

EIGHTEENTH EDITION

Sweet & Maxwell



GLANVILLE WILLIAMS: LEARNING THE LAW

Charlotte Harrison and Amanda Millmore

“Guide, philosopher and friend”



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FOUNDATIONS OF LEGAL KNOWLEDGE

As you start to think about applying to study law, you will be asked to write an essay or undertake an interview. This book is designed to help you prepare for these tasks. It covers the foundations of legal knowledge, including the different types of law, courts and judges, and the language of the law. It also provides practical advice on how to navigate the law library, study effectively, and answer essay questions. The book is written in a clear and concise style, and includes a glossary and index to help you find the information you need.

Whilst the Incorporated Council no doubt still adheres to these principles, other reporters may not, particularly those whose coverage is specialist, relating to (for example) housing law, media law, environmental law or road traffic cases. It is fair to say that experts in these relatively limited fields may well appreciate the significance of a decision that has escaped the more general reporter. The result is that there are many more reported cases than hitherto. The availability of material on the internet undoubtedly increases enormously the problem of over-citation of authorities by legal practitioners.

The reports may be divided very roughly into the old and the new. The old run from the time of Henry VIII⁸ to 1865, and the new since that date.

Pre-1865 reports were produced chiefly by private reporters under their own names (and are known as the “nominate reports”). Altogether there were some hundreds of different series, though many of them ran only for a short time. Most, but not all, were reprinted in a series known as the *English Reports* (abbreviated E.R.),⁹ a collection of the judgments of the higher English courts between 1220 and 1866. You are not likely to have to consult them a great deal in the course of your studies, but you should know about them; they are discussed further below (see p.37).

In 1865 there commenced the semi-official “Law Reports” (with capital letters) published by the Incorporated Council of Law Reporting. At present¹⁰ they are published in four series. There is one for each Division of the High Court. They are:

- *King’s Bench Division* (cited e.g. as [2024] 2 K.B. 600, meaning the second volume for the year 2024 at p.600);
- *Chancery Division* (cited e.g. as [2020] 1 Ch. 600);
- *Family Division* (cited e.g. as [2020] Fam. 600).

⁸ Before Henry VIII’s time there were the so-called “Year Books”, but it is highly unlikely that you will need to consult them unless you develop an interest in legal history.

⁹ These Reports are discussed more fully below (p.37). If your library does not possess the *English Reports* (which are now available online through Justis and Westlaw), the case wanted may possibly be included in the selection called the Revised Reports.

¹⁰ The historical development of these reports may be found in earlier editions of this work.

These series contain judgments at first instance in the three Divisions, and they also contain the judgments on appeal to the Court of Appeal. If a further appeal is taken from the Court of Appeal to the Supreme Court, that decision will be reported in a separate series called the *Appeal Cases* (cited e.g. as [2020] A.C. 600).¹¹ The *Appeal Cases* volumes also contain cases decided in the Judicial Committee of the Privy Council.

Neutral citation

If you consult any recent volume of the reports, you will notice that the judgments have paragraph numberings which continue sequentially throughout the judgment.¹² This practice was introduced (on 11 January 2001) to facilitate the publication of judgments on the internet and their subsequent consultation by electronic database users. In addition, a form of neutral citation was introduced for both divisions of the Court of Appeal and the practice was subsequently extended to the High Court; these judgments are numbered in the following way:

House of Lords/Supreme Court¹³

| | |
|----------------|--------------------------|
| House of Lords | [20**] UKHL Civ 1, 2, 3 |
| Supreme Court | [2020] UKSC Crim 1, 2, 3 |

¹¹ Sometimes the Appeal Cases contain a report of the decision in the Court of Appeal as well as the House of Lords or now, it may be supposed the Supreme Court. Another trick—the loose parts of the Chancery Reports and the Family cases are issued bound together, but subsequently appear bound as separate volumes.

¹² Judges were required to do this by the *Practice Direction (Judgments: Form and Citation)* [2001] 1 W.L.R. 194. See now *Practice Direction (Citation of Authorities)* [2012] 1 W.L.R. 780. For comment as to the difficulties that this causes in law reporting, see the remarks by the editor of the Justice of the Peace Reports, Dr. R.J.C. Munday, (2001) 165 J.P.N. 342.

