

---

Review

Reviewed Work(s): A Law Dictionary, Adapted to the Constitution and Laws of the United States of America, and of the Several States of the American Union; With References to the Civil and Other Systems of Foreign Law. To Which Is Added, Kelham's Dictionary of the Norman and Old French Language by John Bouvier: Institutes of American Law by John Bouvier

Source: *The North American Review*, Jul., 1861, Vol. 93, No. 192 (Jul., 1861), pp. 71-82

Published by: University of Northern Iowa

Stable URL: <https://www.jstor.org/stable/25100016>

---

JSTOR is a not-for-profit service that helps scholars, researchers, and students discover, use, and build upon a wide range of content in a trusted digital archive. We use information technology and tools to increase productivity and facilitate new forms of scholarship. For more information about JSTOR, please contact [support@jstor.org](mailto:support@jstor.org).

Your use of the JSTOR archive indicates your acceptance of the Terms & Conditions of Use, available at <https://about.jstor.org/terms>



is collaborating with JSTOR to digitize, preserve and extend access to *The North American Review*

JSTOR

places of the Church, Aidan, Adamnan, Wilfrid of York, and Cuthbert of Canterbury might vie with the men of any age in strenuous labors, and in sagacity and wisdom of administration. Yet, able as they were, and each of them superior to him in some particulars, we doubt if any of them or all of them wrought so effectually for the immediate and permanent interests of his country as did the meek and gentle-spirited monk of Jarrow; and it is only the just judgment of the people whom he served so well, which, while it has suffered all the rest to pass wellnigh into oblivion, has retained in almost unimpaired freshness the name and the memory of Bede.

- 
- ART. IV. — 1. *A Law Dictionary, adapted to the Constitution and Laws of the United States of America, and of the several States of the American Union; with References to the Civil and other Systems of Foreign Law. To which is added, Kelham's Dictionary of the Norman and Old French Language.* By JOHN BOUVIER. Tenth Edition. Revised, improved, and greatly enlarged. Philadelphia: Childs and Peterson. 2 vols. Royal 8vo. pp. xi., 692, 827.
2. *Institutes of American Law.* By JOHN BOUVIER. New Edition. Philadelphia: Childs and Peterson. 4 vols. 8vo. pp. lxxix., 568, 655, 750, 728.

THE author of these volumes taught lawyers by his books, but he taught all men by his example, and we should therefore greatly err if we failed to hold up for the imitation of all his successful warfare against early obstacles, his unconquerable zeal for the acquisition of knowledge, and his unsparing efforts to distribute the knowledge thus acquired for the benefit of his professional brethren. Born in the village of Codogman, in the department Du Gard, in the south of France, in the year 1787, at the age of fifteen he accompanied his father and mother — the last a member of the distinguished family of Benezet — to Philadelphia, where he immediately applied himself to those exertions for his own support which the rapid

diminution of his father's large property had rendered necessary. In 1812 he became a citizen of the United States, and about the same time removed to West Philadelphia, where he built a printing-office, which still exists as an honorable monument of his enterprise. Two years later we find him settled at Brownsville, in the western part of Pennsylvania, where, in 1814, he commenced the publication of a weekly newspaper, entitled "The American Telegraph," the first number of which (Wednesday, November 9th) is ushered into life with a proclamation of honest neutrality, which, in these latter days of rigid and unscrupulous party divisions, reads like a practical joke, or a document in a dead language. The editor promises that he will "discountenance factions and factious men, under what plausible name soever they may be shielded. He will never censure the executive and other public functionaries, let them be attached to what party they may, when, in his opinion, they act as becoming Americans, nor basely crouch to any man or set of men, and neglect the duty which every editor in the Union owes to the public,—an exposure and support of the truth." How many patriots, "anxious only to know the truth," immediately enrolled themselves as subscribers to "The American Telegraph," we have no means of knowing. Unlike a vast number of hopeful American periodicals, however, the "Telegraph" continued to live, and in 1818, on Mr. Bouvier's removal to Uniontown, he united with it "The Genius of Liberty," and thenceforth issued the two journals in one sheet, under the title of "The Genius of Liberty and American Telegraph." He retained his connection with this periodical until July 18, 1820. It may still be in existence: it certainly was a few years ago, at the time when the biography of its editor was first given to the world.

