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Introducing the Corpus of Historical English Law Reports: Structure and compilation techniques¹

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ABSTRACT

The research group *Variation, Linguistic Change and Grammaticalization* from the University of Santiago de Compostela has been lately working on the compilation of a new specialised corpus of legal English: *The Corpus of Historical English Law Reports (CHELAR)*. The corpus will contain approximately half a million words and cover the years from about 1535 to 1999. The texts included in the corpus are British English law reports: records of judicial decisions that are “cited by lawyers and judges for their use as precedent in subsequent cases” (*EBO*, n.d.). Except for the legal section of the forthcoming *ARCHER* corpus version 3.2 (*A Representative Corpus of Historical English Registers*), none of the existing corpora of English at present includes law reports. This is precisely what makes the *CHELAR* corpus different from other synchronic and diachronic corpora of legal English. Once completed, the *Corpus of Historical English Law Reports* will,

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therefore, constitute a new, useful resource for linguists with an interest in legal language, from both a synchronic and a diachronic perspective.

Keywords: Law reports, legal English, diachronic corpus, corpus compilation.

1. Introduction

Since May 2009, the research group *Variation, Linguistic Change and Grammaticalization* from the University of Santiago de Compostela has been working on the compilation of British legal texts as a contribution to the version 3.2 of the multi-genre historical corpus *ARCHER* (*A Representative Corpus of English Historical Registers*). Taking as a point of departure the techniques employed for the selection and edition of texts for *ARCHER*, we decided to start the compilation of our own corpus of legal texts, which we have called *The Corpus of Historical English Law Reports* (*CHELAR*). The present paper contains a description of the methods which are being employed for both the selection of the source texts which will be part of the corpus, and the conversion of these texts into corpus material. Even though *CHELAR* is still in its initial stages, decisions have already been made as regards the sampling frame that will constitute the corpus, as well as the corpus structure and the dates of coverage and periodisation.

2. History and relevance of Law Reports

Before analysing the specific details and structure of *CHELAR*, a few words seem in order concerning the type of legal texts which form the corpus, namely law reports. In law, reports are records of judicial decisions which are “cited by lawyers and judges for their use as precedent in subsequent cases” (*EBO*, n.d.).

Historically, judicial decisions and custom are the most important ways in which the English common law has been built up and, although the Acts of Parliament have lately emerged as the source of new laws, “judicial decisions still play a significant role as they interpret parliamentary law and fill in the gaps where there is no statute law” (Kearns, 2007, p. 9).

In the history of English law reports we find three clearly distinguishable phases, namely the Year Books, the Nominate Reports and the Law Reports.

The Year Books are the earliest law reports. They were produced between 1268 and 1535 and consisted of anonymous reports written in French and Latin, which were later on translated into English. The Year Books contain scarce or no bibliographical information and are often difficult to situate in time (see Appendix A for an example of a Year Book).

From the year 1535 onwards, the Year Books were superseded by published editions known as the Nominate Reports, because they are normally referred to by the name of the reporter who wrote them. The English translations of the Year Books and the Nominate Reports have been recently published together in the form of reprints known as the English Reports. This task has been performed by the *Incorporated Council of Law Reporting for England and Wales* (ICLR), a non-official organisation which, since 1865, has taken over the preparation and publication of the reports (see <http://iclr.co.uk/>). An example of a Nominate Report has been included in Appendix B. As can be seen, on the top left-hand corner there is an abbreviation which refers to the original collection and the page on which the report can be found, in this case *Vernon's Chancery Reports* page 370, whereas the figure on the top right-hand corner indicates the page on which the report appears in the English Reports reprint. As is evident, the case details are much more accurate in the Nominate Reports than in the Year Books (see Appendix A): not only do we have the case number, but also the parties involved in the trial which is reported (in this case Parker vs. Blackbourne) and the year in which the trial took place (1699).

