a folio following 194 has been cut away.



## X

Tanner MS. 13 in the Bodleian Library at Oxford.

23.5 × 19.5 centimetres.

<u>1—12</u>	<u>13—23</u>	<u>29—44</u>	<u>45—60</u>	<u>61—76</u>	<u>77—90c</u>
3	20	36	52	68	84
<u>91—106</u>	<u>107—118e</u>	<u>119—142</u>	<u>143—152</u>	<u>153—162</u>	<u>163—178</u>
98	114	130	144e	158	170
<u>179—194</u>	<u>195—210</u>	<u>211—226</u>	<u>227—242</u>	<u>243—258</u>	<u>259—274</u>
186	202	218	234	250	266
<u>275—290</u>	<u>291—310</u>	<u>311—326</u>	<u>327—342</u>	<u>343—358</u>	<u>359—374</u>
282	300	313	334	350	366
<u>375—390</u>	<u>391—406</u>	<u>407—414</u>	<u>415—430</u>	<u>431—446</u>	<u>447—462</u>
382	398	410	422	438	454
<u>463—478</u>	<u>479—490</u>				
470	484				

## NOTES.

There is no ancient numeration of the folios in this MS. Those rectos and versos on which there is writing have been numbered consecutively in a hand of the eighteenth century. A blank folio following 90 has recently been marked 90b and 90c, and 90 itself has been re-marked 90a.

Other blank rectos and versos have been marked 118b, 118c, 118d, 118e; 144b, 144c, 144d, and 144e; and 118 and 144 have been re-marked 118a and 144a respectively. The first two folios of the MS., being the conjugates of 9/10 and 11/12, and the conjugates of 109/110, 145/146, and 153/154, which should follow 118c, 144e, and 162 respectively, have been cut away. Folio 115/116 is pasted on to 117/118 and the quire 119—142 is intrusive and is written in a different hand from that of the rest of the MS.

## Y

Add. MS. 35116 at the British Museum.

36.5 × 25 centimetres.

<u>1—3 detached</u>	<u>4—15</u>	<u>16—27</u>	<u>28—39</u>	<u>40—52</u>	<u>53—64</u>
	9	21	33	46	58
<u>65—75</u>	<u>76—88</u>	<u>89—100</u>	<u>101—111</u>	<u>112—124</u>	<u>125—136</u>
69	81	94	106	118	130
<u>137—148</u>	<u>149—159</u>	<u>160—171</u>	<u>172—183</u>	<u>184—195</u>	<u>196—207</u>
142	154	165	177	189	201
<u>208—219</u>	<u>220—231</u>	<u>232—243</u>	<u>244—255</u>	<u>256—267</u>	<u>268—279</u>
213	225	237	249	261	273
<u>280—291</u>					
286					

## NOTES.

Folios are missing between 65 and 66, 108 and 109, and 156 and 157.

Folios 43, 82, and 114 are intrusive.

Folios 208—267 forming 5 quires are misplaced and should come at the end of the volume. Portions of the MS. containing one or more quires or part of a quire are missing after folios 267 and 291.

## Z

MS. No. 137 (2) in the Library at Lincoln's Inn.  
34 × 23 centimetres.

## NOTE.

The particulars of the quires of this manuscript are reserved for another volume.

EXTRA MS.<sup>1</sup>

Additional MS. 32086 at the British Museum.

24 × 16 centimetres.

Folio 1, a flyleaf.

$\frac{2-13}{7}$	$\frac{14-21}{17}$	$\frac{22-29}{25}$	$\frac{30-41}{35}$	$\frac{42-51}{46}$	$\frac{52-60}{55}$
$\frac{61-67}{64}$	$\frac{68-75}{71}$	$\frac{76-84}{79}$	$\frac{85-90}{87}$	91 <i>detached</i>	$\frac{92-102}{96}$
$\frac{103-121}{111}$	122, 123	$\frac{124-127}{125}$	128 <i>detached</i>		

## NOTES

Folios 59, 63, and 81 are intrusive. A folio between 96 and 97, being the conjugate of 97, is missing.

A folio between 102 and 103, being the conjugate of 121, has been cut away.

<sup>1</sup> This MS. has not been used in the first four volumes of this series nor in the present volume. See p. 1 above.

## APPENDIX II

THE brief report (*a*) which follows occurs in one manuscript only, and its correct interpretation is doubtful. The pedigree, obviously corrupt, is altogether out of agreement with the rest of the report. Apparently three sisters held property as parceners, and the descendants of one, or perhaps two of these sisters are bringing an action against a person who is in possession of the share of the third sister. According to the marginal description the action is one of ael, but more probably it was one of cosinage, as it appears to be admitted that the sisters were seised after the death of their ancestor.