It was while busily engaged as editor and publisher that Mr. Bouvier resolved to commence the study of the law. He attacked Coke and Blackstone with the determination and energy which he carried into every department of action or speculation, and in 1818 he was admitted to practice in the Court of Common Pleas of Fayette County, Pennsylvania. During the September term of 1822 he was admitted as an attorney of the Supreme Court of Pennsylvania, and in the

following year he removed to Philadelphia, where he resided until his death. In 1836 he was appointed by Governor Ritner Recorder of the City of Philadelphia, and in 1838 was commissioned by the same chief magistrate as an Associate Judge of the Court of Criminal Sessions. But the heavy draughts upon time and strength to which he was continually subjected had not been permitted to divert his mind from the cherished design of bestowing upon his profession a manual of which it had long stood in urgent need. While laboring as a student of law, and even after his admission to the bar, he had found his efforts for advancement constantly obstructed, and often frustrated, by the want of a conveniently-arranged digest of that legal information which every student should have, and which every practising lawyer must have, always ready for immediate use. The English Law Dictionaries — based upon the jurisprudence of another country, incorporating peculiarities of the feudal law, that are to a great extent obsolete even in England, only partially brought up to the revised code of Great Britain, and totally omitting the distinctive features of our own codes — were manifestly insufficient for the wants of the American lawyer. A Law Dictionary for the profession on this side of the Atlantic should present a faithful incorporation of the old with the new, — of the spirit and the principles of the earlier codes, and the “newness of the letter” of modern statutes. The Mercantile Law, with the large body of exposition by which it has been recently illustrated; the Law of Real Property in the new shape which, especially in America, it has latterly assumed; the technical expressions scattered here and there throughout the Constitution of the United States, and the constitutions and laws of the several States of the American Union, — all these, and more than these, must be within the lawyer's easy reach if he would be spared embarrassment, mortification, and decadence.

A work which should come up to this standard would indeed be an invaluable aid to the profession; but what hope could be reasonably entertained that the requisites essential to its preparation — the learning, the zeal, the acumen to analyze, the judgment to synthesize, the necessary leisure, the persevering industry, and the bodily strength to carry to suc-

cessful execution — would ever be combined in one man? Mr. Bouvier determined that it should not be his fault if such a work was not at least honestly attempted. Bravely he wrought, month in and out, year in and out, rewarded for his self-denying toil by each well-executed article, and rejoicing, at rare and prized intervals, over a completed letter of the alphabet.

“The writer of a dictionary,” says Jean Paul Richter, “rises every morning, like the sun, to move past some little star in his zodiac: a new letter is to him a new year’s festival, the conclusion of the old one a harvest-home; and since after each capital letter the whole alphabet follows successively, he may sometimes celebrate on one and the same day a Sunday, a Lady-day, and a Crispin’s holiday.”

In 1839 the author had the satisfaction of presenting in two octavo volumes the results of his anxious toils to his brethren and the world at large; and the approving verdict of the most eminent judges — Judge Story and Chancellor Kent, for example — assured him that he had “not labored in vain,” nor “spent his strength for naught.” This was well; but the author himself was the most rigid and unsparing of his critics. Contrary to the practice of many writers, considering the success of the first and second editions as a proper stimulus to additional accuracy, fulness, and completeness in every part, in 1848, when the third edition was called for, the second having been published in 1843, he was able to announce that he had not only “remodelled very many of the articles contained in the former editions,” but also had “added upwards of twelve hundred new ones.” He also presented the reader with “a very copious index to the whole, which, at the same time that it will assist the inquirer, will exhibit the great number of subjects treated of in these volumes.”

He still made collections on all sides for the benefit of future issues, and it was found after the death of the author, in 1851, that he had accumulated a large mass of valuable materials. These, with much new matter, were, by competent editorial care, incorporated into the text of the third edition, and the whole was issued as the fourth edition in 1852. The work had been subjected to a thorough revision, — inaccuracies were

eliminated, the various changes in the constitutions of several of the United States were noticed in their appropriate places, and under the head of "Maxims" alone thirteen hundred new articles were added.

That in the ensuing eight years six more editions were called for by the profession, is a tribute of so conclusive a character to the merits of the work that eulogy seems superfluous. Let us then briefly examine those features to which the great professional popularity of the Law Dictionary is to be attributed. Some of these, specified as *desiderata*, have been already referred to with sufficient particularity. But it has been the aim of the author to cover a wider field than the one thus designated. He has included in his plan technical expressions relating to the legislative, executive, and judicial departments of the government; the political and the civil rights and duties of citizens; the rights and duties of persons, especially such as are peculiar to the institutions of the United States, — for instance, the rights of descent and administration, the mode of acquiring and transferring property, and the criminal law and its administration.

