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## **Jeremy North Friend of the Libraries Student Book Collectors Contest**

### **Anglo-American Legal Printing 1702 to the Present**

I've always loved doing research in libraries and archives. I enjoy the thrill of an unexpected discovery and the excitement of a long hunt for answers in dusty stacks. As an undergraduate and beginning graduate student in the history department here I had the opportunity to visit libraries all over the US and Britain but was always overwhelmed by the prospect of starting a meaningful collection of my own. Then, three years ago while doing research for my dissertation at the British Library I came across a set of historical sources which excited my curiosity. I study the legal history of the early British Empire with a focus on what is now India. I knew from my research that from the 17th century, litigants from all over the nascent British world, including the Americas and India took their grievances to the King's Privy Council in London when not satisfied by local courts or tribunals. I had read the manuscript records of these Privy Council appeals which typically record very little about a given case - usually just a final verdict and some names and dates. Unlike in the major London law courts of the time or the Anglo-American courts of today, there were rarely, if ever, scribes and legal reporters taking down minutes of what was argued or said by the lawyers of judges. As a result, I always came away from the entry books of the Privy Council (at the UK National Archives), a little disappointed. I would know who had won an appeal from Calcutta and how much he or she was awarded but little about the reasoning behind the decision, how the parties in the case presented themselves etc. Then, after weeks of making my way through various British Library catalogs, I came across several volumes kept by a member of the Privy Council in the mid-18th century. These books contained not just his notes on the cases but something entirely new to me - printed sheets created by the lawyers on each side of an appeal to lay out a narrative of their case and the formal legal reasons for why their client should prevail. These volumes contained several dozen such printed briefs from North Carolina, Bombay, Pennsylvania, Jamaica, Calcutta, and any number of other British territories. Amazed by these documents, I spent the next several months searching for similar examples. I soon found that these printed appeals briefs were highly sought after as they were usually printed in batches of a dozen or so solely for the judges and lawyers in the case. This low print run and the fact that they were never publicly sold makes them nearly impossible to find. Yale and Columbia Universities each hold perhaps a dozen or two of these briefs while the Library of Congress and the British Library have more significant collections of more than 50, yet there were hundreds of appeals to the Privy Council in the

18th century alone.

By a stroke of luck I made my first purchase only a few weeks later. Through a random internet search for something else having to do with Bombay I came across a British bookseller's listing for what seemed to be a 1791 Privy Council brief from Bombay. After contacting the seller I bought the item. This first purchase was truly lucky, I have not come across a similar sale since. After three years of research on printed briefs for 18th century Indian appeals I've only been able to locate around a dozen, two of which are presently in the United States, one is at Yale, the other is in my possession (#7 below). It records the trials and tribulations of Darobjee Fardonjee, a Parsi merchant of Bombay in his quest to collect an outstanding debt of 8,223 rupees (~800 pounds sterling) from a Gujarati tobacco wholesaler named Harridass Nagurdass. The brief includes verbatim transcriptions of evidence and exhibits in the case available elsewhere only in manuscript (at the British Library and the Maharashtra State Archives, Mumbai) as well as the arguments of Fardonjee's attorney on his behalf. These arguments, as in most Privy Council briefs are listed numerically at the end of the brief in an orderly fashion. The brief itself was printed in London by a printer specializing in legal briefs. This can be seen most clearly on the reverse of the brief where there is a printed docket title (i.e. a title visible when the brief is folded thinly for docketing) most likely done from standing type (a set of type ready to be laid for printing an identical segment on a variety of documents) containing blanks for the date of the Privy Council hearing, intended to be filled in by hand. This brief likely never made it into the hands of one of the judges as it bears no manuscript annotation - I surmise that it was a lawyer's spare copy.