¹³ In October 2009, the Supreme Court replaced the Appellate Committee of the House of Lords (generally referred to as the House of Lords) as the highest court in the United Kingdom. Cases prior to this date will bear a UKHL citation, and those after the creation of the Supreme Court use UKSC.

*Court of Appeal*¹⁴

| | |
|-------------------------------------|--------------------------|
| Court of Appeal (Civil Division) | [2020] EWCA Civ 1, 2, 3 |
| Court of Appeal (Criminal Division) | [2020] EWCA Crim 1, 2, 3 |

High Court

| | |
|-----------------------------------|-----------------------------|
| King's Bench Division | [2024] EWHC number (KB) |
| Chancery Division | [2020] EWHC number (Ch) |
| Family Division | [2020] EWHC number (Fam) |
| Administrative Court | [2020] EWHC number (Admin) |
| Admiralty Court | [2020] EWHC number (Admlty) |
| Technology and Construction Court | [2020] EWHC number (TCC) |
| Patents Court | [2020] EWHC number (Pat) |

The number mentioned at the end of each citation is a unique number assigned by the official reporting system to each approved judgment, and not page numbers as before the neutral citation was adopted. Instead, modern judgments are given paragraph numbers, in square brackets. So, *Williams v Davies*, which is the tenth numbered judgment of the year in the Civil Division of the Court of Appeal should now be cited thus: *Williams v Davies* [2020] EWCA Civ 10 at [59] (or whatever paragraph is being cited).¹⁵

In the High Court, the citation would be, for example, [2020] EWHC 123 (Fam); or [2020] EWHC 124 (KB); or [2020] EWHC 125 (Ch).

¹⁴ The first two letters referring to England and Wales; Scotland and Northern Ireland have adopted similar arrangements.

¹⁵ *Practice Direction (Citation of Authorities)* [2012] 1 W.L.R. 780; [2012] 2 All E.R. 255. The extension of the system was initially effected by *Practice Direction (Judgments: Neutral Citations)* [2002] 1 W.L.R. 346; [2002] 1 All E.R. 351.

The structure of a law report

Take down any volume of the published law reports, or open up the report on an electronic database, and look at the beginning of a case. At the top are what are called the *catchwords*, indicating briefly what the case is about. They are not a part of the Report, but they enable the reader to make sure at a glance that the case is relevant to the point of current concern. Then comes the *headnote*, which is again not part of the report but simply a summary written by the reporter or the editor of the reports. Occasionally inaccurate, the headnotes are nevertheless useful as a guide to the content of the judgments and a good place to start, not least to check if this case is going to be of assistance on the point you are researching.

Sometimes, in a multi-membered court, the first judgment is delivered by the senior member of the court when *dissenting*. If the student reads it without having consulted the headnote, they will for quite a time labour under a misapprehension as to what was actually decided. Generally, it is better to read the judgments of the majority first. Dissenting judgments may be valuable either because they may find favour in a higher court if the point is carried further, or because the dissenter may express a particular point upon which he is not dissenting in a particularly illuminating way.

Generally, the headnote states the short facts of the case. If they appear to be adequately summarised, it is quite permissible in ordinary cases to skip the facts as stated in detail by the judge and go directly to the part of the judgment that deals with the law. Except as above it is unwise to rely on the headnote. At the very least, one of the (majority) judgments should be read, in whole or in part. It is also very improving to read the argument for the side that lost, or a dissenting judgment if there is one, in order to appreciate that there were two sides to the question, as there usually are respectable arguments on both sides in cases that get into the law reports. For any students who decide to moot, the dissenting judgments are exceedingly valuable in constructing contrary arguments.

The Incorporated Council of Law Reporting also publishes a weekly series known as the *Weekly Law Reports* (W.L.R.), which in 1953 replaced the earlier *Weekly Notes* (W.N.). The W.L.R. are bound in three volumes, the first containing cases that are not afterwards

included in the Law Reports, and the second and third comprising those cases that are expected to be published in and superseded by the version in the Law Reports. As from the year 2000, Volume 1 is bound in two separate parts, such is the quantity of material that is now regarded as reportable. Very occasionally, a case reported in Volume 2 or 3 is not eventually reported in the Official Reports. Volume 4 was introduced in 2016 as an online expansion.

