The Digests of Pennsylvania*

Joel Fishman**

Published case law in Pennsylvania dates from the colonial period and constitutes one of the largest collections of court decisions in American law. Digests have long stood as an important tool for those conducting research in this material, with the first appearing not long after the cases themselves. Mr. Fishman helps to document the history of Pennsylvania digests by reviewing their publication, beginning with the early nineteenth century to the present. A bibliography is appended.

Although they are just one method for finding court cases, digests are particularly important tools in legal research since they bring together all case law, either by subject or jurisdiction, under a subject classification scheme.1 With publication of cases dating back to the colonial period, the case law for Pennsylvania, at both the appellate and trial levels, constitutes one of the largest collections in American law. Appellate case law consists of over twelve hundred volumes for the three appellate courts (supreme, superior, and commonwealth courts) plus another one thousand volumes of county court cases.2 Given the difficulty of finding cases by subject in a collection of this magnitude, digests covering this material are more than just useful, they are essential tools for someone researching Pennsylvania law. This article provides a history of the publication of Pennsylvania case law digests.

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** Law Librarian, Allegheny County Law Library, Pittsburgh, Pennsylvania. I wish to thank Frank Houdek, editor of Law Library Journal, for his editorial assistance in revising some of the biographical footnotes that appear in both this and my previous article on the publication of Pennsylvania Supreme Court decisions, Fishman, Reports, supra note *.


2. The early nominative reports for the supreme court consist of sixty volumes; the Miscellaneous State Reports (including supreme court cases that were omitted from the early nominative reports) cover twelve volumes. The still growing Pennsylvania State Reports set has more than 550 volumes. Pennsylvania Superior Court Reports and Pennsylvania Commonwealth Court Reports, which ceased publication in 1997 and 1995 respectively, had over 600 volumes together. Reference to the regional reporter, Atlantic Reporter 2d series, is now required for material formerly published in these sets.
Nineteenth Century Digests

Wharton

The publication of Pennsylvania digests began in the early part of the nineteenth century. Thomas I. Wharton, the author of Wharton's Reports, one of the early nominative reports covering the Pennsylvania Supreme Court, compiled the earliest one, A Digest of Cases Adjudged in the Circuit Court of the United States for the Third Circuit, and in the Courts of Pennsylvania (1822). The popularity of Wharton's work was evidenced by the publication of six editions by 1853.

In his advertisement to the first edition, Wharton stated:

The number of volumes containing reports of cases decided in Pennsylvania, has increased so considerably of late years, that a work which should contain a systematic compilation of the adjudged points, seemed to the author to prove a convenient manual for the profession, and a useful addition to the means possessed by the public in general of becoming acquainted with the state of the common law, and with the exposition of legislative acts.

The author delayed the publication of the work to include the manuscript reports of Judge Bushrod Washington of the third circuit as well as the "valuable reports of Sergeant and Rawle." Wharton gave each case a careful consideration, and to state the points decided with as much fullness as is consistent with the nature of an abridgment. In no instance has he relied upon the marginal abstract or index of the reporter. The principle of each case is frequently given in the very words of the court, and generally in language nearly similar, and with all the restrictions that seemed to have designed to accompany it.

3. Thomas Isaac Wharton, son of Isaac Wharton and Margaret Rawle, nephew of William Rawle, was born May 17, 1791, and died April 7, 1856. He graduated from the University of Pennsylvania, studied law with William Rawle, and was admitted to the Philadelphia bar on October 19, 1812. He served as a Captain of Infantry in the War of 1812. He was a charter member of the Historical Society of Pennsylvania, councillor from 1825 to 1828, and 1836 through 1837, corresponding secretary from 1828 to 1836, and vice president from 1837 to 1841. He was one of the codifiers of the state laws in the 1830s. He served the Law Association of Philadelphia as treasurer from 1827 to 1841 and vice chancellor from 1854 to 1856, and as a trustee of the University of Pennsylvania from 1837 to 1856. In addition to his Digest, he authored Reports of Cases Adjudged in the Supreme Court of Pennsylvania in the Eastern District (published in five volumes between 1835 and 1841), and A Memoir of William Rawle, LL.D. (1840). 20 Dictionary of American Biography 34 (1937); 1 Hampton L. Carson, A History of the Historical Society of Pennsylvania 60, 66-67, 147 (1940); Obituaries, 14 Legal Intelligence 128 (Aug. 18, 1856); John H. Martin, The Bench and Bar of Philadelphia 220, 323 (Philadelphia, Rees Welsh, 1883).

4. Editions were published in 1822, 1829, 1836, 1843, 1850, and 1853.


8. Wharton, supra note 5, at v–vi.
He also included dicta that appeared important. Although Wharton admitted to having some problem in placing cases under various topics, he did include a full table of contents as well as references.

Wharton published his second edition in 1829 under a different title: *A Digest of the Reported Cases Adjudged in the Several Courts Held in Pennsylvania; Together with Some Manuscript Cases*. The title change may have been because of the emphasis upon the increasing number of Pennsylvania cases that had been published by 1829, including additional volumes of *Sergeant & Rawle’s Reports* and the increased number of cases cited in the second edition of Ingraham’s treatise on insolvency laws.9 Wharton’s second edition had some alterations in the subjects and revision of some points of law. There were 140 topics covered in 782 pages.

The third edition brought the cases to 1835 in two volumes.

The fourth edition contained in its first volume a consolidated digest of all the cases in the second edition; the second volume included cases from 1829 to volume four of *Watts and Sergeant’s Reports* (December 1842). He used the points of law by the reporters from volumes three and four because a fire destroyed “the sheets having been received while this Digest was passing through the press.”10 The introduction listed twenty-seven different sets of reports used for this edition.11 The editors of the *Pennsylvania Law Journal* saw the sheets in proof and thought the work “will prove highly convenient to the Profession, and we should be happy if it would operate, not merely as a guide to the reports, but also in regard to no small portion of them, as a substitute.”12

Wharton compiled the first four editions of the work. His son, Francis,13

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11. **Id. at [vii]-viii.**

12. **Book Review, I Pa. L. J. 381, 381 (1842).**

13. Francis Wharton, son of Thomas Isaac Wharton, was born March 7, 1820, and died February 21, 1889. He was chiefly known as a lawyer, clergyman, teacher, government official, author, and editor. He graduated from Yale in 1839, studied in his father’s office, and was admitted to the Philadelphia bar on December 9, 1842. He became a lay preacher in 1854, and then a professor of history and literature at Kenyon College in 1856. He was ordained a deacon on April 11, 1862, and then a priest in May 1862. He was rector of St. Paul’s Episcopal Church in Brookline, Massachusetts from 1862 to 1871 and then a professor at the Episcopal Theological Seminary, Cambridge, Massachusetts, from 1871 to 1881. He became chief of the legal division of the Department of State under the Cleveland administration in April 1883. Throughout his career, even as a clergyman, he continued to write legal treatises. He authored *A Treatise on the Criminal Law of the United States* (1846); it went through nine editions during his lifetime and is now in the 15th edition. Other works included *Precedents of Indictments and Pleas* (1849), *State Trials of the United States During the Administrations of Washington and Adams* (1849), *A Treatise on the Law of Homicide in the United States* (1855), *Treatise on Medical Jurisprudence* (with
the noted legal treatise writer, continued his father's work by publishing a fifth
edition in 1850 and a sixth in 1853. The 1850 edition comprised cases from
volumes four through nine of Watts and Sergeant's Reports, the first ten
volumes of the Pennsylvania State Reports, cases cited in the Pennsylvania
Law Journal, two volumes of the American Law Journal (N.S.), third circuit
cases found in the first volume of Wallace Jr.'s Reports (published in 1849),
and eastern district cases found in Gilpin's Reports. The author added some
new topics, further subdivisions of the older topics, an extension of the index,
and the doubling of the table of cases.¹⁴

