

# Manuscripts in the Hampton L. Carson Collection in the Free Library of Philadelphia

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## [LC 14.14, f. 1r](#)<sup>1</sup>

Donated in 1929, the Hampton L. Carson Collection on the Growth and Development of The Common Law was the second major collection added to the Rare Book Library of the Free Library of Philadelphia. It is “said to be the most comprehensive collection on the subject ever collected by a single person, numbering some 10,000 titles of yearbooks, abridgments, records, statutes, reports, state trials, and first and later important editions of Granville, Bracton, Littleton, Coke, Hale, and Blackstone.”<sup>2</sup> Indeed, according to J. H. Baker's list of English legal manuscripts in the US, the Carson Collection contains one of the largest groups within this body of work in North America, second only to Harvard.<sup>3</sup> As even the medieval manuscripts in question are too numerous to discuss in detail today as a group, I plan to limit my comments to medieval English statute collections only. Certainly, the Carson Collection provides illustrations of the complete lifespan of English statute collections in manuscript.

The Carson Collection preserves fourteen complete statute collections, ten of which are the *statuta vetera*, that is statutes predating Edward III. English statutes did not begin to be collected as documents of legal use until the later thirteenth century. Thereafter their appearance in manuscript standardized quickly, and statute collections are one of the most numerous types of texts remaining from medieval England. Don

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<sup>2</sup> Miles O. Price, “Anglo-American Law,” *Library Trends* 15 (1967), 616- 27, p. 618.

<sup>3</sup> J. H. Baker, *English Legal Manuscripts in the United States of America: A Descriptive List*, 1 (Oxford, 1985).

Skemer estimated that over 400 collections exist.<sup>4</sup> This is an enormous number, particularly when one keeps in mind that these texts were only useful in areas under English law: no canon law or civilian court would have any use for such a document. I will concentrate on that particularity today: English legal manuscript specialists aren't terribly plentiful, and English common law was anything but in medieval Europe. Therefore as I introduce the Carson Collection's statutes to you today, I hope to highlight something of what is common in them, as well as what is unique.

### LC 14. 20 (5), f. 1r.

Likely the oldest statute collection in the the collection is shelfmark LC 14. 20 (5), which dates to the very earliest years of statute collecting in the late thirteenth century. While the only truly official copy of the statutes was the roll preserved in the Chancery, sealed copies of the statutes were delivered to sheriffs in the localities for public proclamation. Evidence that these were kept and used as exemplars exists; however word for word precision was not initially important, as it would become later on.<sup>5</sup> Copies of the *statuta vetera* included one of the early confirmations of the Magna Carta, and other foundational legislation, such as the first and second statutes of Westminster, as well as miscellaneous short legal texts, sometimes together with a selection of the statutes of Edward I and II.

One of the first things we notice about this manuscript is the amount of decoration. Unlike canon and civil law books, common law books were not usually illuminated, and never illustrated.<sup>6</sup> Copies that include historiated initials invariably show a king sitting or standing in judgment, as we see here: clearly this pictorial theme suggested itself very early in the practice of collecting statutes. When present, these illuminations invariably signal the beginning of a reign, or, as here, the first and most foundational statute in the volume, the Magna Carta. The bar borders are common in English illuminating, and in statute collections a full border was normal when the decoration scheme extended to a historiated initial. Unusual, however, are the animals along the bottom border. These were probably executed by a third artist, neither the same artist responsible for the king nor the one responsible for the border and vinework. Animals and grotesques appear in a number of the borders attached to illuminated capitals in this volume. I have never seen figural decoration extend beyond the royal initials to this extent in a statute collection, and suspect that the presence of these

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<sup>4</sup> Don C. Skemer, "From Archives to the Book Trade: Private Statute Rolls in England, 1285-1307," *Journal of the Society of Archivists* 16(1995), 193-206, n.16, "Sir William Breton's Book: Production of Statuta Angliae in the Late Thirteenth Century," in *English Manuscript Studies 1100-1700*, eds. Peter Beal and Jeremy Griffiths, eds. (London, 1997), pp. 24-51, p. 24, and the correction to these numbers in "Reading the Law: Statute Books and the Private Transmission of Knowledge in Late Medieval England," in *Learning the Law: Teaching and the Transmission of Law in England, 1150-1900*, eds. Jonathan A. Bush and Alain Wijffels, (London, 1999), p. 115-131, p. 115.