The commercially published and specialist law reports

In addition to the official Law Reports, various privately owned series are also published. These usually reproduce the decisions of the courts verbatim. A major advantage for the user of the physical library of having these collateral reports is that if they want a volume of the Law Reports and find that it is being used by another reader, it is very often more convenient to turn up the case in one of the collateral series than to wait for the Law Reports version, of course this is not an issue if you are searching online. For citation in court the Law Reports (when available) are required, because the judgments they print have been revised by the judges.¹⁶ The Law Reports have the further advantage that counsels' arguments are summarised. But neither of these points are usually very relevant to the student in a hurry, and you should develop at an early stage the ability to find the case that you want to consult, irrespective of where it is reported. Counsels' arguments are often accidentally referred to by students unsure how to unpack a law report; they remain very useful for the student mooter, to provide inspiration for legal arguments, and they round out the report for the reader seeking to understand how the judges reached their decision.

The most important is probably the *All-England Law Reports* (All E.R.). The *Times Law Reports* (T.L.R.) ceased publication at the end of 1952. In 1991, the series restarted, and bound volumes of cases reported in the daily newspaper, *The Times*, appear annually. These reports must be approached with some caution, since they are edited versions of the actual judgments, and their brevity is such that

¹⁶ The endorsement accorded to this particular series of reports in the *Practice Direction (Law Reports: Citation)* [1991] 1 W.L.R. 1; [1991] 1 All E.R. 352 was reiterated subsequently in *Practice Direction (Citation of Authorities)* [2012] 1 W.L.R. 780; [2012] 2 All E.R. 255.

sometimes, they do not convey the full import of the decision. The All E.R. Reprint includes selected cases from the *Law Times Reports* and other earlier reports.

The student of criminal law should seek out in the library two series of reports of particular interest: the *Criminal Appeal Reports* (C.A.R. or Cr. App. R.). These are supplemented by the *Criminal Appeal Reports (Sentencing)* (Cr. App. R. (S)), though these reports are of greater interest to the practitioner than to the student. For earlier cases, *Cox's Criminal Cases* (Cox) are important. Then there are the *Justice of the Peace Reports* (J.P.). Before Volume 96, these were usually bound at the end of the *Justice of the Peace* newspaper (abbreviated J.P.N.; note the independent pagination after Volume 67); from Volume 96 onwards they are separate. Distinguish, therefore, between (say) 96 J.P. 261, which is a reference to a reported case (the small volume), and 96 J.P.N. 261, which is a reference to the journal (the big volume).

Brief reports of criminal cases are also given in the *Criminal Law Review* (Crim. L.R.). These reports are accompanied by learned commentary. Employment lawyers will need to consult the *Industrial Cases Reports*, and the *Industrial Relations Law Reports*. Note also the existence of the specialist series of reports—the *Road Traffic Reports*, the *Housing Law Reports*, *Entertainment and Media Law Reports*, and so forth. The student is unlikely to need to have much recourse to these, since the really important decisions should eventually be reported in the mainstream series, but it is as well to be aware of them for when you focus your study on particular subjects at university and potentially into practice.

The English Reports

You may need to become familiar with the English Reports, if you are looking into the history of a legal point. The pre-1865 reports are, for the most part, to be found reprinted in the volumes of the *English Reports*. A chart supplied with the *English Reports* indicates the volume in which a particular volume of the old reports is to be found reprinted—the chart will either be found hanging in the library (as a wall-chart), or in a slim volume at the end of the series of *English Reports*. For instance, if your reference is to 1 B. & Ad. 289

(which means Volume 1 of the *Reports of Barnewall and Adolphus*, at page 289), the chart will tell you that the corresponding volume of the *English Reports* reprint is Volume 109. As you take down the volume from the shelf, notice the names in gilt letters at the bottom of the spine. These will tell you the order in which the old reports are reprinted in the particular volume. Volume 109 bears the legend "Barnewall & Cresswell 9-10; Barnewall & Adolphus 1-2". This indicates that 1 B. & Ad. will probably be found just beyond the middle of the book. Open the book, and you will find your page reference in heavy type at the top centre of the open pages (top outside corner in the first 20 volumes). If something goes wrong and your case eludes you, try the index at the end of the volume. Failing that, Volumes 177-178 contain a complete index of all cases in the reprint.