The sixth edition of 1853 included cases down to 1852 as reported from
volumes 11–16 of the Pennsylvania State Reports (1 and 2 of Pringle and 1–4
of Harris), Brightly's Nisi Prius Reports (1851), Parson's Select Cases in
Equity and the Law (1851), volume 1 of Wallace's Cases . . . for the Third
Circuit, volumes 7–9 of the Legal Intelligencer, volumes 9–11 of the Pennsyl-
vania Law Journal, and volumes 2–4 of the American Law Journal. In all, there
were forty-two different titles of cases cited in the book.¹⁵

Henry Wharton,¹⁶ the younger brother of Francis and a lawyer himself,
published a Supplement to the sixth edition in 1865. Five members of the
Philadelphia bar were acknowledged as assisting Wharton in the compilation. This
volume covered volumes 17–40 of the Pennsylvania State Reports (5–12 of Harris,
1–12 of Casey, 1–4 of Wright); 1–2 of Grant's Cases; 1–3 of Philadelphia
Reports, the Legal Intelligencer, and American Law Register from 1858 to 1862;
2 and 3 of Wallace Jr. for the third circuit; and some U. S. Supreme Court cases
affecting Pennsylvania law.¹⁷

Moreton Still, (1855), Treatise on the Conflicts of Law (1872), A Treatise on the Law of Negligence
(1874), A Commentary on the Law of Evidence in Civil Issues (1877), Philosophy of Criminal
Law (1880), A Commentary on the Law of Contracts (1882), A Digest of the International Law
of the United States (1886), and The Revolutionary Diplomatic Correspondence of the United


15. Thomas I. Wharton, A Digest of the Reported Cases Adjudged in the Several Courts Held

16. Henry Wharton, the second son of Thomas Isaac Wharton, was born in 1827, and died November
11, 1880. He was admitted to the Philadelphia bar on June 6, 1849. He edited several English
publications in American editions published by T. & J. Johnson Company: Cases Argued and
Determined in the Court of Common Pleas and in the Exchequer Chamber . . . from 1856 . . . to
1865 (1855); John Adams, The Doctrine of Equity (1855); The Exchequer Reports (1871–1881);
James Hill, A Practical Treatise on the Law Relating to Trustees (3d. Am. ed., 1857); and Reports
of Cases Argued and Determined in English Courts of Common Law (1852–1872). Hampton
Carson noted that Henry "was the distinguished successor of his father as an expert in
the subtleties of real estate and possessed an agreeable wit. . . ." 1 Carson, supra note 3, at 68 n.4.
Martin, supra note 3, at 323.

Brightly

In 1877, Frederick Charles Brightly\(^\text{18}\) published *A Digest of the Decisions of the Courts of the State of Pennsylvania, From 1754 to 1877.*\(^\text{19}\) He called *Wharton's Digest* "a most excellent abridgment of the law [when first prepared], [b]ut the arrangement has become obsolete, and in consequence of the modern editions of many different hands, it is now neither a Digest, an Abridgment, nor an Index, but a combination of them all."\(^\text{20}\) In compiling the new digest, Brightly stated that he endeavored

in preparing this work, to give the very point decided by the court, in the fewest possible words; he has in no instance, relied on the head-notes of the reporter; indeed, in the modern reports, it is almost impossible to extract from the syllabus what was the point decided.\(^\text{21}\)

The headnotes, he found, were more an abridgment of the opinion of the judge rather than a syllabus, and they contained dicta and illustrations not pertinent to a proper headnote. He therefore rewrote many of the syllabi.\(^\text{22}\) He also commented on the quality of the various sets of supreme court reports as well as the county reports and other cases found in his publication.\(^\text{23}\) The number of topics increased from 140 to 245. The large volume consisted of 2,398 double columns or 1,199 pages.

Frank F. Brightly\(^\text{24}\) continued the work of his father with two additional volumes. Brightly combined a previously published five-year supplement

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18. Frederick Charles Brightly was born in England in 1812, came to the United States in 1821, was admitted to the Philadelphia bar on February 14, 1839, and, after a distinguished career as a practitioner and author, died in 1888. He was the editor of the *Pardon's Digest,* (8th–11th eds., 1855–1885); *A Practical Treatise on the Law of Costs in Pennsylvania* (1847); *Brightly's Reports of Cases Decided by the Judges of the Supreme Court of Pennsylvania,* in the Court of Nisi Prius, at Philadelphia (1851); *A Treatise on the Equitable Jurisdiction of the Courts of Pennsylvania* (1855). He was "considered one of the best informed men of his day upon intricate questions of law." His library consisted of over 5,000 volumes. 3 *Dictionary of American Biography* 347 (1937); *Martin, supra* note 3, at 251.


20. 1 Id. at iii.

21. Id.

22. Id. at iii–iv.

23. Id. at iv–vi.

24. Frank F. Brightly, son of Frederick C. Brightly, was born in 1845 and died February 22, 1920. He studied with his father, was admitted to the Philadelphia bar on February 11, 1865, and then graduated with a law degree from the University of Pennsylvania in 1866. His followed in his father's footsteps by continuing many of the publications begun by him. He authored supplements to *Brightly's Pardon's Digest* in 1887 and 1890, *Brightly's New York Digest* (1893–1899), the 10th edition of *Binns' Justice* (1893), *Brightly's Pardon's Digest* (12th ed. 1895), *Digest of Laws and Ordinances of Philadelphia* (1887), and *The Old Bar* (1911). 4 *Who Was Who in America,* 1961–1968, 118 (1968); 26 Pa. B. Ass'n Rep. 77 (1920); 2 *Prominent and Progressive Pennsylvanians of the Nineteenth Century* 67–69 (1898); *Surrency, supra* note 1, at 116–17.
prepared by his father along with his own supplementation to create a new volume 3 covering the years 1877–1889. Recognizing some deficiencies in the older set, Brightly duplicated the points decided under several titles, added a large number of subtitles, increased the number of cross-references, enlarged the index, and added a chronological list of statutes referred to and a case name table incorporating both plaintiff and defendant names, while expanding the set almost 1,100 pages.

In 1895, he produced a second volume covering March 1891 to November 1, 1895. Brightly dedicated this volume to Craig Biddle, judge of the Philadelphia Court of Common Pleas No. 1, "whose honorable and distinguished career upon the common pleas bench for the past twenty years has won for him the respect and admiration of the bar and the people..." Coverage included cases published down to volume 170, page 240 of Pennsylvania State Reports, using similar topics as the previous volume, "with such changes, however, as the author deemed would make it more useful and handy as a ready reference, and yet would not render its use in connection with the use of the other volumes confusing." He increased the number of cross-references, duplicated digests under several titles, further subdivided main titles while adding many new subtitles, enlarged the index to the four volumes, and added a table of statutes cross-referencing to the statutes in Brightly's Purdon's Digest (12th ed. 1895). The volume began with tables of overruled and reversed cases, and affirmed cases, followed by cases in volume 3 since reported in the regular State Reports and lower court cases drawn from the Weekly Notes of Cases. The digest grew another 1,911 pages with the four volumes now totalling 4,770 double-columned pages!