He was persuaded — and here as elsewhere he has correctly interpreted the wants of the profession — that an occasional comparison of the civil, canon, and other systems of foreign law with our own would be eminently useful by way of illustration, as well as for other purposes too obvious to require recital. We will barely suggest the advantage to the student of civil law or canon law of having at hand a guide of this character. And we would express our hope that the student of civil law or of canon law is not hereafter to be that *rara avis* in the United States which, little to our credit, he has long been. He who would be thoroughly furnished for his high vocation will not be satisfied to slake his thirst for knowledge even at the streams (to which, alas! few aspire) of Bracton, Britton, or Fleta; he will ascend rather to the fountains from which these drew their fertilizing supplies. We are aware that until recently even English jurists have been strangely negligent in this respect, and it is not forgotten that Lord Coke exults that, in Calvin's case, the judges "told no strange histories, cited no foreign laws, produced no alien

precedents." The legal bibliographer need not be reminded of the many valuable works on Roman Law which the profession in Great Britain has lately added to our law-libraries. In this country it is a matter of congratulation to the friends of a thorough legal education, that Story, Kent, Duponceau, Hoffman, and others have, in this matter, "marshalled us the way we ought to go."

Perhaps no one can appreciate so well as a lexicographer the difficulty of hitting the just mean between a brevity which obscures and a prolixity which weakens by dilution or expands the total beyond a practicable capacity. The dictionary-maker, confined to limits too narrow for his subject, realizes the perplexity of the hospitable host with few apartments and many coincident visitors. In a Law Dictionary, especially, what a powerful temptation to amplify the citation of authorities, the criticism of opinions, and the display of minute erudition, is presented by such titles as Agency, Articles, Assumpsit, Attachment, Authority, Award, Bailment, Bar, Battery, Bill, Blockade, Bond, Bottomry, Capias, Capital Case, Challenge, Condition, Confession, Damages, Debts, Deceit, Delivery, Estate, Evidence, Factor, Fee, Feudal, Fine, Guaranty, Heir, Husband, Ignorance, Interdiction, Limitation, Lunacy, Mail, Mania, Naturalization, Notice, Parties, Partnership, Quasi, Remedy, Replevin, Sequestration, Slander, Tender, Testament, Uses, Vexatious Suits, Witness, Writ, and many others that might be named!

To suppose that he who draws up many thousands of definitions, and cites whole libraries of authorities, shall never err in the accuracy of statement or the relevancy of quotation, is to suppose such a combination of the best qualities of a Littleton, a Fearne, a Butler, and a Hargrave, as the world is not likely to behold while law-books are made and lawyers are needed. If Chancellor Kent, after "running over almost every article in" the first edition, (we quote his own language,) was "deeply impressed with the evidence of the industry, skill, learning, and judgment with which the work was completed," and Judge Story expressed a like favorable verdict, the rest of us, legal and lay, may, without any unbecoming humiliation, accept their *dicta* as conclusive. We say *legal and lay*; for the

lay reader will make a sad mistake if he supposes that a Law Dictionary, especially *this* Law Dictionary, is out of "his line and measure." On the contrary, the Law Dictionary should stand on the same shelf with Sismondi's Italian Republics, Robertson's Charles the Fifth, Russell's Modern Europe, Guizot's Lectures, Hallam's Histories, Prescott's Ferdinand and Isabella, and the records of every country in which the influences of the canon law, the civil law, and the feudal law, separately or jointly, moulded society, and made men, manners, and customs what they were, and, to no small extent, what they still are.

In common with the profession on both sides of the water, Judge Bouvier had doubtless often experienced inconvenience from the absence of an Index to Matthew Bacon's New Abridgment of the Law. Not only was this defect an objection to that valuable compendium, but since the publication of the last edition there had been an accumulation of new matter which it was most desirable should be at the command of the law student, the practising lawyer, and the bench. In 1841 Judge Bouvier was solicited to prepare a new edition, and undertook the arduous task. The revised work was presented to the public in ten royal octavo volumes, dating from 1842 to 1846. With the exception of one volume, edited by Judge Randall, and a part of another, edited by Mr. Robert E. Peterson, Judge Bouvier's son-in-law, the whole of the labor, including the copious Index, fell upon the broad shoulders of Judge Bouvier.

This, the second American, was based upon the seventh English edition, prepared by Sir Henry Gwillim and Messrs. C. E. Dodd and William Blanshard, and published in eight royal octavos in 1832. In the first three volumes Bouvier confines his annotations to late American decisions; but in the remaining volumes he refers to recent English, as well as to American Reports. But this industrious scholar was to increase still further the obligations under which he had already laid the profession and the public. The preparation of a comprehensive yet systematic digest of American law had been for years a favorite object of contemplation to a mind which had long admired the analytical system of Pothier. Unwearied by



the daily returning duties of his office and the bench, and by the unceasing vigilance necessary to the incorporation into the text of his Law Dictionary of the results of recent trials and annual legislation, he laid the foundations of his "Institutes of American Law," and perseveringly added block upon block, until, in the summer of 1851, he had the satisfaction of looking upon a completed edifice. Lawyers who had hailed with satisfaction the success of his earlier labors, and those who had grown into reputation since the results of those labors were first given to the world, united their verdict in favor of this last work. Its design is so well defined by the author himself, that we prefer the quotation of his language to any statement of our own.