The chart just referred to is not quite complete, because it indexes each of the old reports under one title only, whereas in fact many of the old reports were known under various titles or under various abbreviations of the title. If you are having difficulty in locating one of the reports, consult the full chart published by Professional Books. If this is not available, use the chart in D. Raistrick, *Index of Legal Abbreviations and Citations* (4th edn, 2013) supplemented if necessary by the chart in 7 Cambridge L.J. 261.

These old reports were of uneven quality, at least in the period before 1757, and need to be handled with some care. Of the worst of them many stories are told. In *Slater v May* (1704)¹⁷ a case was cited from 4 Modern, then a comparatively recent volume of reports. Upon search of the roll (that is, the official record of the case) it was found that the report in 4 Modern had omitted a material fact. Upon this Holt CJ burst out: "See the inconveniences of these scrambling reports, they will make us to appear to posterity for a parcel of blockheads". When another of the early reporters, Barnardiston, was cited before Lord Lyndhurst, the latter exclaimed: "Barnardiston, Mr. Preston! I fear that is a book of no great authority; I recollect, in my younger days, it was said of Barnardiston, that he was accustomed to slumber over his notebook, and wags in the rear took the opportunity of scribbling nonsense in it."¹⁸ Reporters even of the nineteenth century did

¹⁷ *Slater v May* Ld.Raym. 1071; 92 E.R. 210.

¹⁸ J.W. Wallace, *The Reporters* (4th edn, 1882), p.424.

not always escape judicial condemnation. The one who got most kicks of all was Espinasse, who reported *Nisi Prius* cases between 1793 and 1807. Pollock CB said of him that he heard only half of what went on in court and reported *the other half*.¹⁹ And Maule J, when a case in Espinasse was referred to, said with some emphasis that he did not care for Espinasse "or any other ass".²⁰ Denman CJ's response when a case from Espinasse was cited was:

"I am tempted to remark, for the benefit of the profession, that Espinasse's Reports, in days nearer their own time, when their want of accuracy was better known than it is now, were never quoted without doubt and hesitation; and a special reason was often given as an apology for citing that particular case. Now they are often cited as if counsel thought them of equal authority with Lord Coke's Reports."²¹

¹⁹ Anon., *A Lawyer's Notebook*, p.43; (1938) 54 L.Q.R. 368.

²⁰ Biron, *Without Prejudice* (London: Faber & Faber, 1936), p.88.

²¹ *Small v Nairne* (1849) 13 Q.B. 840 at 844; 116 E.R. 1486. Some further comments may be added from A.J. Ashton, *As I Went on my Way* (Nisbet & Co Ltd, 1924), pp.27-28. "More decorous, though not more learned, judges than Maule always insisted that the fifth Espinasse must not be cited, and would hardly admit even the earlier volumes. Lowndes, who reported on the northern Circuit, would barely be tolerated. It is in his rare and amusing volume that the head note is to be found, 'Carlisle. Possession of trousers in Scotland evidence of larceny in England.' It was not desirable to quote the Modern Reports if you could find Lord Mansfield in any other report. Carrington and Payne depended a good deal on the number of the volume. The later it was, the less it was attended to. It would seem that Carrington, like Espinasse, went down the hill, and I have myself heard a judge refuse to hear Carrington and Kirwan cited. These reports follow Carrington and Payne in date; and the judge said he didn't believe the reporter could at that date be trusted. This was a bold commercial judge, now dead. Of Price's Reports in the Exchequer it used to be said that you could find in them anything you wanted, if you looked long enough. He was the Beavan of the common law reporters. I once looked a long time and thought I found something in Price which seemed authority worth citing in a case in which Sir Horace Davey led me. At two or three consultations running, I brought this case forward after the second leader had finished, and Sir Horace always let me read the passage to him and murmured, 'Yes that seems some authority.' I should point out to my American friends that Sir Horace did not mean what they mean by these words. But I never got him to take the book into his hands until he was arguing in court. He suddenly swerved round and said, 'Give me that case of yours,' and began turning the pages with a listless and indifferent hand—for he was very tired—and glancing at them in a lack-lustre way, said, 'Then there is a case, my Lord, in the fourth Price'—looking at the number on the back of the volume—'which decides a number of interesting matters, including, I see'—pausing at a particular page, 'the ownership of a pond in Hertfordshire, and there is somewhere', turning a few more pages, 'something that seems to bear on this matter. But, however,' ceasing to turn any more pages from sheer inanition, 'I don't think I'll cite it'.