25. Frank F. Brightly, A Digest of Decisions of the Courts of the State of Pennsylvania, From 1877 to 1889. Embracing Not Only the Cases Contained in the Regular Series of Reports, But Also Those in the Legal Periodicals of the Day, With Many Manuscript Cases; Together With a Table of Overruled and Reversed Cases, and a List of Cases Digested, Arranged Alphabetically With the Names of Both Plaintiffs and Defendants, Brought Down to the Latest Date. With a General Index to the Whole Work and a Chronological Table of Statutes Referred to (Philadelphia, George T. Bisel Co., 1890).

26. Frank F. Brightly, A Digest of Decisions of the Courts of the State of Pennsylvania, Brought Down to November 1895. And Including Not Only the Cases Contained in the Regular Series of Reports, But Also Those in the Legal Reporters and Periodicals of the Day; With Many Manuscript Cases; Together With a Table of Overruled and Reversed and Affirmed Cases, and a List of Cases Digested, Arranged Alphabetically With the Names of Both Plaintiffs and Defendants, Brought Down to the Latest Date, With a General Index to the Whole Work and a Chronological Table of Statutes Referred to (Philadelphia, George T. Bisel Company, 1896).

27. Id. at [iii].
28. Id. at v.
29. The Weekly Notes of Cases was a forty-four volume set covering the Pennsylvania supreme and superior courts, Philadelphia county courts, the federal U. S. circuit court, and the District Court for the Eastern District from 1874 to 1899.
Ruby R. Vale\textsuperscript{30} compiled the fifth volume of *Brightly's Digest*, which included cases through August 1, 1903.\textsuperscript{31} The author dedicated the work to Associate Justice William Potter of the Supreme Court of Pennsylvania. The interval since publication of the last digest had witnessed the establishment of a new appellate court (the superior court was established in 1895\textsuperscript{32}), and the reporting of approximately 21,000 cases had been decided and reported in the appellate and lower courts. Vale observed that "[a] digest of these cases would seem not only opportune, but imperatively necessary."\textsuperscript{33} Cases covered from November 1, 1895, to August 1, 1903. Although he followed the previous arrangement, Vale incorporated more subdivisions and replaced topics with "entirely new, and it is hoped, more comprehensive and suggestive outlines have been substituted."\textsuperscript{34} Cross-references were increased and incorporated into the heads and subheads of the different outlines. The index included references to the previous four volumes. All state, federal, and British statutes were included in the tables. He also followed the plan of the elder Brightly in digesting cases: "[t]he primary aim has been given to the point of law decided in as few words as is consistent with accuracy, facts being stated only when deemed necessary to explain the law."\textsuperscript{35}

**Other Late-Nineteenth-Century Digests**

In the late nineteenth century, lesser-known, short-lived digests and digests covering specific courts were also published. Arthur Baker\textsuperscript{36} of the Lackawanna


\textsuperscript{32} Act of June 24, 1895, No. 128, 1895 Pa. Laws 212.

\textsuperscript{33} Vale, supra note 31, at v.

\textsuperscript{34} Id.

\textsuperscript{35} Id.

\textsuperscript{36} Arthur Latham Baker was born May 7, 1853, and died in 1934. He graduated with an engineering degree from the Rensselear Polytechnic Institute in 1873, studied at the University of Gottingen in 1886, and received an Honorary Ph.D. degree from Lafayette College in 1889. He was a lawyer in Scranton from 1880 to 1889, then he pursued a career in teaching mathematics at Stevens High School from 1889 to 1891, the University of Rochester from 1891 to 1901, and Manual Training High School in Brooklyn from 1901 to 1917. He authored a number of mathematical books including *Graphic Algebra* (1892), *Elements of Solid Geometry* (1893), *Conic Sections* (1893), *Art of Geometry* (1905), *Thick-lens Optics* (1912). *1 Who Was Who in America* 1897–1942, at 46 (1942).
bar published an *Annual Digest of the Decisions of the Courts of the State of Pennsylvania*. Volume 1 covered 1883–1884 and volume 2 covered 1885. The author arranged the titles and subtitles into articles, sections, and subsections in order to relieve the need to categorize materials in later years, "for the subjects and titles are so minutely divided and subdivided that a principle, once found in any volume, can be found in all the others by simply turning to the same article, section and subsection."37 By publishing annually a digest of all of the cases of the previous year,

[t]he endeavor of the author has been to give such syllabi of, extracts from, and references to the cases, as will put the lawyer promptly and surely on the track of any principle decided during the year, whether it be the actual point decided, or even sometimes obiter dicta only.38

His second volume, covering 1885, indexed both volumes. General rules were arranged by subjects of general application (e.g., Evidence, Costs) and then under specific subjects such as Replevin, Divorce, Statutes of Limitations, etc.39

A review of volume 1 praised the author for "a very remarkable talent for analysis and digesting. The heads under which the decisions are arranged, and the system of cross reference adopted, makes us regret that he has not given the broader field of a general digest his attention. [covering fifteen volumes of cases, the volume] is the most thorough effort in the line of its usefulness that has lately come to our attention. We hope that it may be so useful to the profession that it will remunerate the projector and author for the extraordinary amount of labor visible in its pages. It should be in the library of every lawyer in active practice."40 Despite such praise, Baker’s success did not last long. Within five years, he gave up the law to pursue a career as a mathematician.

Baker also published a weekly digest, *Baker’s Weekly Digest and Common Pleas Reporter* during 1885 for a three-dollar subscription price. Legal advertising and professional services were listed (professional cards cost two dollars for a one-year subscription). Cases were listed by topic, identified by a dagger if they were a county court case, and summarized by a short sentence squib. The author sought to present cases within two weeks of their publication.

Four digests covered the reports of the Pennsylvania Supreme Court. First, Robert E. Wright,41 a reporter of volumes 37–50 of the *State Reports*, published

38. Id.
40. Book Review, 14 Luzerne Legal Reg. 72 (1885).
41. Robert Emmet Wright was born in Carlisle, Pennsylvania, on November 30, 1810, and died January 10, 1886. He studied law and was admitted to the bar. He was appointed district attorney of Allentown by Attorney-General J. K. Kane. He served as postmaster of Allentown, school director for twenty-three years, burgess of Allentown for two terms, and was appointed by
a companion index entitled \textit{An Alphabetical and Analytical Index to the Pennsylvania State Reports} (1866).\textsuperscript{42} Wright thought "[t]he object and practical utility sought to be attained by works of this kind are so meritorious and so obvious that no apology for this publication is deemed necessary. [I have tried to provide a] copious and methodical index to every point decided or discussed in that series of the Pennsylvania State Reports which I had the honor to prepare for publication."\textsuperscript{43} He added the rules of the supreme court in banc because they had not been published since 1852.\textsuperscript{44} Finally, he hoped that his successors would also compile similar indexes for their volumes.

He continued to expand his volume by compiling a similar work, \textit{Alphabetical and Analytical Index to the Pennsylvania Supreme Court Reports}, in 1874 (through volume 70) and a second edition in 1884 (through volume 101).\textsuperscript{45} The review of the second edition was positive. He had added the name of the case to the citation, increased and rearranged the divisions and subdivisions, and selected new topics. A reviewer saw the work "not as a digest, but a classification of the cases under the proper heads of a subject matter and their minute subdivisions, thus furnishing a ready key to the examination of the decisions on any given point. The practical value of such a plan depends upon the care and thoroughness with which the subdivisions are made and the cases collected, and from our examination of the work in question it would appear that it is well done. We have no hesitation in saying that no labor-saving work of recent date is equal to this book, and we advise our readers to purchase it at once."\textsuperscript{46}

F. Carroll Brewster\textsuperscript{47} a judge of the Philadelphia court of common pleas and well-known author, published his \textit{A Digest of Cases Decided by the Governor Packer as state reporter. He authored \textit{The Pennsylvania Justice} \ldots (1839; 2d ed. 1845); Samuel Roberts' \textit{Digest of Pennsylvania Statutes} (2d ed. 1847); and several editions of \textit{Graydon's Forms of Conveyancing}, \ldots \textit{2 Historic Homes and Institutions and Genealogical and Personal Memoirs of the Lehigh Valley Pennsylvania 220-21} (John W. Jordan et al. eds., 1905).