"Most lawyers have felt the want of a preliminary work to serve the young American student as a guide in the labyrinth of jurisprudence; as an instructor to give him a general view of the several parts of this judicial science, to mark the objects of each, and to point out the natural dependence which unites them; a work tending to establish a method which should be adopted in the study of the law,—to point out the numerous links of the chain which unites the ancient with the modern law, which binds the past with the present, and which by its nature must forever remain indestructible. A work which would thus elevate the science of the law in the sight of youth, and impress a character of unity upon it, would exercise a happy influence on the minds of the students, develop their moral and intellectual faculties, and be a blessing to them.

"But it is far less difficult to describe what the legal edifice should be, and to state what is required for its construction, than to select the materials of which it should be composed, and to make such a disposition of them in the building as would render the structure at once solid, elegant, and every way fitted for the purpose for which it is intended.

"On entering into his profession, the American student is discouraged by being obliged to study laws which are not his own, and which do not belong to the present age, except as matter of history. It requires an effort to read even the elegant 'Blackstone,' and, when studied, it must be forgotten, because the laws on which that author has so beautifully commented are not the laws the young aspirant seeks to know,—they are not those of his country. It is true, noble efforts have been made by American writers to explain our laws, and to them the profession must be greatly indebted; but the commen-

taries which have been so liberally bestowed are better adapted to the use of those who are already good lawyers, than to teach one who has everything to learn.

“The author cannot hope to have made a perfect work, and supplied in this respect all the deficiencies and the wants of the profession; his aim has been an approximation to what a work should be, which might in some degree deserve the title of *Institutes of American Law*. He has endeavored to reduce the whole to a strict method, and by a correct classification to impress upon the mind of the student the objects of his inquiry; for, ‘What is well classified is half known.’ It seemed to him that jurisprudence, as much as any other science, required this method; and while all kinds of human knowledge are now taught in this manner, the law should not be an exception.

“In the execution of his work, the author has spared no pains to classify his materials in the most natural manner; he has not followed any known plan, and it is possible that, with more talents and knowledge, he might greatly improve upon that which he has adopted. He hopes, however, that with a very full table of contents the reader will be at no great difficulty to comprehend it.

“While it has been his constant object to show what the law actually is, he has ventured not unfrequently to state what it was, and from what source it flows. Whenever a comparison could be made with advantage, the foreign laws within the reach of the author have been consulted, and their agreement or discord with our own pointed out. He has made free use of the Roman or Civil Law, whenever he found its principles applicable to our jurisprudence. . . . .

“In laying down principles and rules, the author has been careful to give correct definitions, and when these rules are subject to exceptions, he has pointed them out in as clear and simple language as it has been in his power to employ. He has not thought it necessary to extend his researches into all the ramifications of the law, nor his inquiries into details which would confuse the reader without enlightening him. When there have been conflicting decisions, a reference has been made to authorities, to enable the student to examine the foundation upon which they rest. He has, however, shown the sources of the law, and traced the stream down to its current. His chief aim has been to point out its rules and maxims, as principal landmarks to the student, and to enable him, by keeping a constant eye upon these summits of the law, to pursue his onward course, without ever losing himself; for these rules, after having inspired the law, still remain with it, and in its midst, in some sort, as the lamp in the sanctuary, enlightening the parts where the law applies, and pointing out those which it cannot

reach. As this is intended as an American work, and for American lawyers, the principal positions laid down have been supported, whenever practicable, by reference to American authorities; and when there has been a difference in the several States of the Union, either in consequence of their statutory provisions, or the decisions of their courts, it has been pointed out and explained, whenever the subject was of sufficient importance to require it. Upon an examination, however, it will be found that English precedents have not been overlooked; on the contrary, they have been cited whenever they were important, or when American authorities could not be found applicable to the case." — Vol. I. pp. vii. — x.

Thus was this great work commended — by a simple statement of its design, and of the manner in which that design had been advanced toward its issue — to the consideration of a profession which, as we have already stated, speedily conferred upon it the seal of its unequivocal approbation. But of this approbation — with the exception of the warm attestations of Judge Taney and Professor Greenleaf, to whom early copies of the Institutes had been submitted — the author was to know nothing. Two months after his last work was given to the world, he was carried to "the house appointed for all living."