In the months since this first acquisition I discovered that printed appellate briefs were exceedingly common in the Anglo-American legal world and continue to be so today. For example, despite most briefs being available in PDF form, the United States Supreme Court still mandates a particular form that all briefs must be submitted in. Lawyers in England probably submitted their manuscript arguments and summaries in major cases before the primary courts of the realm throughout the 17th century. However, the explosion in print culture of that century and its increasing affordability meant that by the 1690s some lawyers had begun to have their arguments printed, likely to impress the court and make distribution easier. Importantly these printed briefs existed only for cases appealed to the House of Lords in their function as the highest court of appeal in Great Britain. These early briefs were almost always one sheet printed broadsides folded so that a small printed docket title appeared on the reverse (see #1 below).

In the United States printed briefs in cases appealed to the US Supreme Court or State appellate courts did not gain in popularity until the 1830s and 40s when the US Supreme Court began mandating printed briefs. Until then and in many places for years afterwards, many lawyers submitted manuscript

briefs only. It is difficult to understate how difficult it is to locate many of these briefs. The US Supreme Court library for example does not nearly have a complete set of 19th century briefs. As mentioned above these were often printed in small batches, sometimes quite cheaply and were easily damaged, thrown away, or lost (the condition of the items in my collection ranges from lousy, largely those briefs printed on acid-rich paper in the 19th-20th centuries, to quite fine). They also vary in size and format from one-sheet broadsides to multi-volume bound codices depending on the nature of the case. The longest brief in my collection is #21 below which runs to 543 pages. These briefs are scarce, poorly known but valuable sources for the history of law as well as important windows on past social and economic life.

Because appellate briefs from the Anglo-American world (including the British and American colonies - e.g. Malaysia #11-12 and the Philippines #22-31) are so difficult to locate, especially from before 1900, I've also branched out into collecting other types of legal printing. A few examples are explained below (#5-6) but I have a special interest in ephemeral legal printing. These items are #34-39 below and demonstrate the ubiquity of the printing press in all aspects of legal life and the versatility of printed forms. I'm especially proud of the legal forms from early 19th century British India. I have seen none like them in the archives and like most ephemeral printing they are seldom cataloged by libraries or used by historians.

The majority of the items below have been acquired from dealers in the US and UK through cash or trade for other items in my collection (I have a strong interest in early Caribbean printing as well), additional items have come from India and the Philippines.

[Booklist follows]

## Annotated Catalog

### Anglo-American Legal Printing 1702 to the Present

#### Eighteenth Century Legal Printing

1. *The Defendant's CASE, Henry Hayward, Executor of John Hayward, Defendant. Dame Mary Kinsey, Widow, Plaintiff. To be heard at the Bar of the House of Lords on Wednesday the 29th April, 1702.* (n.p.) [London]

Folded broadside with docket title 14 x 11. British Library discard stamp. The month and year in the docket title are printed, the rest of the date is filled in by hand. Also a MS note on the foot of the brief: "Note the Court of Common Pleas was not unanimous in giving their Judgment." Not in ESTC, no known copies. The printed plaintiff's case which would have been paired with this one is at the British Library. This is a very early example of a printed appellate brief for the House of Lords. The first recorded example of such is from 1691 and is nearly identical to this in form.

2. *Sir John Rous, Baronet Appellant...John Barker Gent. John Howse, Esq....Respondents...The Appellant's CASE.* [London] [1725] 3 pp.

Argument prepared by C. Wearg and T. Lutwyche. This first brief appears to have been printed by a different house than those of the respondents. The type as well as the docket title are dissimilar. Copies in the British Library and Paxton House, Scotland.

3. *Sir John Rous, Baronet Appellant...John Barker Gent. John Howse, Esq....Respondents...The Case of the said John Howse, and Lucy his Wife, Charles Ward, William Powle, and Mary his wife, John Russell, and Robert Bence.* [London] 1725, 3 pp.

Docket title lists "The case of the Respondents" along with "To be heard at the Bar of the House of Lords, on Tuesday the 22nd of March 1725. Argument prepared by C. Robins. Not in ESTC, no known copies.

4. *Sir John Rowse, Baronet Appellant...John Barker Gent. John Howse, Esq...The Respondent Barker's CASE.* [London] 1725, 3 pp.