\textbf{42.} Robert E. Wright, \textit{An Alphabetical and Analytical Index to the Pennsylvania State Reports, From May Term 1860, to November Term, 1865, as Contained in Wright's Reports, Volumes I to Xiv} (Philadelphia, Kay & Brother, 1866).

\textbf{43.} \textit{Id.} at iii.

\textbf{44.} \textit{Id.} at iv. He stated that the rules could be found in 6 Harris, but the only rules that I have been able to find are a short list of court rules in 16 Pa. (4 Harris) 7-8 (1856).

\textbf{45.} Robert E. Wright, \textit{An Alphabetical and Analytical Index to the Pennsylvania Supreme Court Reports, 1st Dallas to 20th P. F. Smith, Inclusive} (Philadelphia, Rees Welsh, 1874); Robert E. Wright, \textit{An Alphabetical and Analytical Index to the Pennsylvania Supreme Court Reports, 1st Dallas to 5th Outerbridge} (Philadelphia, Rees Welsh, 1884-1885).


\textbf{47.} F. Carroll Brewster was born May 15, 1825, and died December 30, 1898. He graduated from the University of Pennsylvania in 1841, studied law in the office of his father, and was admitted to the Philadelphia bar on September 20, 1844 (Martin lists it as September 7, 1844). He served as Philadelphia city solicitor in 1863, judge of the court of common pleas from 1866 to 1867, attorney-general of Pennsylvania from 1869 to 1872, president of the University of Pennsylvania alumni society in 1866, solicitor for the Philadelphia city trusts in 1869 until his death, and president of the Lawyers Club from 1892 until his death. He compiled \textit{Reports of Equity, Election and Other Important Cases, Argued and Determined Principally in the Courts of the County of Philadelphia} (1869, 1870) and \textit{Reports of Cases Decided in the Supreme Court, And Other Courts
The digest covered cases from volumes 39 to 55 of the State Reports. Under each topic he presented a short squib of each case.

Charles Bannard of the Philadelphia bar covered the supreme court in his three-volume set entitled Pennsylvania Supreme Court Digest. It covered the years 1886–1888. Cases were abstracted, and the author provided headnote references, docket number and term of court, lower court from which the case derived, and the names of the attorneys for both sides. The index topics in each volume had a one-sentence or phrase summary of the point of law and case reference. A critical reviewer of the 1886 volume called the work “an undigested array (except as shown in the Index) of abstracts of statement and opinion . . .” He felt too many cases had been digested in too few pages. However, the abstracts were “sufficiently succinct, and in most instances, when carefully read, are clear at the first reading, [and Bannard] has perceived the essential things and . . . stated them logically and precisely.”

Sylvester Sadler published a one-volume Digest of Cases in 1904 after completing the publication of his Cases in the Supreme Court of Pennsylvania Being Those Cases Not Designated To Be Reported by The State Reporter in the same year.
Albert Weimer\textsuperscript{55} compiled \textit{A Digest of Pennsylvania County Court Reports}\textsuperscript{56} in 1895 for the fifteen volumes of the \textit{Pennsylvania County Court Reports}. Under each topic and subtopic, each case is numbered and a one-sentence point of law summary is provided in a fashion similar to today’s digests.

\section*{Twentieth-Century Digests}

\textit{Pepper and Lewis}

From 1898 to 1906, George Wharton Pepper,\textsuperscript{57} the famous lawyer, jurist, and senator of the state, and William Draper Lewis,\textsuperscript{58} a University of Pennsylvania law professor, published their twenty-three-volume set, \textit{A Digest of Decisions and Encyclopedia of Pennsylvania Law, 1754–1898}.\textsuperscript{59} The Digest included both statutory law and digests of court cases. In the preface\textsuperscript{60} to the last volume published in 1906, the editors stated that they had not realized the “magnitude” of the work involved. Practicing lawyers who had promised to assist in preparing titles failed to hand in their materials and when they did, many still needed reworking so as to create a rewriting of the title. They thanked their editorial staff of six lawyers, another twelve lawyers who assisted at various

\begin{itemize}
\item \textsuperscript{55} Albert B. Weimer was born January 5, 1857, and died November 13, 1938. He graduated from Harvard with an A.B. in 1880, and was admitted to the Philadelphia bar on November 4, 1882. He was the assistant state reporter for volumes 16 through 70 and the state reporter for volumes 71 through 106 of the \textit{Pennsylvania Superior Court Reports}. He authored \textit{The Law of Private Corporations in Pennsylvania} (1898), \textit{The Law of Railroads in Pennsylvania} . . . (1893–1905), and \textit{The Law Relating to the Mining of Coal in Pennsylvania} (1891). \textit{I WHO WAS WHO IN AMERICA 1317} (1942); \textit{Martin, supra} note 3, at 322.
\item \textsuperscript{57} George Wharton Pepper (1867–1961) graduated from the University of Pennsylvania in 1887 and received an LL.B. from the University of Pennsylvania Law School in 1889. He was a teaching fellow at the University of Pennsylvania Law School from 1889 to 1893 and Biddle Professor of Law from 1893 to 1910. Chair of the Pennsylvania Council of National Defense during World War I, he was a leading opponent of the Versailles Treaty and the League of Nations. He served as U.S. Senator from 1922 to 1926. He represented defendants in the case of \textit{U.S. v. Butler}, 297 U.S. 1 (1936), which resulted in the invalidation of the Agricultural Adjustment Act. \textit{Dictionary of American Biography Supplement 7} (1961–1965), at 606–07 (1981).
\item \textsuperscript{58} William Draper Lewis (1867–1949) graduated from Haverford College in 1888 and received an LL.B. and Ph.D. from the University of Pennsylvania. He was dean of the University of Pennsylvania Law School from 1896 to 1914 and professor of law from 1896 to 1924. In addition to numerous articles, he wrote \textit{Our Sheep and the Tariff} (1890) and \textit{The Federal Power Over Commerce} (1892), and edited \textit{Blackstone’s Commentaries} (1897) and \textit{Great American Lawyers} (1907–1909). He was a founder and early director of the American Law Institute. \textit{Dictionary of American Biography Supplement 4} (1946–1950), at 490–92 (1974).
\item \textsuperscript{59} GEORGE WHARTON PEPPER & WILLIAM DRAPER LEWIS, \textit{A DIGEST OF DECISIONS AND ENCYCLOPAEDIA OF PENNSYLVANIA LAW 1754–1898, BEING AN ENCYCLOPAEDIC SUMMARY, UNDER APPROPRIATE TITLES, OF THE LAW OF PENNSYLVANIA} (1898–1906).
\item \textsuperscript{60} 10 \textit{Id.} preface (1906). Following the preface, the publisher’s announcement states that there will be no second edition published of this work and admonishes the purchaser: “Do not loan your Pepper & Lewis’s Digest of Decisions, as, if volumes are lost or mislaid, we cannot furnish them at any price.”
\end{itemize}
times in the project (including Owen J. Roberts who later became an associate justice of the United States Supreme Court), and Albert Moise and Samuel Matlack who served as chief assistant editors successively during the project. Finally, they thanked Rees Welsh for paying for the cost of the publishing and editorial expenses.