These tales are related only to put the researcher on guard when dealing with some of the old reports, not to discountenance their use altogether. It sometimes happens that even poor maligned Espinasse is the only reporter to give us an important case. *Wilkinson v Coverdale*,²² which the student may perhaps come across in tort or in contract, is an example—and, as Denman CJ indicated, he and others of like stamp are not altogether unusable, though usable only with caution. Also, this sort of condemnation does not apply by any means to all the old reports, many of which are of outstanding quality.

A student wishing to know more about these old reporters may read Pollock's chapter in the *First Book of Jurisprudence*, 6th edn (Macmillan & Co, 1929), pp.292 and following, or Veeder's article "The English Reports 1292–1865" (1901) 15 *Harvard Law Review* 1, 109, partly reprinted in 2 *Select Essays in Anglo-American Legal History* 123, or C.G. Moran's, *The Heralds of the Law* (London: Stevens & Sons Ltd, 1948). Detailed monographs are J.W. Wallace, *The Reporters*, 4th edn (1882) and Sir J.C. Fox, *Handbook of English Law Reports* (1913).

How to find a reference

In your student days you will probably be given clear references to all the cases you need to read, in a textbook, a reading list or otherwise by your lecturer. However, you may sometimes know the name of a case but not its reference. Or you may have a reference to the case but find that the report is not on the shelf, so you want a reference to the same case in another series of reports. This is where having access to and the ability to search using the electronic databases helps enormously, and you will generally be able to find that quite simply. Pity the law students in the years before you who had to do this laboriously by hand. It is, however, worth repeating here, the traditional way to search in a physical library, for those situations where an electronic database does not assist or where you are unsure

handing the book back to me with a smile." (The author is mistaken as to Lowndes—the report of the case referred to is in 1 Lewin 113; 168 E.R. 980—and it was a horse, not a pair of trousers.)

²² *Wilkinson v Coverdale* (1793) 1 Esp. 75; 170 E.R. 284.

which route to follow, as it may not always be clear which database houses your report of choice.

If the case is since 1865, start your hunt with the *Law Reports Index*, which, for cases up to 1949, was called the *Law Reports Digest*. This gives the references to the case at all its stages through the courts; you will probably be looking for the reference to the last appeal, so start by looking at the references at the end of the list. The *Index* is particularly useful because it gives references not only to the *Law Reports* and *Weekly Law Reports*, but to the *All England Reports*, *Criminal Appeal Reports*, and a good many other series. (Distinguish between the *Table of Cases Reported* and the *Table of Cases Judicially Considered*.) The large red index volumes cover a span of years, the latest being the *Index* for 1991–2000. Cases thereafter are listed in separate indexes for each year and then in additional cumulative parts of the current year. For more recent cases still, look at the cumulative index in the *Weekly Law Reports*, starting with the current number (which will tell you when the previous cumulative index was included). Cases that are too recent even for the *Weekly Law Reports*, being published only in some place like *The Times* newspaper or the *Criminal Law Review*, will be noted in the monthly publication called *Current Law*. The annual volumes of *Current Law* in your library may be called *Scottish Current Law*; this is the same as the English law version except that it includes Scottish cases in addition.

Other methods can be used if for any reason this one fails. The *All England Reports Consolidated Tables and Index* is useful, but it gives only the *All England Reports*. The *Current Law Case Citators 1947–1977, 1977–1997 and 1998–2001* cover all cases for the periods specified, and later cases will be found in the annual volumes and the monthly parts of *Current Law* for the current year.