The third phase in the history of law reporting in England corresponds to the period from the foundation of the ICLR in 1865 to the present-day. Since the second half of the nineteenth century, Law Reports have been “published according to the court where the case took place” (Kearns, 2007, p. 31). They must follow a standard format and must be reported by a barrister-in-law who

can vouch for the accuracy of the report (*EBO*, n.d.). For this reason, although the ICLR does not belong to the UK government, the Law Reports are widely regarded as the most authoritative series of law reports for England and Wales. Appendix C shows the first page of a Law Report. As can be observed, it presents a clear structure. The abbreviation on the top left-hand corner indicates that this report belongs to the Appeal Cases. The name of the court where the case was judged (in this case the House of Lords) appears centred on the top of the page between square brackets, right followed by the parties: the appellants and the respondents. Beneath the parties, the dates in which the cases were judged are shown on the left-hand side, whereas the names of the judges who presided the trial are displayed on the right. Moreover, Law Reports always include key words or words related to important concepts which are dealt with in the report. The main text of the report is always preceded by a summary or introduction to the case which is being reported, followed by a list of the cases referred to in the report. Therefore, as this brief description suggests, the information in the Law Reports is much more accurate and thorough than that in the Nominate Reports.

Of the three types of Law Reports, namely the Year Books, the Nominate Reports and the Law Reports, only the Year Books have been left out of the *CHELAR* corpus because, being anonymous translations, with scarce bibliographical information and often difficult to situate in time, they turn out highly unsuitable for a historical corpus.

3. The necessity for a corpus of Law Reports

As shown in the previous section, the Law Reports are a especial type of legal text, quite different from other legal documents, in what concerns structure, language and function. In fact, Law Reports have a clearly predominant descriptive function, as opposed to, for example, laws and regulations, in which the prescriptive function predominates (see Šarčević, 2000, p. 11).

The selection of this type of texts is precisely what makes the *CHELAR* corpus different from other synchronic and diachronic corpora of legal English, which do not contain Law Reports. Thus, for example, the *Cambridge Corpus of Legal English*, probably the best-known synchronic corpus of legal English,

contains contemporary books, journals and newspaper articles relating to the law and legal processes (see http://www.cambridge.org.br/catalogue/secondary-courses?uk_url=/br/elt/catalogue/subject/custom/item3646600/Cambridge-International-Corpus-Cambridge-Corpus-of-Legal-English). The *COMET Project*, on the other hand, is a multilingual corpus under construction at the University of São Paulo, Brazil, which contains, among other text types, legal contracts (see <http://www.fflch.usp.br/dlm/comet/>).

As regards diachronic corpora, the *Proceedings of the Old Bailey*, which constitute a very large body of legal texts in a fully searchable edition, include trial proceedings held at London's central criminal court from 1674 to 1913 (see <http://www.oldbaileyonline.org/>). Moreover, Anu Lehto, a member of the *Research Unit for Variation, Contact and Change in English*, from the University of Helsinki, Finland, is currently compiling a historical corpus of legal texts, which includes Parliamentary acts, Royal orders and Privy Council's orders produced between 1490 and 1700 (see http://www.helsinki.fi/varieng/people/varieng_lehto.html). Also, as reported in her personal webpage, Dawn Archer is developing a corpus of nineteenth century English trial texts representing both examination sequences (between lawyers and witnesses) and opening and closing speeches (see http://www.uclan.ac.uk/ahss/journalism_media_communication/english_linguistics/dawn_archer.php).

Alternatively, the researcher interested in the diachrony of legal English can resort to the legal texts included as part of larger diachronic corpora. The *Helsinki Corpus of English Texts* (850-1710), for example, includes among its text types laws, statutes, rules and trial proceedings, as well as several law-related documents, such as appeals, petitions, returns, judgements, proclamations, depositions, testaments and wills. *The Lampeter Corpus*, in turn, contains tracts and pamphlets produced between 1640 and 1740, and related to six different topics, including law.