Pepper, in his autobiography, described the publication of the work under the heading "A Costly Venture":

At this time William Draper Lewis and I had somehow reached the conclusion that it would help us professionally and enrich us financially if we were to prepare and publish two Pennsylvania digests, one dealing with statutes and the other with judicial decisions. We greatly underestimated the magnitude of these tasks but chiefly through perseverance we succeeded in pressing both enterprises to a conclusion. The Digest of Statutes was a poor piece of work, did the editors no credit and cost the publishers a lot of money. They brought suit against us for alleged breach of contract but were rather ignominiously beaten. The Pepper and Lewis Digest of Decisions, on the other hand, was really a good and useful work and was so regarded by the profession. Once fairly launched in its preparation, we found that we needed more and more editorial help and that, instead of four or five large volumes, the work would require more than twenty of not less than a thousand pages each. We had to borrow considerable sums of money to meet our editorial payroll and financially, the enterprise ended in a disastrous loss. I had to mortgage my house to pay the digest debts and for a good many years all that I could save out of my professional earnings went towards the reduction and ultimate extinction of that encumbrance.  

In this massive digest, "they first classified and arranged the Pennsylvania cases in such a way that it become possible to state at the beginning of a list of decisions the legal proposition upon the basis of which all cases in the list were decided." They had 207 digest topics. They had to expand the propositions at times when confronted with a peculiarly difficult subject or conflicting doctrines. The editors were highly critical of past and present digests that had become "sadly defective":

It has become customary with the compilers of digests, in making a statement of fact to blend the statement of law and the statement of fact in a single paragraph, in a way that is often misleading and always unsatisfactory. It is also a common experience with those who consult digests to find statements of fact omitted altogether, and to find in their room the statement of an elementary proposition of law, followed by a citation of half a dozen cases without a word of suggestion as to the way in which the proposition was applied in those cases. Under such circumstances the so-called digest becomes a mere index—and an unsatisfactory index at that; for this method of treatment indicates a superficial examination of the authorities and prepares the reader for the unpleasant discovery that many of the cases have little or no connection with the proposition under which they are cited.

62. 1 PEPPER & LEWIS, supra note 59, at iii.
63. Id.
Pepper and Lewis, in the *Digest*,

stated each case in miniature, endeavoring to indicate how the question arose and how it was presented to the court for decision. Each paragraphic statement, therefore, enables the reader to form an accurate conception of the precise point which the court was called upon to decide, and tells him in favor of which party the point was decided; while the proposition of law which precedes the paragraph shows him the ground on which the court based its decision.64

Furthermore, they gave the name of the judges, including dissenting judges, the dates of the cases, and citations to all places where the case was reported. Covering both appellate and county reports (referred to as "by-reports") made the compilation of the digest "a work of unusual difficulty." They felt that they would be "amply repaid for their arduous labor if they succeed in aiding their professional brethren to extract from the books upon their shelves the wealth of legal learning which is now hidden away between the pages."65 They covered decisions in ninety-six reports in their digest, although several titles were other collections of statutory law or treatises.66 After volume 6, the compilers included cases up to the date of publication, thereby reducing the number of cases that needed to be included in the *Cross Reference Annual Series*.67

Interestingly, the authors’ reputation and publication of a new state digest did not receive the widespread attention that one would expect. Only the editors of the *Legal Intelligencer*, the local legal newspaper for Philadelphia, gave the Pepper and Lewis *Digest* the prominence it deserved by reviewing each volume as it was published (at a rate of two or three per year).

With the very first volume of the Pepper and Lewis *Digest*, the reviewers welcomed its publication:

This important book, the outcome of years of laborious and costly preparation, will be welcomed by the Bench and Bar of Pennsylvania, whose demand for an exhaustive and scientific compendium of decisions has of late years become imperative. That the learned editors have well fulfilled their duty to the profession cannot be questioned.68

They agreed with the compilers that as a compendium of an encyclopedic nature, the editors had satisfactorily fulfilled their objective of providing digests of cases in many categories and subtopics. Critical of previous digests that had not clearly distinguished between opinion and dicta for the reader, the reviewers felt the problem was "avoided, or at least minimized, by this digest." By providing the judge’s name and court in the case, it was easy to distinguish

64. *Id.*
65. *Id.* at iv.
66. *Id.* at xix–xx. They list the *Pamphlet Laws of Pennsylvania, Roberts’ Digest, Brightly’s Purdon’s Digest of Laws, Wharton’s Precedents of Indictments, Hall’s American Law Journal, Hazard’s Pennsylvania Register, and Ingraham on Insolvency.*
67. See *Book Review, 64 Legal Intelligencer* 406, 406 (1907) (reviewing volume 1 of the *Cross Reference Annual Series*).
68. *Book Review, 55 Legal Intelligencer* 348, 348 (1898) (reviewing volume 1).
appellate decisions from those of the lower courts. Finally, they concluded that "this digest is indispensable to every attorney in Pennsylvania, as well as to those in other states who have any occasion to inform themselves as to the laws of Pennsylvania." 69

Succeeding reviews dealt with the detailed information found in each volume. Through the first four volumes alone, they found 23,977 digested cases. 70 Reviewers commented on the difficulty of compiling the particular subjects, noting, for instance, the number of cases per topic: from 82 digested and analyzed cases in "deceit," to larger topics like "constitution of Pennsylvania" with 1,086 and "contracts" with 2,677 in volume 3; 71 "crimes" with 797 cases and "criminal procedure" with 463 cases in volume 4; 72 "evidence" with 3,700 cases in volume 6; 73 and "executors" with 5,000 cases in volume 7. 74 Like many of the topics, they viewed "the title [Wills] as one of the best and in many respects superior to any textbook upon this subject that has been, or is likely to be written; and the members of the Bar, as well as the judiciary of the State, will find it of invaluable assistance in their work." 75

After ten long years and twenty-three volumes, the reviewers concluded:

Long ago the Digest became the standard work of reference upon the laws of this Commonwealth, and now that it is completed, the fact that it is the foundation upon which every investigation of our law must be based is more than ever apparent. What Bacon and Viner, with their abridgments, were to the common law of England, Pepper and Lewis in a much larger degree, because of the larger mass of materials handled, are destined to be to the law of Pennsylvania. 76

In 1907, Pepper and Lewis, with the assistance of Samuel Matlack, a member of the Philadelphia bar, began the publication of Cross Reference Annual Series ("C.R.A."). 77 Ultimately including eight volumes published between 1907 and 1920, the initial set contained additional cases from January 1, 1898, to January 1, 1906, not reported in Pepper and Lewis's Digest of Pennsylvania Decisions. Thus, not only were new cases included, but also any cases omitted from the Digest. The cases cited were referenced to the topic followed by a volume and column citation in the Digest. For instance, the C.R.A. under the topic of "Contracts: Failure of Consideration" provides a cross-reference back to the original volume and column number (vol. 3, col.