Current Law is helpful, but it does not always give all the reports of the case. Failing all else, use *The Digest* (formerly called the *English and Empire Digest*), which in any event you will need for the older cases. The procedure is simple: consult the table of cases at the front of the annual Cumulative Supplement. This gives a reference to the volume, subject and *case number*. Take down the appropriate volume from the shelf and look up the case again in the table of cases at the front of the volume. This will give you the case number within the subject. The official instructions on how to use *The Digest* are to be found

at the front of the Cumulative Supplement.²³ It is worth being aware that the Digest is not suitable for locating the most recent changes to the law as it is generally a few months out of date, but it retains its value when searching for older cases.

If you are looking up a case in the index to a volume of the *Criminal Appeal Reports*, it is worth knowing that the “Table of Cases” is a snare and delusion; the true table of cases (for the Court of Appeal) is headed “Appellants and Applicants”, while the table of cases decided in other courts is idiotically separated from this and concealed overleaf.

Other indexes for the older cases are the index to the *English Reports* (cases before 1865) and the index to the *All England Law Reports Reprint* (cases before 1935).

Abbreviations: law reports and periodicals

At the beginning of your studies, you will frequently come across abbreviations that you do not recognise. There are a number of places where you can look to dispel the puzzlement. Raistrick’s *Index of Legal Abbreviations and Citations*,²⁴ will decipher the multitudinous abbreviated names of law reports, as will the (online) *Cardiff Index to Legal Abbreviations*.²⁵ If neither of these works are available, you might look in one of the following: Volume 1 of *Halsbury’s Laws of England* (updating if necessary with the *Current Service*); *Current Law* (both the *Monthly Digest* and the *Yearbook*); the *Index to Legal Periodicals*; “Where to Look for your Law”, reprinted in *Osborn’s Concise Law Dictionary*;²⁶ *Mozley and Whiteley’s Law Dictionary*;²⁷ Volume 1(1) of the *Digest* (formerly *English and Empire Digest*);

²³ There is a very helpful guide from the Bodleian Law Library at the University of Oxford, to assist you when using the digest, which includes a helpful sample page explaining the information displayed – BAILII <https://www.law.ox.ac.uk/legal-research-and-mooting-skills-programme/digest> [Accessed 2 January 2025].

²⁴ Donald Raistrick, *Index to Legal Citations and Abbreviations*, 4th edn (Sweet & Maxwell, 2013).

²⁵ Cardiff Index to Legal Abbreviation <https://www.legalabbrevs.cardiff.ac.uk/> [Accessed 2 January 2025].

²⁶ Mick Woodley, *Osborn’s Concise Law Dictionary*, 12th edn (Sweet & Maxwell, 2013).

²⁷ Herbert Newman Mozley and E.R. Hardy Ivamy, *Mozley and Whiteley’s Law Dictionary*, 12th edn (OUP, 2005).

Stroud’s *Judicial Dictionary of Words and Phrases*,²⁸ *Civil Procedure*, Vol.1 (known as “the White Book”, which is published annually). If you think that the reference that has you stumped might be from an overseas jurisdiction, there is a four-volume looseleaf series, *World Dictionary of Legal Abbreviations*.²⁹

Scottish decisions

The current Scottish law reports known as *Sessions Cases* are divided into three series all bound into one volume for the year: Supreme Court (and to 2009 House of Lords) and Privy Council, Court of Justiciary and Court of Session. They are cited as, for example, 2020 S.C. (H.L. or P.C.) 100, 2020 S.C. (J.) 100 and 2020 S.C. 100; note that there are three different page runs in each volume. Where cases are reported in this series, they should be cited in preference to reports of the same case in the *Scots Law Times* (1893–), which in turn is preferred to the *Scottish Criminal Case Reports* (SCCR) or the *Scottish Civil Law Reports* (SCLR), both of which commenced publication in the 1980s.