Docket title includes full date and the contemporary MS note "reversed." Argument prepared by Philip Yorke (future Lord Chancellor) and Thomas Browne. Copies in the British Library and Paxton House, Scotland.

5. *Anno Regni Georgi II. Regis Magnae Britannia, Francia, & Hibernia, Decimo...At the Parliament Begun and Holden at Westminster...* London: printed by John Baskett, Printer to the King's most Excellent Majesty. 1737. 4 pp. [continuous pagination 499-502]

Though not an appellate brief, this printed act of parliament (relating to export duties), is emblematic of the vast quantity of legal material pouring off presses in eighteenth century

Britain. Every act of Parliament was sold as is but with continuous pagination so it could be inserted into a volume of complete parliamentary laws from a given session or year. This particular example has a decorative title page and wrapper which would have been removed when binding as part of a whole.

6. *Reports of cases determined in the King's Courts, Dublin; With select cases in the House of Lords of Ireland. Part I. Beginning Trinity term 26 Geo. III. A.D. 1786, and ending with the cases in the House of Lords before Easter term 27 Geo. III. A.D. 1787. By G. W. Vernon, and J.B. Scriven, Esqrs. barristers in law.* Dublin : Printed for the editors by J. Exshaw, and sold by Eliz. Lynch, Skinner-Row, and in the four courts, and by all the booksellers, [1787]. 156 pp.

A volume of printed case reports from various courts in Dublin from 1786-7. This kind of legal printing is by far the most recognizable and most common - that is, accounts of cases with the opinions of judges and their verdicts. Reports similar to this would have been in every major lawyer's library in the eighteenth century and continue to be a staple of most law offices today. Though most printed case reporters are quite common this peculiar record of Irish court cases is extremely rare. No copies are recorded in the United States with one copy each in the UK, Ireland, Australia, South Africa, and Canada - demonstrating nicely the spread of English jurisprudence,

7. *In Council. Dorabjee Fardonjee, inhabitant of Bombay, Appellant. Harridass Nagurdass, of the same place, Respondent. The Appellant's Case. To be heard before the Lords of his Majesty's Privy Council at the Cockpit, Whitehall, on the \_\_\_ day of \_\_\_ 1791* [London] 11 pp.

Not in ESTC, no known other copies. Described in detail above. This is the first item I acquired.

8. *Anno Tricesimo Nono & Quadragesimo Georgii III. Regis. Cap. LXXIX. An Act for establishing further regulations for the Government of the British Territories in India and the better administration of justice within the same. [28 July 1800].* London: Printed by George Eyre and Andrew Strahan, Printers to the King's most Excellent Majesty, 1800. 11 pp. [continuous pagination 630-9]

This printed act of Parliament is similar to 5 above but lacks a comparable decorative title page, out of vogue by this period. This particular example however seems to never have been bound as such. Instead it was likely used by a lawyer or some other official for reference on its own - note the docket folding and MS date on reverse. The printing and type in this document are very similar to the appellate brief from 1791 in 7 above.

9. *Precis Pour Pierre Villard, appellant Contre Anne Villard, Jean-Pierre Dubois...*[n.p.][1762?]

Though not from England, this is a typical printed summary of a court case from eighteenth-century France. Included here as an example of the widespread use of print in even the smallest legal proceedings.

## Later English Briefs

10. *In the Privy Council ... In the matter of a representation of the States of the Island of Jersey, and in the matter of an Order in Council, of the 23rd June 1891. Jersey Prison Board.*

*Transcript from the shorthand notes, etc..* Eyre & Spottiswoode: [London,] 1894. 63 pp. folio

By the late 19th century, the Privy Council required litigants to pay for and produce printed briefs of their argument as well as printed transcripts of the arguments presented in front of the Council. These were to be given to Her Majesty's printers, Eyre & Spottiswoode for a print run of 75-100 copies. The Jersey Prison board case above involved attempts by the government of Jersey (one of the channel islands) to clarify its constitutional relationship with the Crown. The proceedings in this case were produced in two batches, the first for the proceedings of 23 May 1894 and the second for the proceedings of 24 May 1894. The two segments batches have differing docket titles on their versos but with continuous pagination and signatures. The British Library holds the only recorded additional copy.

