



FROM THE BAG

Home Establishment of the
“National Reporter System.”
(river front.)

*1 Cornell Law Journal no. 1 (June 1894)
(between pages 98 and 99)*



WEST'S WORDS, HO!

LAW BOOKS BY THE MILLION,
PLUS A FEW

Ross E. Davies

THIS ESSAY INTRODUCES an interesting but nearly invisible artifact of American law: A promotional pamphlet titled *Law Books by the Million: An account of the largest law-book house in the world,— the home establishment of The National Reporter System and The American Digest System*. It was produced by the West Publishing Company in 1901 and is reprinted in its entirety below at pages 311 to 339 of this issue of the *Green Bag*.

Professor Robert Jarvis has quite rightly bemoaned the meager public information about John West, founder of the West Publishing Company and an important figure in American legal history.¹ A similar, albeit less severe, paucity of information plagues the West Publishing Company itself (now owned by Thomson Reuters). There isn't much out there about the company's early years, and what little there is can be strangely difficult to get hold of.² For ex-

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¹ Robert M. Jarvis, *John B. West: Founder of the West Publishing Company*, 50 AM. J. LEGAL HIST. 1, 19-22 (2010).

² Jarvis and a few other diligent scholars — notably Robert C. Berring and Thomas Woxland — have done an admirable job of unearthing and analyzing what can be found. See, e.g., *id.*; Robert C. Berring, *Full-Text Databases and Legal Research: Backing Into the Future*, 1 HIGH TECH. L.J. 27 (1986); Thomas A. Woxland, "Forever Associated with the Practice of Law": *The Early Years of the West Publishing Company*, 5 LEGAL REFERENCE SERVICES Q. 115 (1985).

ample, the biggest single source of West history – William Marvin’s 1969 book, *West Publishing Company: Origin, Growth, Leadership* – is out of print, rare, and not available on the internet. The same goes for *The Publications of West Publishing Company* and *The Romance of Law Reporting: Serving the Bench and Bar*, pamphlets published by West in 1901 and 1934 respectively.³ *Law Books by the Million* is nearly as hard to find,⁴ but at least it is in the public domain, and therefore susceptible to reproduction here. And it is worth the trouble and expense. *Law Books by the Million* provides a readable, richly illustrated narrative of the processes West used to create and disseminate its products in the early years (that is, the late 19th and early 20th centuries) of those simultaneously democratizing and costly, mutually reinforcing revolutions in American law: the expansion of the bar and the legal information explosion.⁵

Back then, not everyone was happy about the availability of millions of law books, or about publishers’ promotion of their numerous products. For example, in a March 1902 speech sponsored by the Law Association of Philadelphia, Pennsylvania Supreme Court Chief Justice James T. Mitchell rosily recalled the legal culture of his youth:

Law books then were not mere merchandise. The legal world had not yet surrendered to the manufacturer and the book-maker, nor would any publisher have dared, even if he could truthfully do so, to send out, as more than one does now, boasting circulars that he makes law books by the million. Books were written by men who had a call to write, and who sought in that way to pay their debt to their profession.⁶

³ WorldCat lists seven copies of Marvin’s book, three of the *Romance* pamphlet, and one of the *Publications* pamphlet.

⁴ WorldCat lists five copies, and there is a pdf on Google Books, at least for now.

⁵ See generally LAWRENCE M. FRIEDMAN, A HISTORY OF AMERICAN LAW chs. 11 & 12 (3d ed. 2005); LAWRENCE M. FRIEDMAN, AMERICAN LAW IN THE 20TH CENTURY ch. 2 (2002); Robert C. Berring, *Legal Research and Legal Concepts: Where Form Molds Substance*, 75 CAL. L. REV. 15 (1987).

⁶ James T. Mitchell, *Historical Address*, in ADDRESSES DELIVERED MARCH 13, 1902 AND PAPERS PREPARED OR REPUBLISHED TO COMMEMORATE THE CENTENNIAL

West's Words, Ho!

PUBLISHED WEEKLY,
By John B. West & Co.,
 60 W. Third Street, ST. PAUL, MINN.
 Terms \$3.00 per annum in Advance.

Rates of Advertising.

	1 w.	2 w.	3 w.	4 w.	3 m.	6 m.	1 y.
1 Sq.	.75	1.30	1.90	2.45	6.00	11.65	22.50
2 Sq.	1.50	2.60	3.60	4.50	11.80	22.50	34.25
3 Sq.	2.10	3.75	4.90	6.00	17.25	33.00	65.25
¼ C.	2.65	4.70	6.15	7.50	21.50	41.25	81.50
1 C.	5.00	9.00	11.80	14.45	42.40	81.80	162.25

1 sq. consists of one inch of the column.

We can Supply Seals of any Size or Design.



NOTARIAL SEALS, for any County, \$6.75.
 JOHN B. WEST & CO.

Advertisements in 1 The Syllabi, Oct. 21, 1876, at 1&7.