69. Id.
70. See Book Review, 56 Legal Intelligencer 251 (1899) (reviewing volume 4).
71. See Book Review, 56 Legal Intelligencer 50 (1899) (reviewing volume 3).
72. See Book Review, 56 Legal Intelligencer 251 (1899) (reviewing volume 4).
73. See Book Review, 57 Legal Intelligencer, 125–26 (1900) (reviewing volume 6).
74. See Book Review, 57 Legal Intelligencer 298 (1900) (reviewing volume 7).
76. Id.
77. George Wharton Pepper et al., CROSS REFERENCE ANNUAL SERIES "C.R.A." BEING A DIGEST OF PENNSYLVANIA DECISIONS EMBRACING ALL THE REPORTED CASES ON THE SUBJECTS CONTAINED IN THIS VOLUME 1898–1906 (1907–1920) [hereinafter PEPPER ET AL., CROSS REFERENCE ANNUALS SERIES].
3980), along with three digest paragraphs (no. 48–50), which then lists from one to eight cases under each paragraph number.\textsuperscript{78}

The reviewers at the \textit{Legal Intelligencer} continued to praise Pepper and Lewis, finding that their two works “are designed to enable any lawyer to ascertain the law on any point which has ever been decided in this state on subjects [contained in this volume]. By using \textit{C.R.A.} as the first book of reference great labor will be saved as all of the decisions which are no longer good law are there pointed out, and reference is made to the columns of the original work which treat of the subject under investigation.”\textsuperscript{79}

By 1920, the \textit{Cross Reference Annuals} covered cases published through volume 264 of the \textit{State Reports} and volume 72 of the \textit{Superior Court Reports}; fourteen separate sets of county reports; two combination sets; four topical reports; and one administrative agency.\textsuperscript{80} Volumes 3 and 4 covered decisions from 1906 to 1908; volume 5 and 6 covered 1909–1915; volumes 7 and 8 covered from January 1, 1915, to July 1, 1919, for supreme and superior cases and January 1, 1918, for county cases. Although expecting to publish only one additional volume, the increasing amount of cases led the publisher to issue two. The publisher decided to add the decisions of the two administrative agencies with quasi-judicial functions whose opinions are generally final (Public Service Commission and Workmen’s Compensation Board) that were created during this time period.\textsuperscript{81}

In 1908, Samuel Matlack and Lawrence Bur compiled \textit{An Index and Concordance to Pepper & Lewis’s Digest of Decisions}.\textsuperscript{82} The purpose of the index was “placing at the reader’s command every point of law decided in any reported case from 1682 to 1906. An incidental, but valuable, feature of the Index is that it shows not only the particular line of decisions sought for, but also, as far as possible, all analogous or parallel cases, in whatever title of the Digest they may be classified.”\textsuperscript{83}

A year later Samuel Matlack prepared a companion volume with a complete table of the cases from 1682 to 1906 contained in the \textit{Digest} and the

\textsuperscript{78} \textit{Id.} at iii.

\textsuperscript{79} Book Review, \textit{supra} note 67, at 406.

\textsuperscript{80} The county reports were \textit{Berks County Law Journal, Dauphin County Reporter, Delaware County Reports, Lackawanna Jurist, Lancaster Law Review, Lehigh County Law Journal, Luzerne Legal Register Reports, Montgomery County Law Reporter, Northampton County Reporter, Northumberland Legal Journal, Pittsburgh Legal Journal, Schuylkill Legal Record Reports, Westmoreland Law Journal,} and \textit{York Legal Record}. Reports covering multiple counties were the \textit{District Reports} and \textit{Pennsylvania County Court Reports}. Topical reports included \textit{Pennsylvania Corporation Reporter, Justices Law Reporter,} and \textit{Municipal Law Reporter}. The administrative agency was the \textit{Pennsylvania Workmen’s Compensation Board}.

\textsuperscript{81} \textit{Publisher’s Notice, in 7 Pepper et al., Cross Reference Annual Series, supra note 77, at [iii].}

\textsuperscript{82} \textit{Samuel Dreher Matlack & Lawrence Bur, An Index and Concordance to Pepper & Lewis’s Digest of Decisions and Encyclopedia of Pennsylvania Law, Volumes 1 to 23 and Volumes 1 and 2 Cross Reference Annuals} (1908).

\textsuperscript{83} \textit{Id.} at [iii].
two-volume *C.R.A.* Not only were all cases listed with a cross-reference to the *Digest*, but there was also an indication if a lower court case had been reversed or affirmed. Matlack pointed out the years and cost needed to compile the table, stating that "its value needs no demonstration." He further suggested that the volume fulfilled more than just the need of having a list of case names. The references to the *Digest* provide "not only careful abstracts of all the points of law decided in the particular case, but also all the related, parallel and analogous cases. [In filing appellate briefs,] the Table will facilitate compliance with Rule 33 of the Supreme Court and Rule 22 of the Superior Court, by showing whether cases reported in legal periodicals are to be found in the official reports, under the same or different names."  

**Monaghan**

During the same period, James Monaghan compiled forty volumes of *Monaghan's Cumulative Annual Digest*, a set that ultimately cumulated all reported decisions on an annual basis from 1899 to 1937. Following the publication of the first volume, volume 2 included a page of endorsements of the *Digest* on the fly-page opposite the title page of the book. James Mitchell, chief justice of the supreme court, examined the work and found it be of "great convenience and aid to the profession." Charles Rice, president judge of superior court, wrote: "I feel a personal obligation of gratitude, not only for your courtesy, but also for the work that has been done so thoroughly, conscientiously and intelligently to bring together the cases for the year." A reviewer

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84. Samuel D. Matlack, A Table of Cases Alphabetically Arranged Containing All the Reported Cases in the Supreme, Superior and County Courts of Pennsylvania From 1682 to 1906, With References to the Volumes and Pages of the Reports and to the Volumes and Columns of Pepper & Lewis's Digest of Decisions, Volumes 1 to 23, and Volumes 1 and 2 Cross Reference Annuals, Where all the Related, Parallel, and Analogous Cases Will Be Found Showing All Reversed and Affirmed Cases (1909).

85. Id. at [iii]. He further stated: "No pains have been spared to make the Table both complete and accurate, in the full sense of these words; and the volume is the result of years of labor and the expenditure of large sums of money. No one who has not undertaken a similar task can realize the almost unending detail which is involved." Id.

86. Id.

87. James Monaghan was born September 21, 1854, and died April 3, 1949. He was admitted to the Pennsylvania bar in 1878. He was appointed supreme court reporter by Governor Pattison in 1892. He served as assistant librarian for the Pennsylvania Supreme Court in 1921 and was a charter member of the Pennsylvania Bar Association in 1895. He also served as vice president of the Philadelphia Ethical Society and was a member of the Federal Union, the American Academy of Political and Social Science, and an honorary member of the Institute of American Genealogy. He authored *The Liquor License Laws of 1887 . . .* (1887), *Monaghan's Supreme Court Reports* (1891–1892), and *Pennsylvania Appellate Practice* (1912). He edited *Chester County Reports* and was the first editor of the *Pennsylvania County Court Reports* and the *Pennsylvania District Reports. 2 Who Was Who in America* 378 (1950).