It is hardly necessary to remark, that it was only by a carefully adjusted apportionment of his hours that Judge Bouvier was enabled to accomplish so large an amount of intellectual labor, in addition to that "which came upon him daily," — the still beginning, never ending, often vexatious duties connected with private legal practice or judicial deliberation. He rose every morning at from four to five o'clock, and worked in his library until seven or eight; then left his home for his office (where, in the intervals of business, he was employed on his "Law Dictionary" or "The Institutes") or his seat on the bench, and after the labor of the day wrought in his library from five o'clock until an hour before midnight.

We can trace in a case like this the worth of systematic industry. It was the remark of Thomas Kerchever Arnold, the author or compiler of forty-five different publications, chiefly educational manuals, — "The list of my works is undoubtedly a very large one; but regular industry, with a careful division

of time and employments, carried on, with hardly an exception, for six days in every week, *will* accomplish a great deal in fifteen years."

It was well for the republic of letters that the great English lexicographer was pensioned so late in life; it would have been better if he had not been pensioned at all. And in this conjunction of dictionaries — Bouvier's and Johnson's — we are reminded that Scaliger devoutly gave thanks to the "Giver of every good and perfect gift" for dictionary-makers! Take courage, then, ye Stephenses, Grimms, Websters, Worcesters, Richardsons, Stuarts, Robinsons, and all ye "noble army of martyrs," who are sacrificing yourselves for the benefit of scholars of all ages! Ye "shall in no wise lose your reward," — the richest reward, the consciousness of having served all generations.

While animated by aims thus expansive, Judge Bouvier did not forget to provide for the intellectual improvement of his own household. Observing a remarkable aptitude for learning, and love of the acquisition of knowledge, in his only child, he encouraged the taste, and furnished the young student with the educational apparatus adapted to her special proclivities. How wisely he judged of these, and how faithfully the means of instruction were put to profitable use, may be inferred from Miss Bouvier's "Familiar Astronomy," a work which elicited the high commendation of Lord Rosse, Sir John F. W. Herschel, Sir David Brewster, Rear-Admiral W. H. Smyth, Drs. Lardner and Dick, Professors Airy, Hind, Nichol, Bond, De Morgan, and others of the most eminent astronomers in Great Britain and America.

Here we should bring our remarks to a conclusion; but there are words in the title-pages that preface this article, which, in these evil days of the republic, are provocative of saddened feeling, — "American Law," "The Laws of the United States of America"! Who now can pause upon these familiar words, without emotions such as heretofore we have known only, as students of history, for other ages and other nations?

Of the political and the politico-economical issues connected with the disruption of the American republic, much, but none

too much, has been heard in public and private. Be it then permitted to a conservative journal, which sprang to life under the ægis of a Constitution radiant with "the dew of its youth," — a journal which has for almost half a century rejoiced in the triumphs of that Constitution over the fears of the timid, the distrust of the jealous, and hostile assaults both at home and abroad, — be it permitted to us, before the fatal word which is to rend our constellation to fragments shall go forth, to utter a plea appropriate to our province, — a plea founded upon the literary memories of the past and the literary hopes of the future !

Within this republic of States, this *body* politic, there exists another republic, — its informing soul, — the republic of letters. It is a great and a glorious republic. To it belongs the story of our sufferings and our sacrifices, our trials and our triumphs, and of all the ways by which it pleased the Great Ruler of men to bring our fathers "through the fire and water" of an agonizing revolution, to a good and "wealthy place." And now shall the annals of our fathers, — of Washington, of the Adamases, Hancock, Rutledge, Marshall, the Pinckneys, and others of whom it seems we are fast proving ourselves not worthy, the "Books of our Law," the Commentaries of Kent and of Story, the historians, poets, and astronomers, — all those who have made us "a name and a praise on the earth," — shall all these be forgotten ? Shall we, amidst our miserable disputings, make shipwreck of our richest treasures ? Shall the enslaved of other lands, who, beholding our prosperity, have exclaimed, contrasting their condition with ours, "Surely this great nation is a wise and understanding people," return contentedly to their bonds, which at least have preserved them from anarchy, and bow submissively before rulers who, whatever their errors, do not take counsel from traitors, betray their countrymen to rebels, and connive at sedition ? Shall we show ourselves so false to our fathers, and to our children, as tamely to resign the blessings bought by the sufferings and blood of the fathers, and designed for a perpetual inheritance, to the fears of the timid or the threats of the violent ?