11. *In the Privy Council...Gerald Louis Jeremiah v. Lee Yew Kwai and Another.* Printed by His Majesty's Stationary Office Press, Harrow 1965. unpaginated.

Compare this brief submitted to the Privy Council in 1965 with that from Jersey in 1894 - note especially the printer's notations which follow an identical form. Like the document in the Jersey prison case above, this would have been printed for official circulation and is much more polished than the typescript below.

12. *In The Privy Council...On Appeal from the Federal Court of Malaysia (Appellate Jurisdiction)...Between Gerald Louis Jeremiah (plaintiff) Appellant and Lee Yew Kwai, Mok Sai Yu (Defendants) Respondents.. (n.p.)* [London?] 43 pp.

This typewritten compilation of briefs and exhibits would have been submitted to the Privy Council law officers themselves so that they could render a decision in an appeal. The briefs and exhibits from the previous stages of the case at issue are included as well. The case itself involves an appeal from Malaysia, a former British colony which at the time still maintained the Privy Council as its court of last resort. This is likely the only copy extant outside the Privy Council office.

### **United States Briefs**

13. *Arguments on the part of the appellant, in the case of George G. Root, appellant, vs Peter Stuyvesant, respondent.* (New York : Israel Sackett, Printer., 1837), 25 pp.

Deaccessioned from the New York State Historical Association. This is the appellant's brief submitted to the New York Court for the Correction of Errors - the final court of appeal under the 1777 state constitution for those wishing to appeal decisions of the Supreme Court on procedural grounds. For the NY supreme court report of the case see 18 Wendell 257. OCLC reports two holdings. This is an extraordinary well produced brief - a separate title page was unusual for most routine briefs - indicating the importance and financial means of the Appellant.

14. *In the Supreme Court on Appeal from the District Court of San Joaquin...the People by the Attorney General, at the relation of WM.D. Aylett, Respondent, vs. Samuel Langdon, Appellant.* [1857?] 10 pp.

An early appeals brief submitted to the California Supreme Court relating to the State Constitution. This brief was submitted by the appellant and is notable for its form. It has been removed from a bound volume - presumably of other supreme court briefs. These volumes, would have been made for lawyers or the court itself as a collection for use in preparing arguments much in the way printed case reports would have been used. For the reported decision in this case see 8 California Reports 1. No OCLC holdings but undoubtedly included in one of the bound collections at the California State Law Library. Contrast with the form of 12 above as well as the California brief in 19 below.

15. *Supreme Court -- No. 7012...Police Jury of Ascension, Appellant vs. John L. Manning, Tutor, Et Als., Appellees, Brief of Appellees.* [New Orleans?][1861?] 2 pp.

Brief submitted to the Supreme Court of Louisiana. MS note at head: "filed Febry 5th 1861" -"7012" is struck through in MS. The reported decision in the case is at 16 Louisiana Reports 182. The brief of the appellants in this case is held by the Louisiana Supreme Court Library. No recorded holdings of this brief. Confederate imprint.

16. *Supreme Court of United States...No. 139...Charles H. Wheeler, Appellant, vs. Russell Sage...Brief for Appellant.* [n.p.][1863?]. 10 pp.

The US Supreme Court heard this case in 1863 from a Wisconsin district court. See the reported decision in 68 U.S. (1 Wall.) 518. Unrecorded in OCLC but likely in US Supreme Court library. The printing of this brief presumably follows the required specifications for the court.

17. *Court of Appeals of West Virginia...Henry Shepherd and Others Appellants vs. A.R. McQuilkin - Appellees.* (n.p.) [Martinsburg?], (n.d.) [c1870] 13 x 8.

This Broadside printed sometime after 1869 contains the arguments of the appellants for submission to the court. In its form it is very similar to eighteenth century briefs from the House of Lords. However, this copy has no docket title on the reverse and it's unclear whether this was intended for court use or not. Only known copy.