89. 2 Id. (1901).
from the Legal Intelligencer commended the work “to a long-suffering profession.” By indexing minute subdivisions of the law, “no time need be lost in considering classification or arrangement.” The fact that Monaghan compiled forty volumes in the same manner certainly showed the support of the practicing bench and bar. The volumes ended with the publication of the new Vale Pennsylvania Digest in 1937.90

In 1931, George M. Henry91 compiled the Pennsylvania Digest of Decisions.92 It was jointly published in eight volumes by the George T. Bisel Company and Soney & Sage of Newark, New Jersey. This set cumulated Monaghan’s Digest volumes from 1906 to 1929 in 222 topics. The alphabetical arrangement and cross-reference system remained the same. Parallel citations between Pennsylvania State Reports and Atlantic Reporter were added as well as references to Purdon’s Statutes, which had just been published in a new edition in 1930. Henry expected the digest to be kept up to date by Monaghan’s Cumulative Annual Digest of Pennsylvania Decisions.93

Vale

Ruby Vale produced the third digest in the early half of the present century, A Digest of the Decisions of the Courts of the Commonwealth of Pennsylvania From 1754 to 1907.94 It was published between 1908 and 1911, and contained 16,676 pages in nine digest volumes and one volume of tables and index. Since Vale had just completed the work on Brightly’s supplemental volume two years earlier, it was reasonable that the publisher sought his expertise in bringing out a new edition. In the preface, Vale stated his belief that a new digest was needed now as much as Brightly’s new digest had been needed in 1877. Acknowledging that he had built upon Brightly’s work, Vale recompiled all of the digest paragraphs in Brightly and rearranged them under appropriate titles. He cited both unpublished and published cases, covering cases down to volume 216 of the State Reports, volume 32 of the Superior Court Reports, volume 15 of the District Reports, volume 32 of the County Court Reports, and legal periodical court reports down to 1907. General principles were written at the beginning

90. See infra text accompanying note 103.
91. George Henry was the author of Equity Jurisdiction and Practice in Pennsylvania (1933); Sadler’s Criminal Procedure in Pennsylvania (2d ed. 1937); Pennsylvania Trial Evidence (in three editions, published in 1914, 1926, and 1940); Pennsylvania Evidence (1953), the standard work in the field until Leonard Packel and Anne Poulin’s Pennsylvania Evidence (1987).
92. GEORGE M. HENRY, PENNSYLVANIA DIGEST OF DECISIONS, BEING A DIGEST OF ALL THE REPORTED DECISIONS OF THE SUPREME, SUPERIOR AND COUNTY COURTS FOR THE YEARS 1906 TO 1929 INCLUSIVE. West had acquired a controlling interest in Soney and Sage at some time prior to 1931. See SURENCY, supra note 1, at 124.
93. HENRY, supra note 92, at iii. In fact, the annual volumes continued through 1937.
of each subject and then condensed statements of facts followed in the order of their relative application.\textsuperscript{95} This digest was the predecessor to the Vale Pennsylvania Digest of the West Digest System.

The editorial staff of the Bisel Company provided supplementary volumes to Vale's digest through 1923. The first supplement covered from 1907 to 1914 in two volumes,\textsuperscript{96} a second supplement covered from 1914 to 1916 in two volumes,\textsuperscript{97} and a third supplement covered from 1917 to 1923 in three volumes.\textsuperscript{98} Thus, the final coverage contained all cases reported from 1 Dallas to volume 274 of the State Reports, volumes 1 to 79 of the Superior Court Reports, and lower court cases through January 1, 1923.

By the 1925 revision, changes had been made in the digest topics. The first supplement added new titles such as "builders and building contracts" and "real estate brokers and agents," while the second supplement added "public service commission," "weights and measures," and "workmen's compensation." A comparison of the table of contents between the original edition of 1908 and the last supplement shows the addition of eleven topics. Four topics—"automobiles," "public service corporations," "public service commission," and "workmen's compensation"—were revised because of the large number of new cases under each topic. Numerous cross-references and the exact page and column number of each subject with its divisions were provided. If no new cases were listed under a topic, then the statement "No new decisions" was listed in all of the supplements.\textsuperscript{99}

In concluding this section, the early part of the century saw the development of two major digests that competed against each other for almost twenty years. Although it appears from the reviews that Pepper and Lewis's digest was considered a significant legal publication, the inability of the publisher, Rees Welsh, to continue publishing the C.R.A. volumes after 1922 made the digest obsolete within a few years. Bisel Company, however, joined with West Publishing Company to market jointly its own digest.

**West Digest System**

The growth of the West Digest System began over one hundred years ago. In the 1890s West began its new publication, the *Century Edition of the American Digest* (1897), and it was followed by the first *Decennial Digest* in 1907. The

\textsuperscript{95} 1 Id. at v–vi. (1908).
\textsuperscript{96} George T. Bisel Co., A Supplement to a Digest of the Decisions of the Courts of the Commonwealth of Pennsylvania from 1907 to 1914 Continuing Vale's Digest, 1754–1907 (1915).
\textsuperscript{97} George T. Bisel Co., A Supplement to a Digest of the Decisions of the Courts of the Commonwealth of Pennsylvania from 1914 to 1916 Continuing Vale's Digest, 1754–1914 (1917).
\textsuperscript{98} George T. Bisel Co., A Supplement to a Digest of the Decisions of the Courts of the Commonwealth of Pennsylvania from 1917 to 1923 Continuing Vale's Digest, 1754–1917 (1925).
\textsuperscript{99} 1 Id. at [iii].
latter began the practice of assigning "key numbers" to each topic for which a
decision was digested. Surrency lists a number of reasons why the West Digest
System was successful: the uniformity provided by the key number system
meant that the user did not have to ascertain "the mental peculiarities and
idiosyncrasies of the compiler of each new digest" to find the subject needed;
cross-references; scope-notes; and grouping all cases from the same state
together within each heading. 100 West first granted other publishers permission
to use its system, and later the company joined with other companies to publish
state digests. In the early part of the century, West published digests for at least
five states.

West Publishing Company's involvement in publishing Pennsylvania legal
materials began in 1921 when it first published an unannotated statutory
compilation of Pennsylvania laws: *Purdon's Statutes: Pennsylvania Statute
Law—1920 (Complete).* It agreed in 1930 to publish a new edition of *Purdon's
Pennsylvania Statutes Annotated* with the George T. Bisel Company. 101 After
securing a controlling interest in the Soney and Sage Publishing Company of
Newark, New Jersey, it then joined with the Bisel Company to jointly publish
the *Pennsylvania Digest of Decisions* by George Henry in 1931. 102 West later
made an agreement with Bisel to purchase the title of Ruby Vale's *Digest* in
order to establish a new digest to be called *Vale Pennsylvania Digest.* This was
published in 1937 under three publishers: West, Soney & Sage, and George T.
Bisel Company. 103 Since the previous two digests had been available for more
than a dozen years, the new digest was immediately successful.

*Vale Pennsylvania Digest* is the Pennsylvania digest that is a component
of the West Publishing Company's American Digest System. This multivolume
set covers all reported cases from Pennsylvania's state courts and federal cases
originating in Pennsylvania. (It even includes references to some unpublished
court opinions of the late eighteenth and early nineteenth centuries.) Thus,
cases that went to the United States Supreme Court and other federal courts as
well as the two Pennsylvania appellate courts and the county courts are
included in the *Vale Pennsylvania Digest.* With Pepper and Lewis's digest
cumulating only to 1925, and Monaghan's noncumulative volumes ending in
1937, the new component of the West Digest System effectively became the
standard digest for succeeding generations of lawyers. The new digest with its
400-plus topics does not appear to be as comprehensive in digesting the cases
as Pepper and Lewis's work, and the digest summaries are generally shorter.
As a typical West digest, it contains more than forty volumes of digest topics

100. *Surrency,* supra note 1, at 122–23.
101. *See Fishman, Statutory Compilations,* supra note *, at 578–79.
102. *See supra* notes 91–93 and accompanying text.
103. *Id.* West and Lawyers Cooperative also jointly published *Abbott's New York Digest* (1929) and
the *New Oregon Digest* (1949). *See Surrency,* supra note 1, at 124.
(many with an additional supplementary volume) along with a multivolume descriptive-word index, a table of cases, a defendant-plaintiff table, and a words-and-phrases volume. Updating for the original Vale Pennsylvania Digest ceased with the publication of the second series in 1983.