Therefore, the *CHELAR* corpus only bears similarities with the legal section of the forthcoming *ARCHER* corpus version 3.2, which also contains Law Reports. However, although *CHELAR* and *ARCHER* share text type and are being built on a similar basis, the process of selection of texts has been carried out carefully so that none of the texts in *CHELAR* overlaps with those in *ARCHER*. Moreover, whereas *ARCHER* is designed as a multi-genre corpus, *CHELAR* is better defined as a especial-purpose corpus, because it contains full

representation of the genre (see Meyer, 2002, p. 36). This implies, among other things, that the reports contained in *ARCHER* constitute a proportionally small sample as compared to those in *CHELAR*. Also, although both *ARCHER* and *CHELAR* are diachronic corpora, version 3.2 of *ARCHER* is intended to cover the years from 1600 to 1999, whereas for *CHELAR* we plan to include texts from as early as 1535, when the Year Books gave place to the Nominate Reports, until 1999. More importantly, even though both corpora follow a similar structure in what concerns periodisation, the number of words per period is quite different in the two corpora. As can be seen in Table 1 below, both corpora are divided into 50-year periods (except for a 15-year period from 1535 to 1549 in *CHELAR*). However, whereas the final version of *ARCHER* 3.2 will contain 10 texts of approximately 2,000 words per period, which makes a total of 160,000 words (see López-Couso & Méndez-Naya, forthcoming), *CHELAR* is expected to include 20 texts of approximately 2,500 words per period. Thus, in addition to the number of words for the 15-year span between 1535 and 1549, which will depend on the quality and amount of available sources in that period, overall *CHELAR* will contain over 450,000 words, which makes it a more representative corpus of law reports than the legal section of *ARCHER* 3.2.

PERIOD	<i>ARCHER</i> 3.2		<i>CHELAR</i>	
	Nr. of texts	Approx. words	Nr. of texts	Approx. words
1535-49	-	-	?	?
1550-99	-	-	20	2,500
1600-49	10	2,000	20	2,500
1650-99	10	2,000	20	2,500
1700-49	10	2,000	20	2,500
1750-99	10	2,000	20	2,500
1800-49	10	2,000	20	2,500
1850-99	10	2,000	20	2,500
1900-49	10	2,000	20	2,500
1950-99	10	2,000	20	2,500
TOTAL	80	160,000	180	450,000

Table 1. A comparison of the structure of the *CHELAR* corpus and the legal section of *ARCHER* 3.2.

Consequently, *CHELAR* emerges as a new computerised corpus different from all the existing corpora of legal English in what concerns its structure and the type of texts included in it. Thus, once completed, *CHELAR* will serve for the purposes of at least three of the four major trajectories of corpus-based research on legal language (see Biel, 2010), namely temporal variation, external variation or the study of the differences between legal language and general language or other languages for especial purposes (when contrasted with other corpora of specialised or general language) and internal variation or the differences between legal genres (when compared with other corpora of legal English). The fourth trajectory, cross-linguistic variation, may be possible if corpora in other languages are built parallel to *CHELAR* in the future.

4. Compiling Law reports: Procedure and problems

As stated above, the *CHELAR* corpus is constituted by Nominate Reports (1535-1865) and Law Reports (1865-1999). Unlike the Nominate Reports, which can be freely downloaded from the Internet, in order to get access to the Law Reports, it is necessary to purchase a licence from one of the libraries which distribute them. For this reason, in July 2009, our research group purchased an annual subscription to the online legal library *Justis* (see <http://www.justis.com>), from which the Nominate Reports and the Law Reports were downloaded and the bibliographical references to the texts (dates of the trial(s), date of publication, judge(s), parties, source, etc.) copied. The Law Reports are available in *Justis* as text files, as non-searchable PDF files or in HTML format, whereas the Nominate Reports only exist as searchable PDF files. This implies that the transformation of the Law Reports into corpus text is much easier than that of the Nominate Reports, because the content can be copied directly from the original TXT file. In turn, the Nominate Reports must be typed manually or with the aid of specific software to transform the PDF files into the TXT files. For our purpose, we employed *Abby FineReader* (version 10) which, nevertheless, is far from being accurate and requires manual correction, especially when the characters in the original PDF are not clear enough, which happens quite often, particularly with the oldest texts from the Nominate Reports.