The two notes (*b* and *c*) occur among the cases of Trinity term I Edw. II. in the Additional MS. 25183 (here called L), and were not printed in the first volume of this series.

(*a*)<sup>1</sup> Jon E. et Luce porterent bref vers Willem et fesoynt un title et counterent par la pee de gru *sicut patet*.

{ Iuliana }		{ Thomas }	filius suus
{ Lucia }	sorores	{ Lucia }	Agnes filia
{ Alicia }		{ Iohannes }	petit

*Pass.* Julian avoit un fiz Roger qi la survesquit, et entra l'estat Julian cum parcener ove Luce et Alice, et entre eux et Jon<sup>2</sup> fut la departisoun fet etc. ; issi qe Roger prist sa purpartie, et seisi fut de cele et murust seisi ; apres qi mort entrames cum fiz et heir Roger. Jugement si vers nous pussez rien demander.

*Toud.* Julian ne avoit nul fiz. Prest etc.

*Pass.* Qi fiz fut il donques ? Ele avoit un fiz Roger, qi entra etc. et murust seisi. Prest etc.

*Toud.* Il fut bastard. Prest etc.

*Pass.* A ceo n'avendrez pas, del hour qe ceo ne fut pas dedit q'il entra et murust seisi etc. Jugement si apres sa mort etc.

*Toud.* Al tens qe Roger entra si furent Luce et Agnes coverts de baroun, par quei etc.

*Herle.* De ceo qe Luce et Agnes nent reclamant<sup>3</sup> etc. si l'accepterent com privé et parcener.

*Pass.* Ce ne agrevera lour isseu si eux al tens de acceptement ne eussent esté de lour propre voluté. Mes desicom eux furent covertes etc. Jugement etc.

(*b*)<sup>4</sup> En un *cessavit per biennium* le tenaunt fist defaute, et puis vynt en court par attourné. Et l'autre voleit aver tendu les arrerages et ne fut mye resceu, pur ceo qe l'attourné ne pout nul seurté trover en le noun son seigneur.

(*c*)<sup>4</sup> *Nota.* Si le petit *Cape* fut issu et retourné ; a quel jour le tenaunt vynt, et dit qe la defaute ne ly devereit nuyre, qe il fut enprisoné en tiel leu, prest etc. Et le demaundaunt dit q'il avoit attourné Johan par noun en le plee, par quei la prisonement ne ly dust valer, nec per hoc potest sanare defaltam etc.

<sup>1</sup> From *C* (folio 50 v<sup>o</sup>). Among the cases of Michaelmas term 2 Edward II. The words 'de auo' are written in the margin of the report. <sup>2</sup> This word is underlined for deletion. It is written in error for 'Roger.' <sup>3</sup> An error for 'reclamerent.' From *L* (folio 5 v).



# LEGAL CALENDAR

FOR THE

## FOURTH YEAR OF KING EDWARD II.

The fourth year of the reign began on 8 July 1310. The Sunday letter was D for 1310 and C for 1311. In 1311 Easter fell on 11 April.

### JUSTICES OF THE KING'S BENCH.

Roger le Brabazon, C.J. ; Gilbert of Roubery ; Henry Spigurnel.

### JUSTICES OF THE COMMON BENCH.

William of Bereford, C.J. ; Lambert of Trikingham ; Hervey of Stanton ; John of Benstede ; Henry le Scrope.

### NAMES OF COUNSEL WHO ARE MENTIONED IN THIS VOLUME.

Asshele, Robert of	Laufare, Nicholas of
Botiller, John	Loveday, John
Cambridge, John of	Malberthorpe, Robert of
Claver, John	Miggeley, William of
Denham (Denom), John of	Passeley, Edmond
Denham (Denom), William of	Roston <i>or</i> Royston, William of
Friskenev, Walter of	Russell, Robert
Hambury, Henry of	Scotre, Roger of
Hartlepool, Geoffrey of	Scrope, Geoffrey le
Hedon, Robert of	Stonore, John of
Hengham <i>or</i> Ingham, John of	Toudeby, Gilbert of
Herle, William of	Wallingford, Peter of
Huntingdon, Ralph of	Warwick, Nicholas of
Ingham, <i>see</i> Hengham	Wescote (Westcotes), John of
Kingshemede, Simon of	Willoughby, Richard of

Of these the following are mentioned in the reports, but not in the Plea Rolls of Hilary and Easter terms of this year :

Friskenev, Walter of	Wallingford, Peter of
Hartlepool, Geoffrey of	Warwick, Nicholas of
Scotre, Roger of	

And the following are mentioned in the Plea Rolls only :

Goldington, William of	Hampton, Richard of
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