<sup>5</sup>Skemer, "Archives," p. 194, and H. G. Richardson and George Sayles, "The Early Statutes (Concluded)," *Law Quarterly Review* 50(1934), 540-571, pp. 542, 544. See Ormrod for an extended bibliography on this process, "The Use of English: Language, Law, and Political Culture in Fourteenth-Century England," *Speculum* 78(2003), 750-87, n. 102.

<sup>6</sup>Susan L'Engle and Robert Gibbs, *Illuminating the Law: Legal Manuscripts in Cambridge Collections* (Turnhout, Belgium, 2001).

exceptional animals in LC 14. 20 (5) can be attributed to its early date.<sup>7</sup>

Visible even in this early and deluxe manuscript are traces of the apparatus that all English legal texts borrowed from the scholastic tradition. The repetition of this apparatus in even the scroungiest of personal copies suggests that in conception at least, statute collections were designed for use. These features will be utterly normal to those of you familiar with European legal texts, but given how nonstandard much of English law is, I think it's worth taking a moment to notice this apparatus here today. European or English, readers had to be able to find various parts of each text with a reasonable amount of ease.

On this first opening we can still make out a hierarchy of decoration designed to facilitate finding particular sections of text. Statutes open with the most elaborate initial, in this case illuminated. The second level of hierarchy is faintly visible in this image, where the text of the statute proper is identified with a red rubricated initial flourished in blue. The first chapter of the statute itself is indicated in the text by a red paraph, and in the margin by a numeral highlighted by a paraph in a contrasting color (in this case blue). Most collections with any initials at all replicate this sort of hierarchy in some way. If no illumination is present, then the opening initials will be rubricated, while the subsequent initials will demonstrate more basic flourishing. Even when no rubrication is present, paraphs are still to be found in the text in brown ink, and the numerals, often with their own brown ink paraphs, highlight subdivisions in the margins. Not visible on this page, likely due to the border, are running heads, which denote the statute titles in the *statuta vetera* and regnal years in the *statuta nova*.

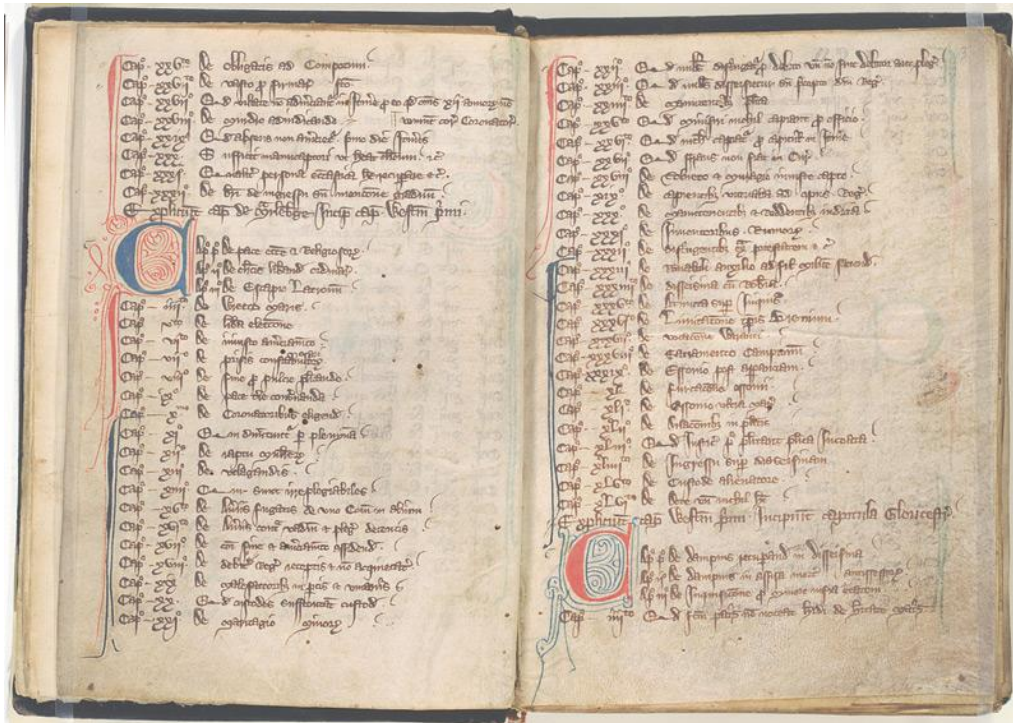
In contrast to the exceptionally fine quality of 14.20 (5), 14.16 represents a classic, sturdy working text. While not as early as 14.20 (5), based on the style of the ink initials I would still consider this fourteenth century volume relatively early. Skemer reminds us that an enormous number of *statuta vetera* collections seem to have been copied early in the fourteenth century.<sup>8</sup> Marks of use in the extant volumes demonstrate that these collections continued to play a valued role in personal legal libraries until the age of print and beyond. 14.16 serves as a fine example of the workaday *statuta vetera* collections produced throughout the fourteenth century, as well as giving us a model page layout for later collections of the *statuta nova*.