The task of downloading, copying and editing the reports is being carefully carried out by a team of several FPI and FPU researchers and PhD students of the research group *Variation, Linguistic Change and Grammaticalization*, namely Zeltia Blanco-Suárez, Eduardo Coto-Villalibre, Iria-Gael Romay, Paula Rodríguez-Abruñeiras and Vera Vázquez-López, coordinated by myself, and under the supervision of Professors María José López-Couso and Belén Méndez-Naya.

The process of selection and preparation of the corpus implies several stages. First, the PDF and TXT files of the Law Reports and the Nominate Reports were downloaded from the *Justis* database. Although a balanced corpus is hard to achieve (Atkins, Clear & Ostler, 2007, p. 111), in an attempt to make the corpus as balanced and representative as possible, we downloaded four texts per decade. Sometimes only one report suffices to make up the 2,500 words for the file, but occasionally it is necessary to include two or more texts, especially when dealing with the Nominate Reports, which tend to be shorter than the Law Reports. We also attempt to neutralise the effects of sampling bias by selecting reports of cases judged in the various existing courts and written by different authors. The reports are then copied or typed into *WordPad*, saved as plain text and submitted to revision in order to correct typos or mistakes whenever necessary.

4.1. Especial typographical conventions

Both the Law Reports and the Nominate Reports make extensive use of especial typographical conventions. These are usually consistent in the Law Reports, which must follow a standard arrangement, whereas those in the Nominate Reports vary greatly depending on the reporter's preferences. In what follows, I will describe the main conventions usually employed in this type of documents together with illustrative examples extracted from the original texts.

4.1.1. *Italics*

The Law Reports, and especially the Nominate Reports, make ample use of italics in a manner which not always coincides with the way in which they are usually employed in Present-day English. Thus, for example, in some reports, it is common to find italicised proper names, especially when marking turn-taking in a trial (Sample 1).

Mr. *Arden* (for the plaintiff) stated the agreement, and insisted that, being a fair transaction at the time, it could not be affected by the subsequent event of *Capper's* death.

Mr. *Hollist* (on the same side) cited *Baldwin*, administratrix of *Elizabeth Stevens* against *Boulter*, before Lord *Bathurst*, 25th *November* 1776, to the following effect ; viz. *Elizabeth Stevens*, the plaintiff's testatrix, having received a sum of £150 was desirous of purchasing an annuity for her own life : upon application to Mr. *Baldwin* (the attorney), he calculated the value at about seven years' purchase (supposing her sixty-five years of age), but finding she was seventy, he calculated it at five years' purchase : these calculations were shewn to the defendant *Boulter*, a clergyman, and relation of the family, who granted Mrs. *Baldwin* an annuity [157] at ten years' purchase, secured by his and his son's bonds. Mrs. *Baldwin* died before any payment of the annuity, and Lord *Bathurst* refused, upon all the circumstances, to set aside the transaction.

Mr. *Attorney-General* [Lloyd Kenyon] (for the heirs at law). The court refused to carry the agreements into specific execution, in the *South-sea* year, 1 Wms. 570.—*Cud v. Rutter*. So in the case of a (1) house which was burnt down before the payment of the money.

Sample 1. Italics used for proper names

Occasionally, italics are also employed for names of months (Sample 2), lists (Sample 3), names of cases and statutes (Sample 4), abbreviations of currencies (Sample 5) and titles of books (Sample 6).

point. *Roots* contracted, 16th *July*, to sell to *Pope*, for an annuity : *Roots* lived to *November*, but never received any payment, though, by the terms of the contract, he first became due in *October* : the contract was not impeached, but set aside on that

Sample 2. Italics used for names of months

and *Ettrick* (ante, 54) in this court, in all which cases it is observable, 1st, That the imitations [463] were only to the heirs male, not saying of the body. 2^{dly}, Whoever

Sample 3. Italics used for lists

out of custody on filing common bail. The application was made on three grounds
1. That he had come from France as a witness in a cause of *Simond v. Hankey*, to be

Sample 4. Italics used for names of cases and statutes

The amount of the freight payable under the bills of lading was, in fact, £148 16s. 3d., the excess having been paid to the