As we know with hindsight, though, in 1902 it was already too late, thank goodness, to return to a world in which only the right sorts of people were practicing law and writing law books that were generally inaccessible to the hoi polloi.⁷ Indeed, by the time Chief Justice Mitchell gave his speech, the revolution had been gathering steam for at least a generation.⁸ And for most of that time, the West Publishing Company had been in the business of marketing itself. In fact, much of even the first issue (in October 1876) of West's first regular publication, *The Syllabi*, consisted of advertising for a variety of products sold by West, from books to seals to advertising space.⁹

West's marketing program eventually expanded to include nifty, informative pamphlets. The first, shorter version of what would become *Law Books by the Million* was published in 1893 under the title *A Description of the Home Establishment of the National Reporter System, with some account of the business of the West Publishing Company*. It

CELEBRATION OF THE LAW ASSOCIATION OF PHILADELPHIA, PENNSYLVANIA, 1802-1902, at 13, 15 (1906; 1954 prtng.).

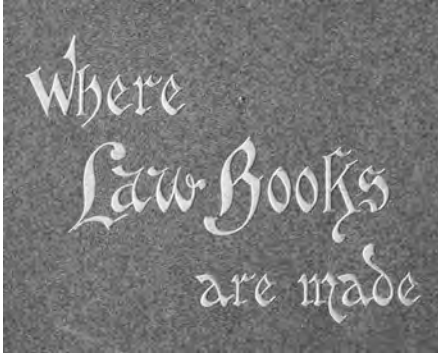
⁷ Compare, e.g., *id.*, with BARBARA BABCOCK, WOMAN LAWYER: THE TRIALS OF CLARA FOLTZ (2011).

⁸ See Berring, *Full-Text Databases*, 1 HIGH TECH. L.J. at 31 n.19 ("The literature bemoaning the volume of published cases is vast. A personal favorite is High, *What Shall Be Done with the Reports*, 16 AM. L. REV. 435 (1882).").

⁹ In a nod to its own legacy, West did republish the entire six-month run of *The Syllabi* in 1991.

received a friendly notice of its own in *Publisher's Weekly*,¹⁰ as well as the kind of compliment clumsy or lazy editors sometimes pay to work they like: the *Cornell Law Journal* published a large chunk of the pamphlet (without attribution) in its inaugural issue in June 1894.¹¹

By 1901, if not earlier, West was distributing its promotional materials with the savvy diversification of a modern direct marketer.



Law Books by the Million was available both as a free-standing booklet attractively bound in gray cardboard with the words "Where Law Books are made" embossed in silver on the front cover (that is the version held by the Library of Congress), and as an "inse[r]t in: North-

western reporter. Vol. 87, no. 8 (Sept. 28, 1901)" (that is the version in the law library at Washington & Lee University).¹²

Nor did West limit itself to advertising and pamphleteering. It was an early user of surveys sent to prospective costumers to build interest and patronage. See, for example, the postcard reproduced on the facing page (which must have been distributed in late 1905 or early 1906), inviting law students to vote for or against an "honor system" for exam administration. The results of the balloting were not, as promised, "published in the Spring issue of the *American Law School Review*," although a collection of comments by leading law teachers about honor codes was.¹³

¹⁰ See *Literary and Trade Notes*, PUBLISHERS' WEEKLY, Mar. 4, 1893, at 398.

¹¹ See *The Home Establishment of the National Reporter System*, 1 CORNELL L.J. 99 & facing page (June 1894). The *Cornell Law Journal* was a short-lived predecessor (the June 1894 issue was its only manifestation) of the more durable *Cornell Law Quarterly*. Ray Forrester, *Introduction to Volume 50 Cornell Law Quarterly*, 50 CORNELL L.Q. 1 (1964).

¹² See WorldCat listing.

¹³ See *Should the "Honor System" be Adopted in American Law Schools?*, 1 AM. L. SCHOOL REV. 369 (1906).

Place a
One-Cent
Stamp
Here

Post Card

Alfred F. Mason, Editor
 American Law School Review
 West Publishing Co.
 St. Paul, Minn.

A QUESTION FOR LAW STUDENTS

The Honor System

At the meeting of the American Bar Association held at Narragansett Pier in August, 1905, the President of the Association, Hon. Henry St. George Tucker, closed his address with a strong appeal for the adoption of the "Honor System" in conducting examinations in all American law schools. Mr. Tucker said:

"It is a system by which the young man at the very beginning of his legal education is brought to realize that in the crucial test to which he is subjected by examination for graduation he is not to be watched as a suspect or guarded as a felon, but he is to be allowed to work out his own salvation and his own examination with a simple reliance by those in authority, on his pledged honor, that it will be done without assistance from any source. If at the very threshold of his professional education and all through it, for three years, he realizes that a system of espionage is necessary to keep him from doing wrong, and that adopting the Spartan idea he may be guilty of any theft, if only he

omits the sin of detection, what must be the effect upon him when the system is withdrawn and he is ushered into the broad fields of his professional life, with no one then to watch him in his dealings with his client and with no eye upon him except the Eye that never slumbers nor sleeps?"