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<sup>7</sup>Skemer includes a plate from Manuscripts Division, Department of Rare Books and Special Collections, Princeton University Libraries, Garret MS 146, f. 5r, contemporary with LC 14.20 (5), that shows a parrot sitting on the lower vinet, but this is the sole illuminated page in the volume, in contrast to 14.20(5)'s complete program, "Breton" p. 34.

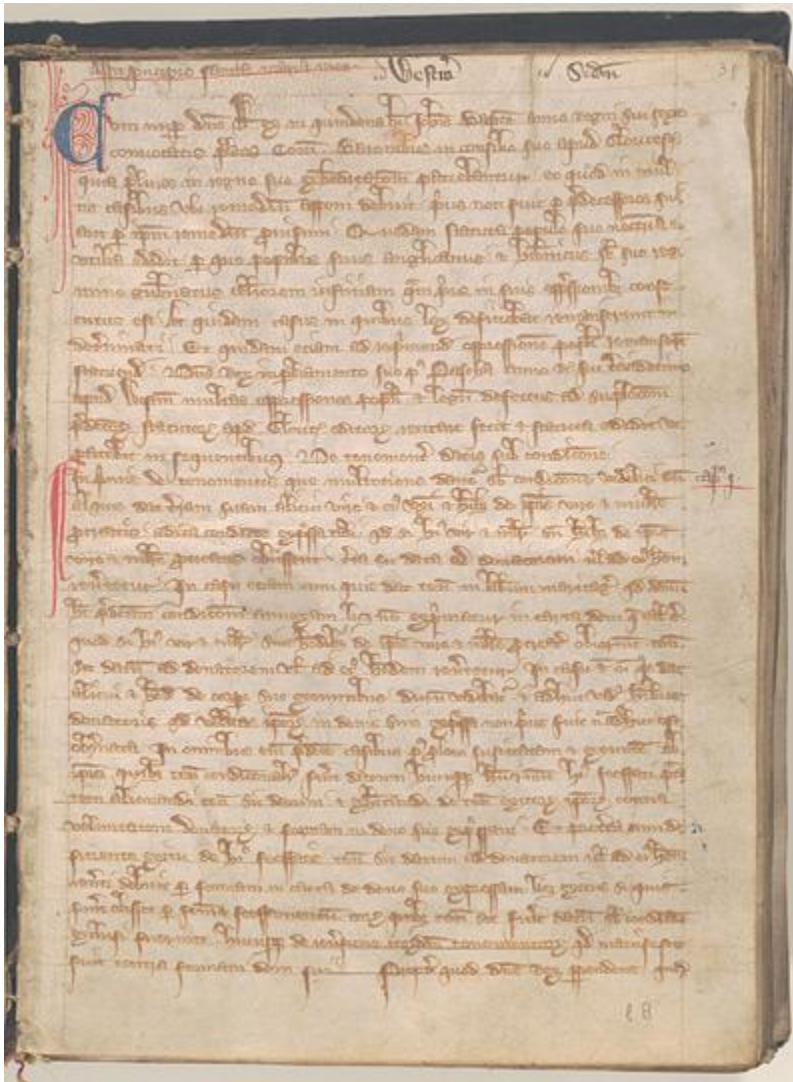
<sup>8</sup>See n. 4 above.

LC 14.16- Table, ff. 2v-3r



14.16 also gives us a chance to examine the paratext developed for statute collections, and to note how early these materials were added. As do many statute collections, 14.16 begins with a table of chapters for each statute. Here we see each statute listed by title, and its chapters listed by incipit. These tables can frequently be seen to have numbers added by users representing the folio on which each statute begins. Tables listing the titles of the *statuta vetera* alone were also common, and these could have folio numbers added, or the number of chapters in each statute. The fact that the number of chapters was of interest together with the occasional presence of these tables alone, divorced from statute collections, suggests to me that the tables could have been used as a mnemonic device, to assist lawyers in accessing memorial statute collections, rather than ones written on parchment.