Sample 5. Italics used for abbreviations of currencies

thing it, within the bounds of reasonable foreseeability, he has got away with it. "Evasion" is defined in the *Shorter Oxford English Dictionary*, 2nd ed. (1944), vol. 1, p. 641, as "The action of evading or escaping"

Sample 6. Italics used for titles of books

Italics are also normally used to mark words and expressions of foreign origin (Sample 7), as well as to provide emphasis (Sample 8).

ordered that the parties do go forthwith before the said Master on the said inquiry, and that the said Master do proceed *de die in diem* for that purpose, and for the

Sample 7. Italics used to mark foreign words and expressions

the course of the several discussions; They did not, however, consider the fictitious indorsement, under all circumstances, as an absolute *felonious forgery*, though, in point of morality, little short of that crime; to the exist-

Sample 8. Italics used for emphasis

In some eighteenth-century texts, we have also found cases of italicised reported speech, which was a common convention in earlier periods of the language (Barber, 1976, p. 19; see Sample 9).

Then he cited the case of *Baker and Wall, Trin. 8 W. [1696] Rot. 1484, in C. B.*, where a man made his will in this manner: *I give to my eldest heir male, and his heir males for ever, all my lands in such a place, and if there be a female, she to have £12 per ann. as long as she lives; and the testator having two sons, the eldest, which was dead in his*

Sample 9. Italics used for reported speech in eighteenth-century texts

4.1.2. Punctuation

In some of the Nominate Reports, the punctuation (as well as the dots of small case <i>) is not always clear. It is frequent, for example, to find a blank space where clearly there should be a full stop (see Sample 10).

Debt The declaration, after reciting, that before the passing of the Act of Parliament whereby the defendants were incorporated, i.e the Staffordshire Potteries Waterworks Act, 1847, to wit, on &c, the plaintiff was, and hitherto hath been and still is, seised of certain lauds, situate, to wit, at &c, in the county of Stafford, distinguished as &c, in a certain plan and book of reference which, prior to the application for the said Act of incorporation, to wit, on &c, was and still is deposited in the office of the clerk of the peace for the said county of Stafford, and which said

Sample 10. Unclear punctuation in a Nominate Report

This issue turns out complicated for the creation of the corpus, because, as compilers, we must decide to add punctuation appropriately, based on our knowledge of the English punctuation rules.

The reports also contain some especial punctuation conventions not found in other text types. Quotation marks, for example, often appear not only at the beginning and end of a quote, but sometimes also introducing every new line or paragraph of a quote (see Sample 11), a convention which seems to have been also common in books from the Baroque and Romantic periods (Bringhurst, 2002, p. 86).

L.J. said in the Court of Appeal³: “On the appellants’ sub-missions . . . from 1938 until 1949 the legislature, having set out to embody in English law the matters agreed by the convention, entirely failed to understand the language of the convention. If at a later date the full effect of the words had become apparent, [in the sense for which the appellants contend] I should have thought that . . . in section 41 . . . there would have been some express reference to the time limitation.”

Sample 11. Use of quotation marks in some reports

4.1.3. Footnotes

Footnotes are also extensively used in reports in order to refer to other cases related to the case reported. In some of the Nominate Reports, footnotes tend to be long, occasionally even longer than the report itself. However, in the Law Reports, footnotes are normally short and concise, and simply include the abbreviation of the case referred to (Sample 12).

the category of an industrial hereditament, and section 3 (2) (b), which refers back to the Act of 1901, is only dealing with cases where something which is not a factory has got in under the factory umbrella. Section 4 does not apply at all until there is an industrial hereditament.

³ [1931] 1 K.B. 385, 498; 46 T.L.R. 601.

⁴ [1931] A.C. 151, 174.

⁵ (1933) 4 D.R.A. 29.

⁶ (1934) 20 R. & I.T. 6.

⁷ (1941) 13 D.R.A. 64, 79.

⁸ [1949] 1 K.B. 462, 471; 65 T.L.R. 103; [1949] 1 All E.R. 21.