By some it is claimed that in schools where the "Honor System" has been adopted it has worked like a charm in creating a manly sentiment of honor and integrity and a corresponding scorn of chicanery and deception, not only during the period of examination, but in all the paths of college life, and while occasionally some are found to violate its rules, they are, under the system, summarily dealt with by the student body without the aid of, or even consultation with, the faculty, and are thereby compelled to leave the institution in disgrace, while their punishment and their example tend to deter others who may be weak.

There are always two sides to every question, and some law school professors do not believe that the substitution of student control of examinations for faculty control would prove a success.

What is the opinion of the law student himself on this question?

To Law Students

Students in all law schools are urged to express their opinions in the form of a vote on the following question:

Would the "Honor System" in connection with conducting examinations prove successful in your school, or, if it is now in effect, is it a success?

Yes		No	
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Signed by _____

Name of School _____

The results of the vote will be published in the Spring issue of the American Law School Review.

(Please detach and mail this Card)



Furthermore, West plainly discovered long ago a fundamental marketing truth that it continues to act on today: customers like knickknacks. In days of yore, the company passed out goodies ranging from bridge playing card sets packaged in miniature volumes of the *United States Code Annotated*, to paperweights crafted to look like medallions with Chief Justice John Marshall's profile on one side and the West Key Number System key on the other. (Was it some West employee or contractor with a sense of humor who selected Redislip® brand playing cards to go in the mini-USCAs?)



West's Words, Ho!

Roughly a century later, environmentally friendly biodegradable “Westlaw Next” travel mugs are the promotional treasure du jour – as legions of law students, practitioners, public servants, professors, and members of other West constituencies know from recent personal experience.¹⁴ There is probably a book’s worth of history, entertainment, and wisdom in a full collection of 100-plus years’ worth of West Publishing Company tchotchkes.

And despite its acquisition by a larger corporate entity in 1996, West’s promotional flare has persisted, obviously undimmed. Consider, for example, the West-ern style announcement in January 2000 on its Westlaw website of the on-line availability of the laws of the United Kingdom:

This royal throne of kings, this sceptered isle,
This earth of majesty, this seat of Mars,
This other Eden, demi-paradise,
This realm of laws computerize(-d)

Well, we can’t all be Shakespeare. But now we can all access the laws of the United Kingdom on Westlaw. Access the United Kingdom Law Reports database UKL-RPTS for official transcripts of judgments from United Kingdom courts.¹⁵

¹⁴ See, e.g., Greg McNeal, *Westlaw Next and the Magical Westlaw Mug*, THE FACULTY LOUNGE, www.thefacultylounge.org/2010/09/westlaw-next-and-the-magical-westlaw-mug.html (Sept. 2, 2010).

¹⁵ Compare *Welcome Window*, www.westlaw.com (vis. Jan. 10, 2000), with WILLIAM SHAKESPEARE, *RICHARD II*, act 2, scene 1 (1595). As all good lawyers know, little new work in the law is ever entirely new, and so it may be that West was inspired by the earlier work of an old competitor, the Bancroft Whitney Company. Here is the story, as told by Professor Richard Sloane:

An Oakland, California lawyer wrote to the Bancroft Whitney Company on receipt of their new California Code for Civil Procedure:

“Press on the work, in evolution,
Till th’ annotated Constitution
Stands forth beside the four fine Codes –
And then I’ll write you no more odes.”

– Wm. R. Davis.

Bancroft Whitney was touched and assigned its resident poet to reply:

Or picture, if you will, what happens when someone visits the West corporate website (west.thomson.com) today, and searches the site for “stress toys.” Click on the links, it’s fun.¹⁶

From *The Syllabi* to stress toys, with *Law Books by the Million* and its ilk somewhere in between, West’s long program of self-promotion symbolizes and, to some extent explains, the evolution of the law-book publishing business and its relationship to the bar.

The same up-to-the-minute website that features the Stress Toys Videos also boasts, in an echo of *Law Books by the Million* that is also a reminder of what matters most to a company that has been producing law books for more than 130 years, “West annually publishes more than 66 million legal books and 500 CD libraries.”¹⁷



“We just received your timely ode,
As you received the Pom’roy Code
At first we thought it rather rash,
Until we saw your check for cash.
The Civil Code will soon appear,
And then the Penal ends this year,
Except with Notes the Constitution
Will end just now the evolution.
But later on when laws are fixed
In places that are not so mixed,
The Code Political, without flaws,
Completes the work with General Laws.”

69 LAW LIBR. J. 576, 586 (1976) (citing 35 AM. L. REV. 902 (1901)).

¹⁶ *Westlaw Stress Toy Videos*, west.thomson.com/westlaw/advantage/stress-toy/demo1.aspx (*The Original*; vis. May 18, 2011); west.thomson.com/westlaw/advantage/stress-toy/demo2.aspx (*The Sequel*; vis. May 18, 2011).

¹⁷ *About Us*, west.thomson.com/about/default.aspx (vis. May 18, 2011).