Two references given

Sometimes the reader’s reference will contain two page references, thus “[1892] 1 Q.B. 273, 291” or “[1892] 1 Q.B. 273 at 291”. Here the first page mentioned contains the beginning of the case and the second page the particular passage (often a pithy statement of principle) to which the real reference is being made. Beginners have been known to spend many hours reading a case to which they were referred only for a single passage in the middle of it. Generally speaking, if a case is quoted for these limited purposes, there is no need to read the whole of the case. As the neutral citation mode became more widespread, students have become accustomed to the use of square brackets [**] to denote the particular paragraphs of the judgment to which attention is being called.

²⁸ Daniel Greenberg, *Stroud’s Judicial Dictionary of Words and Phrases*, 11th edn (Sweet & Maxwell, 2024).

²⁹ Available via HeinOnline.

Square and round brackets

The use of square and round brackets surrounding the dates of cases requires a word of explanation. Compare the following two references:

Stanley v Powell (1890) 60 L.J.Q.B. 52.

Stanley v Powell [1891] 1 Q.B. 86.

Why are the dates different, and why the two different sorts of brackets? To answer the second question first, the custom is to use square brackets where the date is an indispensable part of the reference to the case, round brackets where it is not. The report first cited has a volume number (60), so the date is not necessary to trace the case; the second report has no volume number, so the date is in square brackets. As to the first question, the judgment in the case was pronounced in 1890, which is therefore its true date. But some time elapses before the cases are reported in the Law Reports, and this case did not get in until 1891, which is the date in the second reference. Where cases are reported in the Law Reports it is customary to adopt the date of publication of the Law Reports version as the date of the case. The reader should be spared this pedantry; it is explained here simply to save bewilderment.

Electronic searching

It should be mentioned at this stage that the majority of the reports that you will require are now available electronically, via online databases. Whilst much is behind a paywall of the large legal publishers, there remain a number of free services that you can access. The decisions of the Supreme Court, for example, are placed on the internet within hours of their being delivered in the Court itself, and can be viewed at the Supreme Court website <http://www.supremecourt.uk>.³⁰ Similarly, notable judgments and sentencing remarks for high profile criminal cases, are swiftly published on the Courts and Tribunals

³⁰ Supreme Court <http://www.supremecourt.uk> [Accessed 2 January 2025].

Judiciary website <http://judiciary.uk/judgments/>.³¹ You will note when you consult a judgment of this sort that it lacks the editorial additions such as a headnote and catch words. Finally, if you do not have access to the larger subscription-based electronic databases, such as Westlaw or Lexis+, then it is well worth being aware of the website of the British and Irish Legal Information Institute, <http://www.bailii.org>,³² which contains a significant repository of British and Irish case law and legislation, including the most up to date, newly reported cases, as well as European Union case law, Law Commission reports and other materials. It also links to a broad range of world law resources through its partner Legal Information Institutes in other jurisdictions. Other services such as Westlaw, Smith Bernal and Lexis+ are subscription-only services, and require a password. The librarians in your university library will no doubt give guidance as to which is available, and further guidance in their use.

Titles of cases

It is helpful to know certain rules for the naming of cases. Trials on indictment are in the name of the King (as representing the State); thus a criminal case is generally called *Rex. v* [whomever it is]—*Rex.* and *v* being short for *versus*. When there is a queen on the throne, *Reg.* is used instead of *Rex* being short for *Regina* (pronounced “Rejyna”). *Regina* and *Rex* both conveniently abbreviate to *R.*, which saves having to remember which is which. Thus *Reg. v Sikes* or *Rex v Sikes* may both be written *R. v Sikes*. Some textbooks on criminal law even print simply *Sikes*. This last is a convenient usage for the student of criminal law.

In some types of criminal case the title of the case will not contain *Rex* or *Reg.* before the *v*, but will contain the name of a private person. This happens when the case is tried summarily before magistrates (i.e. justices of the peace); here the name of the actual prosecutor appears instead of the nominal prosecutor, the Queen. Again, historically when an appeal was taken to the House of Lords,

³¹ Courts and Tribunals Judiciary <https://judiciary.uk/judgments> [Accessed 2 January 2025].