⁹ [1957] 2 Q.B. 305, 327; [1957]

2 W.L.R. 907; [1957] 1 All E.R. 700.

Sample 12. Footnotes

4.1.4. Other conventions

The arrangement of the old page numbers in the Nominate Reports is also an outstanding feature of this text type. Given that the Nominate Reports which are part of the corpus have been extracted from the English Reports reprint, in some of our Nominate Reports it is frequent to find the original page number between dashes breaking a word (Sample 13).

vements, for securing the payment of the monies so due, or to be due to them, his executors or adm-**[124]**-nistrators, within six months after the date of such con-
 veyance, and should also, on like notice, and at the like charge, by such conveyance

Sample 13. Old page number in Nominate Reports breaking a word in the English Reports reprint

In addition, both the Law Reports and the Nominate Reports make ample use of especial characters such as currency symbols (\$, £, €), fractions ($\frac{1}{4}$, $\frac{1}{2}$, $\frac{3}{4}$), daggers (†), as well as some foreign or older characters (æ, é, â, etc.).

4.2. Dealing with typographical conventions

Our original intention was to edit the corpus texts in accordance to the guidelines used for the compilation of *ARCHER* 3.2 (see López-Couso & Méndez-Naya, forthcoming). This implied saving the corpus files as plain text, and adding explanatory notes in caret brackets in order to mark the typographical conventions. For example, in the *ARCHER* corpus italicised strings such as the one in Sample 7 above, appear in the corpus text as shown in (1) below, with editorial notes marking the beginning and end of italics.

- (1) do proceed <italics in the original>de die in diem</italics in the original> for that purpose.

However, given the abundance of italics in the Law Reports, adding editorial notes of this kind would entail a time-consuming task. For this reason, in the

legal texts of the *ARCHER* corpus, all italics were removed, except for those used for emphasis, in foreign words and expressions and for reported speech (see Section 4.1.1 above).

Furthermore, in the *ARCHER* corpus all the footnotes (see Section 4.1.3) have been omitted because of the difficulty to code them as plain text and the irrelevance of their content from a linguistic point of view.

In *CHELAR*, however, we have decided to keep everything as it is in the original text, so as not to restrict the manifold purposes for which the corpus may be employed. Thus, for example, ESP teachers can make use of the corpus for the teaching of legal English, for which access to the original format of the texts is necessary in order to learn how to reproduce them. Moreover, the corpus may also turn out a valuable tool for law students interested in the content of law reports, who must necessarily have access to the information contained in the footnotes referring to related cases.² For this reason, we have recently decided that the best way to code the *CHELAR* corpus is by means of XML (Extensible Markup Language), a self-descriptive metalanguage specifically designed to transport and store data by encoding information in a series of tags. The advantage of this type of language is that it is readable in all corpus search engines, such as, for example, *WordSmith*, and that it permits to keep all typographical conventions, such as footnotes, coded in the various tags. Moreover, our intention is to include also the original PDF files as part of the corpus in order to allow for comparisons with the corpus files.

5. Report on the current state of play

As stated in Section 1 above, the *CHELAR* corpus is still in its initial stages. We have already downloaded all the corpus texts from the *Justis* database and we have also started the process of conversion of PDF files into TXT files. The file names, bibliographical information, and the number of words of all texts are

² I am greatly thankful to Dr. Javier Pérez-Guerra, University of Vigo, for making me aware of the endless possibilities of the *CHELAR* corpus and for his insightful comments and valuable help on alternative ways of coding information in the corpus files.

added in a header placed right at the beginning of the corpus file, which will facilitate the coding of information in XML later on. The arrangement of a typical header is illustrated in (2) below.

- (2) <1980till10.2,559 words. Court: House of Lords. Parties: Tilling v. Whiteman. Date: March 8, 9, 22 1978; January 31, March 8 1979. Judges: Stephenson, Shaw and Eveleigh L.JJ. Lord Wilberforce, Lord Diplock, Lord Salmon, Lord Fraser of Tullybelton and Lord Scarman. Source: The Law Reports, Appeal Cases ([1980] A.C. 1), compiled by Justis (www.justis.com). Original source: The Incorporated Council of Law Reporting for England and Wales. Date of publication: 1980>.