## LC 14.16, f.31r



The decoration scheme of 14.16 is limited to rubrication designed for use as apparatus rather than for pure aesthetic interest. Statutes begin with larger blue ink initials flourished with red, and chapters are designated by alternating red or blue paraphs in the text. The chapter numbers in the margins and the running titles are without decoration, their presence in otherwise blank margins being enough to draw the eye. Hundreds of statute collections with this basic scheme, at once basically decorative and functional, can be found in libraries throughout England and North America.

14.16 also demonstrates how texts could be updated or revised over time, and how apparatus was considered worth developing and reinforcing. On the opening to Westminster II we have evidence that suggests that at least some of the rubrication in the volume postdates its copying by some time. The numbers along the right hand margin have been underlined in red, as have some notes at the top of the page as though they were running titles. While the numbers really are chapter numbers, the “running titles”



are actually bits of a common pious Latin invocation that was written into the margin and partially trimmed at some early point when the manuscript was bound or rebound. Westminster II was most definitely not titled “*assit principio sancta maria meo.*” Another hand in darker ink eventually added the correct running title in a Latin abbreviation.

### LC 14.3, ff. 158v-159r



The early standardization of statute texts and apparatus makes individual volumes' continued use, sometimes for centuries, less than surprising. If 14.16 demonstrates that even the standard statute collection might be modified over time to facilitate continued use, 14.3 offers an exceptionally idiosyncratic fourteenth-century collection that rationally could only have been used by the original compiler himself. It is enormously surprising, then, to see the laborious attempts of several later owners to add apparatus and make use of the mess.

Except for the fact that 14.3 does include most of the expected statutes and many of the tracts usually assembled in *statuta vetera* collections, this volume resembles a commonplace book more than a statute collection. Small groups of statutes and tracts appear throughout with no clear organizing principle except, perhaps, exemplar-availability. The fundamental importance of exemplars may be visible in the cramming up to 58 lines into an 8.5” text box. This is a more standard line-count for a large folio, rather than the quarto size of 14.3.

Heavy trimming hurts our attempts to reconstruct what the original apparatus looked like, but the trimming was done early, as a fifteenth- and a sixteenth-century hand have attempted to replace (or add) marginal markers throughout. Some texts exist without any marginal aids left and with no rubrication to assist internally. Even incipits get buried

given the cramped script. Some texts have plain red rubrication, and an early text on seneschals featuring a lovely professional hand with dentilated ascenders flashed in dark blue stands out in such an otherwise informal production.

The selection on the projector here attempts to distill some of the idiosyncrasy of this volume into one image. On the verso, this opening features several chapters from the Statute of the Exchequer, coinciding with the end of a quire, and the recto begins the Second Statute of Westminster and a new quire. The double columns of this copy of Westminster II are exceptionally rare. In fact, I have seen only one other common law statute book displaying double columns, Cambridge University Library MS Dd 9. 38 Both texts feature plain large red initials to demarcate chapters, and the Statute of the Exchequer features faint red penwork denoting the completed end of chapters as well, while Westminster II had a faded red running title added by a later hand, and a faint red paraph in the margin next to the first chapter.

Despite the really impressively personalized nature of the text, at least two hands worked to order the mess in the fifteenth and sixteenth centuries. Both added tables to the front flyleaves. The sixteenth-century user added statute titles in a display script into the upper margins at many points throughout the volume. Further, at some point self-tabs were created by tearing bits of the right-hand margin and folding them.

While textual and physical apparatus were added to order the volume, text was also added that increased the confusion. A slightly later hand added additional text into the margins in many places, surrounding and engulfing statutory text like a scholastic gloss. Usually these texts are illustrative of the central material, and sometimes keyed to the central text using a system of dots or flourishes. Again, I must stress that this is highly unusual in statute collections, and I cannot recall having seen anything quite this scholastic in appearance. In the example here, what may be a charter from the reign of Henry III<sup>9</sup> surrounds the paragraphs of the Statute of the Exchequer. Like a gloss, this is a (at least relatively) planned text, as is evinced by the red paraps marking textual subdivisions.