³² The British and Irish Legal Information Institute <https://www.bailii.org> [Accessed 2 January 2025].

the practice was formerly that the name of an official or private prosecutor, usually the Director of Public Prosecutions or a government department, was substituted for the word *Reg.* Having two names for a case was a nuisance, particularly because when the appeal was by the defendant the names of the parties became reversed. Eventually it was decided that as from 1979 criminal cases in the House of Lords should be reported under the same title as in the court below.

Civil cases will usually be cited by the names of the parties, thus: *Rylands v Fletcher*. If the King (as representing the Crown) is a party he is, in civil cases, usually called "The King", and similarly with the Queen, thus: *British Coal Corp v The King*; but *R.* may also be used.

In order to make life more difficult for us all, the name of the appellant is put first when an appeal is taken to the Divisional Court, even though the appellant was the defendant in the court below; this means that the names may become reversed. *Nattrass*, an inspector of weights and measures, instituted a summary prosecution entitled *Nattrass v Tesco Supermarkets Ltd*; on appeal by the defendant company to the Divisional Court this became *Tesco Supermarkets Ltd v Nattrass*,³³ and the title stayed the same on further appeal by *Tesco* to the House of Lords. We need an edict saying that the titles of cases shall never change.

Pronouncing case names

There are peculiar conventions in pronouncing the names of cases. For example, the criminal case *R. v Sikes* is sometimes (though loosely) referred to thus (pronounced as written), or more correctly as *Rex* (or *Regina*) *v Sikes* (again pronounced as written). In court, however, the proper method of referring to the case is "The King [or The Queen] against *Sikes*". In civil cases the "v" coupling the names of the parties is pronounced "and", both in court and out of it. Thus *Smith v Hughes* should always be pronounced (but never written) "Smith and Hughes", and similarly *British Coal Corp v The King* (which was a civil proceeding against the Crown) is pronounced with an "and". Lawyers thus write one thing and say another.

³³ *Tesco Supermarkets Ltd v Nattrass* [1972] A.C. 153; [1971] 2 W.L.R. 1166.

In some cases, as where a will is being interpreted, the name of the case is "*In re*" (in the matter of) somebody or something; for instance, *In re Smith*. It is permissible to shorten this to *Re Smith* (*Re* is pronounced "ree"). Certain applications to the courts are labelled "*Ex parte*": *Ex p. Smith* means "on the application of *Smith*" and you will find this spelled out in full in the most recent cases in the Administrative Court, in particular. In probate cases (that is, cases concerned with the proof of a will) the title *In Bonis* (i.e. in the goods of) *Smith* may be met with in the older reports, and in Admiralty cases the name of a ship (for example, *The Satanita*). Other possible ways of naming cases need not be considered here, but, in order to prevent the student from being puzzled, one oddity may be mentioned. The Supreme Court is often the final court of appeal for Scotland (and Northern Ireland) as well as England, and a Scots case that goes to the Supreme Court may become important in English as well as Scots law. Two such important cases are *McAlister (or Donoghue) v Stevenson*³⁴ and *Hay (or Bourhill) v Young*.³⁵ The oddity is the alternative name in brackets, for which the explanation is as follows. In Scotland a married woman, though she takes her husband's name, does not cease for legal purposes to go also by her maiden name. When she figures in litigation, her maiden name is placed first, and her married name is given as an alternative afterwards. Nevertheless, the correct mode of citation, when brevity is desired or when the proceedings are in the Supreme Court,³⁶ is by the married name.³⁷ The two cases above are, for brevity, cited as *Donoghue v Stevenson* and *Bourhill v Young*, but not as *McAlister v Stevenson* or *Hay v Young*.

STATUTES

The state of the statute book

In theory there is nothing to prevent the whole of the law being set out clearly and logically in statutory form. In practice, human sloth,

³⁴ *Donoghue v Stevenson* [1932] A.C. 562; 1932 S.C. (H.L.) 31.

³⁵ *Bourhill v Young* [1943] A.C. 92; [1942] 2 All E.R. 396.

³⁶ See 1972 S.L.T. (News) 149.

³⁷ See Lord Macmillan, "The Citation of Scottish Cases" (1933) 49 L.Q. R. 1; P.H.W. (1945) 61 L.Q.R. 109.