The first piece of information in the header (1980till10) refers to the file name, which is formed by three distinct parts in an arrangement similar to the file names of *ARCHER* 3.2. The first figure (1980) refers to the year of publication of the text. Then there is a four-letter string which makes reference to one of the parties involved (usually, though not always, the first party); finally, a number indicates the corpus sub-period to which the text belongs. In this case, the number 10 means that it is sub-period 1950-99.³

The next figure (2,559) corresponds to the number of words in the text, which we count by means of the function “Wordlist” with the search engine *WordSmith*. The remaining information in the header refers to the court, the parties and the date of the trial. We also include a reference to the original source, which in this case is Appeal Cases in Law Reports as obtained from *Justis*, together with the abbreviation for the case (here ([1980] A.C. 1)) and the ultimate source of the texts which in the case of Law Reports is always the *Incorporated Council of Law Reporting for England and Wales*. The last part of the header includes the date of publication, which does not necessarily coincide with the date of the trial. All the information included in the headers is copied and stored in an *Excel* database in order to have quick access to the bibliographical information of all texts.

³ The figures for the corpus sub-periods are as follows: 1950-99: 10; 1900-49: 9; 1850-99: 8; 1800-49: 7; 1750-99: 6; 1700-49: 5; 1650-99: 4; 1600-49: 3; 1550-99: 2; 1535-49: 1.

The process of transformation of PDF files into TXT files and the addition of headers has been already performed in some nineteenth- and twentieth-century texts. We expect to conclude the compilation of the material for these two centuries by the end of 2011, and then we will move backwards in time century by century until the oldest of the periods: the 15-year span from 1535 to 1549.

Appendix A

CASE LXII. 1 El. Dyer, 166, 324, 96, 314, 323. 11 H. 4, 52. 15 H. 7, 11. Perkins, 108, 480. 19 H. 8, 11. 33 H. 8. Br. Cases. Hob. 349, *Earl of Ormond's case*. 2 Leon 139. Moor. 515. 4 Leon. 166, 210. Dyer, 324, 325.

A. seised of diverse manors in fee, before the statute of 27 H. 8 of Uses, makes a feoffment in fee of those manors to B. to the use of his last will; and afterwards by indenture declares that his intent was that B. should pay his debts, and afterwards conveys those manors to A. and his wife in tail, the remainder to A. in fee; A. dies before the statute of uses. 27 H. 8. Resolved by all the judges of England, that no use rested in A. and his wife, until an estate-tail be made to them; and that this indenture does not amount to a declaration of the last will of A. (which can only take effect by his death) for the gift in tail to him and his wife, is to take effect in his lifetime; which cannot be, if it be taken for a will: and also the wife is a stranger to the land.

Upon a fine or feoffment or recovery; to guide the uses of them, the owner of the land declares, that the conusee, feoffee or recoveree shall make an estate of the land to D. for his life; at this day, and before the Statute of Uses, an use vests in D. accordingly. If the owner of the land limits the use to himself for life; the use of the fee vests in him: for there is no consideration to vest the use in any other person. But at this day, if a feoffment be made upon condition to give the land in tail to *F. or to infeoff the feoffor: the use is not changed: the use vests in the feoffee until the gift or feoffment is made. But if a fine, feoffment or recovery be originally to the use of a will, and afterwards the owner of the land declares by indenture that a stranger shall have the land, without a consideration; or that any of his blood shall have it; this indenture amounts to a will, and is revocable: but if originally there was not any declaration [218] to the use of a will, nor any discourse concerning it; but the use was limited to some stranger: although this be without any consideration, it cannot be revoked: for a gift vested and executed, cannot be avoided.

Where an use was raised before the Statute of Uses, if the owner declared that his feoffees should make an estate to A. in tail; this changed the use to A. 15 H. 7, 11, for this is a grant of the use in tail: but in the principal case, there is only an intent; and perhaps his debts are so great, that no estate shall ever be made; for it is limited after the payment of his debts: and in the principal case, although the use originally be to the use of the will of A. and so the fee of the use is in A. yet the said indenture, before the Statute of Uses, declaring, that the feoffee shall convey it to him and his wife in tail; he thereby declares the intent of the use aforesaid to be, that the feoffee shall have the use in fee to the intent aforesaid.