18. *Supreme Court of the District of Columbia General Term...R.H. Porter, Complainant vs . Stephen V. White, Defendant... Argument of Mr. Earle.* Washington: Thomas McGill & Co. Law Printers, [1878?] 14 pp.

Brief for the defendant in an extremely complicated case over contested powers of attorney. Not in OCLC - likely in Washington Historical Society library.

19. *In the Supreme Court of the State of California. The Anglo-Californian Bank Limited, Appellant, vs. The Granger's Bank of California, Respondent...Appellant's Points and Authorities.* [n.p.] 1882. 8 pp.

Copy recorded in the California State Law Library. Note the difference between this brief and that from California above. In adjusting to what must have been a deluge of legal paperwork as California grew, this brief includes easy blanks for a clerk to fill-in for filing.

20. *Virgina vs. Tennessee...In Supreme Court of United States...Answer of Tennessee.* Nashville:

Arnold & Birdsall, (n.d.) [1889?], (9+9+6+2 pp.).

Printed brief for submission to the United States Supreme Court in the dispute between Virginia and Tennessee over their shared border. Includes three exhibits. The Supreme Court ruled in 1893 that the boundary agreed upon in 1803 was to be the definitive boundary. The University of Virginia, University of Tennessee, Tennessee State Archives, and the Virginia Historical Society own the other known copies of this brief.

21. *In the Circuit Court of the United States for the Eastern Division of the Eastern Judicial District of Missouri..United States of America, Petitioners, v. Standard Oil Company of New Jersey et al. Defendants...Brief of Facts and Argument for Petitioners.* 3 vols. (New York: Burgoyne, 1908).

I have volume two (543 pp.). The only other OCLC listed copy is at the NYPL which also has the only complete set. This is part of the Attorney General's exhibit-laden brief in one of the most famous anti-trust actions of the day. The longest brief in the collection.

**Briefs from the Manila law offices of Domingo Correa**

These briefs all come from the collection of Domingo Correa, a lawyer and sometime civil servant in the US administration of the Philippines. These are all unrecorded in libraries and show the incredible diversity of Manila's commercial life with litigants from every corner of the world.

22. *United States of America...Supreme Court of the Philippine Islands...The United States Plaintiff and Appellee, versus Chan Bai, Defendant and Appellant...Brief for Defendant and Appellant...* ([Manila]: Escolta Press, 1914) 14 pp.
23. *The United States of America...Supreme Court of the Philippine Islands...[Criminal case No. 15371, Court of First Instance of Manila; robbery.]...The United States, Plaintiff and Appellee, versus Julian Bucu, Pedro Roxas....Brief for Appellee.* [Manila][1917?] 13 pp.
24. *The United States of America...Supreme Court of the Philippine Islands...Bill of Exceptions...Court of First Instance of Manila No. 16438...W.F. Stevenson & Co. Ltd., Plaintiff and Appellee, versus Wencesalo Trinidad, as Collector of Internal Revenue of the Philippine Islands, Defendant and Appellant.* (Manila: Bureau of Printing, 1919), 28 pp.

The judgment being appealed herein is printed on p. 28 in Spanish.

25. *United States of America...In the Supreme Court of the Philippine Islands Manila...The People of the Philippine Islands, Plaintiff-Appellee, vs. Wong Hsiao Fong, Defendant-Appellant...Brief for Appellant.* ([Manila]: Luzon Press, E.J. Haberer, 1920). 17 pp.
26. *The United States of America...In the Supreme Court of the Philippine Islands...United States, Plaintiff, vs. Federico Gerona, Defendant...Brief of Appellant.* ([Manila]: Imprenta "La Nueva Era," 1920). 7 pp.
27. *United States of America...In the Supreme Court of the Philippine Islands...Kisenchand Donlatram, Jhamandas Dewandas and Gagnmal Rochiram, Respondents and Appellees, vs. The Insular Collector of Customs, Respondent and Appellant...Brief for Appellees.* [Manila]



[1920?] 6 pp.