West’s Pennsylvania Digest 2d series (1983--) is the second part of the West Digest Dystem for Pennsylvania. In recent years, West has started to recompile digests and issue new series either as replacement or supplementary sets for many states. In Pennsylvania, the new series corresponds chronologically to the coverage provided by the Atlantic Reporter 2d series which began in 1938. The indexes for the current series include a four-volume descriptive-word index, a table of cases, a defendant-plaintiff table, and a words-and-phrases volume. The set is updated periodically by revised bound volumes as well as annual pocket parts and a semiannual paperbound advance sheet. An important limitation of the current version is the exclusion of digest summaries for the individual county court reports. West stopped digesting them in 1976 (with little or no notice to the user), but continues to include summaries for cases published in the Pennsylvania District and County Reports and the Fiduciary Reporter 1st and 2d series.

The Atlantic Reporter Digest and West’s Atlantic Reporter Digest 2d series cover Pennsylvania appellate court cases published in the first and second series of the Atlantic Reporter. Citations are to the units of the regional reporter system. This was the first digest covering regional reporters published by the West Publishing Company.¹⁰⁴

Federal cases that originate in Pennsylvania can also be located in the various units of West’s federal digest series: Federal Digest (covering the period 1789–1939), Modern Federal Practice Digest (1939–1961), Federal Practice Digest 2d (1961–1975), Federal Practice Digest 3d (1975–1985), and Federal Practice Digest 4th (1985--). In addition, the other units of the American Digest System—the United States Supreme Court Digest and Century and Decennial Digests units plus the General Series—provide similar access to federal and state appellate court cases.

Pennsylvania cases that reached the United States Supreme Court are also digested in the United States Supreme Court Digest, Lawyers' Edition. In this digest, Lawyers Cooperative Publishing Company provides its own digest system with digested cases and cross-references into its Total-Client Library Service.

Conclusion

The long history of publishing Pennsylvania case law digests for use by the legal profession began in the early nineteenth century. A hundred years later,
in the early twentieth century, competing companies fought each other for over two decades seeking to dominate the field. The death of key authors, the demise of one company (R. Welsh), and the desire of another (Bisel) to cease publication of its Vale's Digest, eventually led to the entry of the most successful publisher of digests—the West Publishing Company—into the Pennsylvania digest market. West came to dominate this market during the second quarter of the century, and it continues to publish its digests down to the present day.

Currently, however, the movement toward CD-ROM products and online services offers a distinct new method of searching cases without being hindered by a hundred-year-old classification and indexing system. Given the fact that so many lawyers have been trained to rely on the West system, it seems likely that the traditional key number approach will continue to be used for some time in its present state, but as more lawyers learn effective key-word searching with electronic products, there may ultimately be significant numbers of researchers who bypass the use of the system.

Appendix

Bibliography of Pennsylvania Digests

Wharton’s Digest


Brightly’s Digest


Brightly, Frank F. *A Digest of Decisions of the Courts of the State of Pennsylvania, From 1877 to 1889, Embracing Not Only the Cases Contained in the Regular Series of Reports, But Also Those in the Legal Periodicals of the Day, With Many Manuscript Cases; Together With a Table of Overruled and Reversed Cases, And a List of Cases Digested, Arranged Alphabetically With the Names of Both Plaintiffs and Defendants, Brought Down to the Latest Date, With a General Index to the Whole Work and a Chronological Table of Statutes Referred to.* By Frank F. Brightly, Esq., of the Philadelphia Bar; Author of “A Digest of the Laws and Ordinances of the City of Philadelphia;” and Supplement to Purdon’s Digest, 1885–1887. Volume III. Philadelphia: The George T. Bisel Company, Law Booksellers, Publishers, and Importers. 1890. 2 vols.


Vale, Ruby R. *A Digest of Decisions of the Courts of the State of Pennsylvania, Brought Down to August 1, 1903, Including All Cases Contained in the Pennsylvania State and Superior Court Reports and All Pennsylvania Legal Periodicals, Together With Tables of Affirmed, Overruled, Reversed and Modified Cases, And an Alphabetical List of Cases Digested and Chronological Tables of Statutes and Constitutions, State and Federal, Which Have Been Construed, to Which is Added a General Index to the*

Pepper & Lewis's Digest

Pepper, George Wharton and William Draper Lewis. A Digest of Decisions and Encyclopaedia of Pennsylvania Law 1754-1898 Being an Encyclopaedic Summary, Under Appropriate Titles, of the Law of Pennsylvania; Supported by Compendious Statements of All the Cases Ever Decided by Courts of Record in the Commonwealth. By George Wharton Pepper, Member of the Philadelphia Bar and Professor of Law in the Law School of the University of Pennsylvania AND William Draper Lewis, Ph.D., Member of the Philadelphia Bar; Professor of Law and Dean of the Faculty of Law in the University of Pennsylvania. Philadelphia: Rees Welsh & Company, Law Publishers, 901 Sansom Street. 1898–1906.

Pepper, George Wharton, William Draper Lewis, and Samuel Dreher Matlack. Cross Reference Annual Series "C.R.A." Being a Digest of Pennsylvania Decisions Embracing All the Reported Cases on the Subjected Contained in This Volume 1898–1906. By George Wharton Pepper, LL.D., Member of the Philadelphia Bar and Professor of Law in the Law School of the University of Pennsylvania and William Draper Lewis, Ph.D., Member of the Philadelphia Bar; Professor of Law and Dean of the Faculty of Law in the University of Pennsylvania. Assisted by Samuel Dreher Matlack, Member of the Philadelphia Bar. Vol. 1 Account Render to Estoppel. [This volume was compiled in the Biddle Memorial Library of the University of Pennsylvania.] Philadelphia: Rees Welsh & Company, Law Publishers, 901 Sansom Street. 1907. (8 vols. 1907–1914).


Matlack, Samuel D. A Table of Cases Alphabetically Arranged Containing All the Reported Cases in the Supreme, Superior and County Courts of Pennsylvania From 1682 to 1906 With References to the Volumes and Pages of the Reports and to the Volumes and Columns of Pepper & Lewis's Digest of

Vale’s Digest


George T. Bisel Co. A Table of Cases Contained in Vols. 1-9 of Vale’s Pennsylvania Digest From 1754 to 1907 Together With A Table of All Affirmed, Criticised, Distinguished, Explained, Followed, Harmonized, Modified, Overruled, Questioned or Reversed Cases and Index. Compiled by the Publisher’s Editorial Staff. Volume X. Philadelphia: The George T. Bisel Co., Law Booksellers, Publishers and Importers. 1913.


Vale Pennsylvania Digest, 1682 to Date; Covering Pennsylvania Supreme and Superior Court Reports and All Other Courts of Record and the Atlantic Reporter, as well as Pennsylvania Cases Decided in the Supreme Court of the United States, Circuit Court of Appeals and Federal Circuit and District Courts. St. Paul: West Publishing Co. 1939–1985. 46 vols.

Other Digests


Brewster, F. Carroll. *A Digest of Cases Decided by the Supreme Court of Pennsylvania As Reported From 3d Wright to 5th P. F. Smith, Inclusive, With Table of Titles and Table of Cases*. By F. Carroll Brewster. Philadelphia: Published by John Campbell, No. 740 Sansom Street. 1869.


Monaghan, James. Monaghan's Cumulative Annual Digest of Pennsylvania Decisions Being a Digest of all the Reported Decisions of the Supreme, Superior and County Courts for the Year 1899. Volume 1. James Monaghan Editor of the Supreme Court Reports, Etc. Soney & Sage, Newark, New Jersey. 1900. [This is a forty-volume set published from 1900 to 1938. The remaining title pages are the same except for the year, volume and publication date.]