Appendix B

2 VERN, 370.

PARKER v. BLACKBOURNE

833

Case 332.—PARKER *versus* BLACKBOURNE. [1699.]

[1] Eq. Ca. Ab. 73, pl. 17, 351, pl. 5 ; Pre. Ch. 99, S. C.

Leaving a subpoena to appear and answer at the lodgings of a defendant, who was not to be found, not good service, though an order was obtained for that purpose, it appearing afterwards the defendant had left his lodgings above a year before the subpoena served.

One of the defendants, a necessary party, having been a lodger in *London*, and not now to be found ; the plaintiff obtained an order that service of process to appear and answer at his last place of abode, should be deemed good service, and left the same at the house where he so lodged and carried on the process to a *sequestration*, and then brought on the cause against the other defendant *Blackbourne*, who insisted that if the plaintiff ought to be relieved against him, he ought to have a decree over against the other defendant ; and therefore he was concerned to see the proceeding was regular, and insisted, that it being above *twelve* months since the other defendant [370] had left that lodging, the service was not good ; and the court was of that opinion.(1)

(1) Persons not entering appearance within the usual time after subpoena, and justly suspected to abscond to avoid process, court to fix a day for their appearance, to be inserted in the *Gazette*, and published in the parish church of the defendant, and posted in some public place, Stat. 25, Geo. 2d, Cap. 25, Sect. 1.

Appendix C

2 A.C.

A

[HOUSE OF LORDS]

SOUTH LAKELAND DISTRICT COUNCIL. . . . APPELLANTS

AND

SECRETARY OF STATE FOR THE ENVIRONMENT

AND ANOTHER RESPONDENTS

B

1991 Dec. 9, 10;
1992 Jan. 30

Lord Bridge of Harwich, Lord Templeman,
Lord Griffiths, Lord Ackner and
Lord Oliver of Aylmerton

C

Town Planning—Conservation area—Preservation and enhancement policy—Requirement that special attention be paid to preserving or enhancing character or appearance of conservation area—Proposed development neither making positive contribution to preservation or enhancement nor harming character or appearance—Whether “preserving”—Town and Country Planning Act 1971 (c. 78), s. 277(8) (as substituted by Town and Country Amenities Act 1974 (c. 32), s. 1(1))

D

The appellant council refused an application for planning permission to erect a new house within the curtilage of an existing house in a conservation area. An appeal against that refusal was allowed by an inspector appointed by the Secretary of State for the Environment. In his decision letter the inspector stated that the first main issue was the effect that the proposal would have on “the character and appearance of the . . . conservation area, having regard to the desirability of preserving or enhancing that character,” and went on to express

E

the view that the effect of the development on the character and appearance of that part of the conservation area would be small, that the curtilage of the existing house was large enough to accommodate a new house “without serious detriment to the setting of the existing building,” that provided that great care was exercised in the detailed design the new house could be accommodated “without damaging consequences to the appearance of the village” and that allowing the appeal would not make it difficult for the council to refuse applications elsewhere that “might have more damaging consequences” to the character of the conservation area. On an application by the council under section 245 of the Town and Country Planning Act 1971, the deputy judge quashed the inspector’s decision, holding that he had failed to discharge the duty imposed on him by section 277(8) of the Act of 1971, as substituted,¹ in that he had not properly addressed the question of whether the proposed development would preserve the character or appearance of the conservation area. The Court of Appeal allowed an appeal by the Secretary of State.

F

G

On appeal by the council:—
Held, dismissing the appeal, that, while the intention of section 277(8) of the Town and Country Planning Act 1971 was that a high priority was to be given to the preservation or enhancement of the character or appearance of a conservation area, that object could be achieved either by a positive

¹ Town and Country Planning Act 1971, s. 277(8), as substituted: see post, p. 146b.

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