If this level of reuse of statute collections, even of emphatically individualized copies, was common, most of these highly idiosyncratic volumes have been lost to time. While every large collection of these manuscripts seems to preserve one such volume, that still leaves very few extant.<sup>10</sup> In this case, 14.3's glorious singularity may make it an unusually precious resource for common law scholars, codicologists, and media historians.

### *Statuta Nova*

#### [LC 14.10, f. 37r.](#)

In 14.20(5) we saw how quickly statute collections developed the traits that would characterize them through the age of print. In 14.16 we saw how standardized statute collections were, and in 14.3 how idiosyncratic they could be. All of the previous examples have been collections of the *statuta vetera*, however, and the Carson Collection

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<sup>9</sup>The boxnotes make this attribution, however their attribution for the central text, the first statute of Westminster, is incorrect.

<sup>10</sup>See for example, Cambridge University Library Additional MS 2994, and Additional MS 8870, but neither of these <sup>a</sup>pproaches LC 14.3's idiosyncrasy.

also includes volumes of *statuta nova*. It is to these I would like to turn our attention now.

If little work has been done on the *statuta vetera*, even less has been done on *statuta nova* collections. The *statuta vetera* were redolent of Englishness; they served as foundations of a national system of law, the uniqueness of which in Europe was well known by the medieval English educated classes. In contrast, the *statuta nova* were pliable and narrow in their focus. *Statuta nova* were added to, and sometimes were repealed: while still legislation, they had an altogether more transient nature than the *statuta vetera*. Unlike the *statuta vetera* which were often copied with short useful tracts, the *statuta nova* rarely were. *Statuta nova* collections usually begin with the reign of Edward III, and end sometime before the year in which they were copied. Many fewer collections of the *statuta nova* appear to have been made than of the *statuta vetera*, and a higher percentage of those *statuta nova* collections produced were fine, large manuscripts featuring some illumination. The Free Library is lucky to have several collections of *statuta nova*, including some with notable illumination by known artists.

One solution to the ever-expanding nature of the *statuta nova* was to add new statutes to an older manuscript, effectively updating it. This may have been done to a luxury copy of the *statuta nova* in 14.10 which began as a deluxe copy of the statutes from 1 Edward III to the end of Henry V decorated in the 1420s, and then in the later 1480s had all the statutes through 3 Henry VII added, and an alphabetical index at the beginning of the volume. (I say “may” because there was some slicing up of the volume before Carson bought it, probably when it was rebaked, and so even more so than usual we must tread cautiously in assuming the volume as it stands now was the volume as it appeared in the fifteenth century).

The illumination of the borders opening the reigns of Edward III, Henry IV, and Henry V are all quite antique in appearance for the 1420s. Their band borders went out of fashion in the 1410s, as did the turned-leaf-corners and the blue and rose color scheme.<sup>11</sup> Other characteristics of earlier border styles are the sprigs on two of the capitals, four-pointed barbs on some of the leaves, the white (in this case silver) dots on the leaves, and the striated trilobes. Any of these features might persist, but all together the impression is of an older or provincial artist reproducing styles that had gone out of popularity in the capital the previous decade or before. Another, more contemporary artist may also have worked on these leaves, however, as we can see with the sprays decorating the edge and lower border in each opening. These are more up to date for the 1420s. They feature nice arabesque curves on the sprays, decorated with gold balls and pink and rose leaves. Even here, however, the attempt to render a more contemporary style is only perfunctory: on the three openings, the sprays are nearly identical. Nowhere in these images do we see any of the other artistic innovations of the 1420s: there are no trumpet flowers here, no self-shaded leaves, or aroids.

#### [LC 14.10, f. 314r](#)

The level of decoration seen in the earlier material in 14.10 is unusual: the vogue for deluxe *statuta nova* is usually considered to date to the 1470s and later. Nevertheless, as we saw with 14.20(5) occasionally elaborate copies of statute collections were

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<sup>11</sup>Here I follow Scott's methods for dating borders. Kathleen Scott, *Dated and Datable English Manuscript Borders*, c. 1395-1499, (London, 2002).