28. *United States of America...In the Supreme Court of the Philippine Islands...The United States, Plaintiff-Appellee, vs. Alejandro Fojas, Defendant-Appellant...Supplementary Brief for Appellant.* ([Manila]: Luzon Press, 1920?), 10 pp.
29. *United States of America...Supreme Court of the Philippine Islands...The People of the Philippine Islands, Plaintiff-Appellee, versus Miguel Soler, Defendant-Appellant...Brief for the Appellant* (Manila: J. Fajardo, 1921). 8 pp.

This brief is the only one in the group actually submitted by Correa. Listing him as “Attorney for Defendant-Appellant, 503 Avenida Rizal, Manila.”

30. *United States of America...Supreme Court of the Philippine Islands...Mrs. C. Wood, Plaintiff and Appellant versus Pacific Steamship Company, Defendant and Appellee...Brief for Appellant.* (Manila: The Times Press, 1922). 19 pp.
31. *United States of America...The Supreme Court of the Philippine Islands...Hemandass Metharam and Doolmal, Hotechand and Co., Plaintiffs-Appellants vs. R.B. Daryanani...Brief for Appellant.* (Manila: Oriental Printing, 1922). 8 pp.

This brief contains a blank on the final page for the plaintiffs' attorney to sign indicating receipt of the required three copies.

32. *New York Supreme Court Appellate Division-Second Department....Olin Moyle, Plaintiff-Respondent against Fred W. Franz...Brief of Plaintiff-Respondent.* (New York: Adams Press, 1943?) 134 pp.

This is a brief in a famous case against the Jehovah's Witnesses from the 1940s.

33. *In the Supreme Court of the United States...October Term, 1986... Juozas Kungys Petitioner v. United States of America Respondent.... Motion for leave to file and brief of the Anti-Defamation League of B'nai Brith and the Boston College Law School Holocaust/Human Rights Research Project, Amici Curiae, on Behalf of Respondent.* (n.p.) vi + 29pp.

This is one of the thousands of printed briefs filed before the U.S. Supreme Court in the current era. This particular brief was filed in support of the government's attempts to remove US citizenship from an accused Lithuanian Nazi-era war criminal. I attended Boston College as an undergraduate and have a particular interest in Lithuanian holocaust history hence its inclusion here.

## Printed Legal Forms

34. Ten printed forms cut from a single sheet - blank. Intended for use in the court of the Justice of the Peace for Providence [Rhode Island?]. These forms were used to record debt actions in this summary court. They are printed generically for the 1830s “A.D. 183\_” and provide spaces for the JP to list his judgment in the case.
35. Letterpress printed warrant signed with MS additions and stamped with the East India

Company's Persian stamp. Issued on 8 June 1813 by the Supreme Court of Judicature at Calcutta for the arrest of James Smith in a civil matter. This form was undoubtedly printed on one of the few printing presses then operating in Calcutta and was intended to be reused from year to year as the date line has printed: "One Thousand Eight Hundred and \_\_\_\_"

36. Printed jury summons with MS additions for the criminal sessions of Calcutta addressed to John Samuel Grose and dated 24 September 1824. Signed by the sheriff of Calcutta and stamped with the East India Company's Persian stamp.
37. Printed warrant signed and sealed with MS additions issued on 2 October 1861 by the Supreme Court of Judicature at Calcutta for the arrest of Grunder Chunder Ghose [sic] on the charge of perjury. This form has also been recycled. Note the MS note altering the date from 1860 to 1861. This was the last year in which this form would be valid as the Supreme Court at Calcutta was reformed as the High Court of Judicature in 1862.
38. Signed printed form from the High Court of Judicature at Patiala (British India) admitting a lawyer to its bar. Dated 18 January 1939. This form is interesting in that it shows the reuse of legal forms. The High Court of Judicature at Patiala had ceased to exist by 1939. Here the District & Sessions Judge at Sunam is recycling the older form with his MS alterations.
39. One sheet marked "Petition Paper Pepsu Government" with MS petition in Punjabi[?] 1940s/50s. All petitions to the government in this short-lived post-independence Indian State had to be submitted on petition paper printed for that purpose and taxed by the state.