produced. Shown here, the artist of the second half of the volume was one of the border artists identified by Kathleen Scott as specializing in *statuta nova*.<sup>12</sup> Given that most of those deluxe copies appear to have been owned by highly successful lawyers, we might assume the unusually luxurious first half was a family or a gift volume updated for a special occasion several generations later.<sup>13</sup> 14.10 may have been associated with a lesser member of this august legal society, however. I have already described how antiquated was the style of the first half. The later fifteenth-century index added during the update was ready-made and features only a perfunctory champ initial on the opening entry, and flourishing alone after that. While Scott's early identification of the group of artists hung on the historiated initials, 14.10 has none remaining, and may never have had. As we can see in this example, the initial is in-filled by the same artist working on the borders, and not having to hire a specialist to paint a miniature on some or all of the reign-openings would have been a cost-saving decision. Nevertheless, the borderwork and initial are fine quality, and the self-shaded leaves and heart-leaves all match stylistically with some of Scott's set of artists.

#### [LC 14.9 \(5\), f. 46r](#)

Lacking 14.10's complex history, 14.9 (5) is emphatically one of the dozen late fifteenth-century *statuta nova* manuscripts identified by Scott as productions of the same group of artists.<sup>14</sup>

As 14.9(5) is complete, we can see how carefully the decorative programs of these collections were planned, and how tightly linked to use as apparatus. The artistic hierarchy extends to the index preceding the statutes. Here the initial of each indexed word is illuminated and decorated with short sprays. As was standard practice among this group of manuscript illuminators, the first indexed word begins with an initial decorated by the artist responsible for the self-shaded leaves on the reign openings, and subsequent initials are standard champs, that is, gold initials on blue and rose grounds.

This hierarchy is even more apparent inside the statutes themselves. Each reign opens with a full page illuminated bar-border complete with sprays, and the initial is historiated, showing a king sitting in judgment surrounded by clerics and lawyers. Subsequent statutes of a reign begin with champ initials. Both in text and in the margins, the chapters and the running titles are highlighted with alternating red and blue paraps.

These deluxe *statuta nova* were objects of conspicuous display for the lawyers who bought them or were given them, rather than working texts, and do not exhibit the traces of use common in less luxurious copies. Since it appears that there were fewer of the *statuta nova* collections made than the *statuta vetera*, these dozen or so handsome volumes stand out, and yet even in these master works, we do not see any traces of a pictorial tradition anything like that in canon and civil law texts. The question of why these lawyers should desire *statuta nova* as their showpieces, rather than the foundational

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<sup>12</sup>Kathleen Scott, "Additions to the Oeuvre of the English Border Artist: the Nova Statuta' in *Mirror of the Worlde: MS Bodley 283* (England c.1470-1480) : the physical composition, decoration, and illustration with an introduction by Kathleen L. Scott. (Oxford, 1980), p. 67 n. 8. Scott identifies 14.10 as possibly in this group, but I think it more likely than that when the border is carefully compared with others in the group.

<sup>13</sup>J. H. Baker, *Oxford History of the Laws of England*, 6 (Oxford, 2003), p. 505. 14. 9 (5) was owned by the Molyneux family.

<sup>14</sup>Scott, "Additions" pp. 67, n. 8.

*statuta vetera* has not been asked (to my knowledge) or answered. However, we might consider that the *statuta nova* were malleable, and these very men were commissioning these deluxe texts to commemorate their rise to a position to take part in the active interpretation, in the molding, of these statutes in law.

Something should be said before I close about the other riches of the Carson Collection. Among the earlier manuscript pieces is part of a roll of *Quo warranto* proceedings for a thirteenth century Eyre court. The Carson Collection gathers texts used by working lawyers by including a number of legal formularies and collections of cases from the fourteenth and fifteenth centuries as well as two late fifteenth-century collections of abridgments of cases. Legal education is well represented by the early fourteenth-century copy of the legal tract known as “Britton” and a couple of late fifteenth- or early sixteenth-century collection of readings on statutes.

I will end my talk today with only a gesture towards the early printed offerings in the Carson Collection, which are much too extensive to discuss here, and take us far afield from the theme of the symposium. While it is not incunabula-rich, the Carson holds early printings of almost all of the major legal editions of the first forty years of the sixteenth century. Fitzherbert's *Natura brevium*, *Abridgement*, and *Book of the Justices of the Peace* are represented in French and in translation, the first legal dictionary in English is evinced, and the Carson includes numerous early editions of the statutes in French and early editions of the translations, as well as an extensive range of yearbooks. Though the balance of the Hampton L. Carson collection is sixteenth- and seventeenth-century material, the medieval holdings are some of the most significant in North America.