

Register Brevium [Register of Original Writs]

In Latin and French, illuminated manuscript on parchment

[England, London, c.1470]

362 folios (12 blank or mostly blank, with prepared paragraph marks in red and blue) preceded and followed by 2 thick vellum flyleaves and 4 paper flyleaves, lacking one leaf after fol.14, else complete (collation: i¹², ii¹³ [of 14, lacking iii], iii-xxxv¹⁰, xxxvi⁷ [of 10, blank viii-x cancelled]), mostly with catchwords and ad hoc leaf signatures, 34 lines per page, ruled in black (justification 133 x 95mm.), written in dark brown ink in an English legal bookhand, paragraph-marks throughout in red or blue (usually many on every page), running-titles and marginal headings marked with similar paragraph-marks, seventy-five illuminated initials, 3-line high, in highly burnished gold on red and blue grounds with white tracery and with penwork sprays into the margins with green petals and gold bezants, a few early additions (blank spaces for many more), a few minor stains and signs of use, a few wormholes at beginning, generally in very fine condition with wide and mostly original margins. Eighteenth-century English red morocco gilt, gilt spine in compartments, gilt title, marbled endleaves, red edges. Dimensions 227 x 160 mm.

This *Register brevium* is a deluxe, illuminated example of a manual of procedure law. Originating in the twelfth century, these writs protect every private right and interest, and later copies, like this one, offer a complete guide to medieval common law. The present example, including blank folios for the insertion of later writs as is typical, belongs with a clearly recognizable group of manuscripts associated with the Inns of Court.

PROVENANCE

1. Doubtless written and illuminated in London, during the reign of Edward IV (1461-1483). It is one of a clearly recognizable group of luxurious and closely related legal manuscripts associated with the Inns of Court in the middle of the second half of the fifteenth century (cf. K.L. Scott, *Later Gothic Manuscripts, 1390-1490*, II, 1996, pp.344-47, nos.131-33, with many references). The latest writ here was issued on 19 August 1468 at Reading, where Parliament had met that year to avoid the plague in Westminster.
2. Signature on flyleaf, "E. Willes, 9 Ap: 1742," perhaps Edward Willes (c.1723-1787), Solicitor General and Chief Judge of Common Pleas, who had entered Lincoln's Inn in January 1741 and was called to the bar in 1747.
3. Sir Clive Coates (1879-1971), of Helperby Hall, North Yorkshire, where the book may have been since the eighteenth century, with his book label "CC"; he married Lady Celia Crewe-Milne in 1946, and changed his surname to Milne-Coates; sale by his executors at Sotheby's, London, 24 June 1986, lot 108, to Maggs.
4. Maggs, *Bulletin* 14 (1988), no. 3, to private collector.

TEXT

ff. 1-14v, Table of contents, heading, *Kalendarium. Capitulum primum De brevibus de recto patentibus...* (ff.

8v-14v, blank or partially blank with prepared parchment with paragraph marks destined to receive additional writs as the collection expanded);

ff. 15-360v, Writs grouped into 46 chapters or "groupings" for which we list the first writ of each group: ff. 15-23v, *De brevibus de recto patentibus*; ff. 23v-29v, *De recto secundum consuetudinis*; ff. 29v-33, *De falso iudicio*; ff. 33-36, *De generali attornato*; ff. 36-39v, *De protectione*; f. 40, blank; ff. 40v-43v, *De attornato recipiendo*; ff. 44-48v, *De advocacione ecclesie*; ff. 49-60v, *De prohibicione*; ff. 60v-74, *De consultacione*; f. 74v, blank; ff. 75-77v, *De residencia*; ff. 78-82, *De iura regia*; f. 82v, blank; ff. 83-91, *De excommunicatio capiendo*; ff. 91-97, *De vasto in dotem*; ff. 97-109, *De homine replegiando* [When a man is unlawfully in custody, he may be restored to his liberty by writ de *homine replegiando*, upon giving bail; or by a writ to his liberty by writ de *homine replegiando*, upon giving bail; or by a writ of *babeas corpus*, which is the more usual remedy]; ff. 109-124v, *De tauro*; ff. 124v-137v, *De deceptionis*; ff. 137v-141v, *De errore corrigendo*; ff. 142-144v, *De conspiracione*; ff. 144v-149, *De compoto*; ff. 149v-163, *De debito*; ff. 163-168, *De secta*; ff. 168-171, *De annuo redditu*; ff. 171v-176, *De comencionis*; ff. 176-180, *De custodia*; ff. 180v-182v, *De dote*; ff. 183-201v, *De statuto*; ff. 201v-203v, *Breve de ordinatione*; ff. 203v-220, *De assisis*; ff. 220-239v, *De recordo*; ff. 240-244, *De assisa mortis antecessoris*; ff. 244-247v, *De avo et consaguinitate*; ff. 248-249v, *Quare eiecit infra terminum*; ff. 249v-253, *De ingressu ad terminum*; ff. 253v-254, *Cui in vita*; ff. 254v-258, *De intrusione post mortem tenentis in dotem*; ff. 258v-261v, *De intrusione per tenentem in dotem*; ff. 262-263, *Cessavit*; ff. 263v-269, *Forma donacionis*; ff. 269v-271v, *De tenore legatis*; ff. 272-289v, *Si sit ad dampnum*; ff. 290-294v, *De essendo quietum de theolonio*; ff. 294v-297v, *De libertatibus allocandis*; f. 298, blank; ff. 298v-301, *De corrodio habendo*; f. 301v, blank; ff. 302-305, *De inquirendo de idiota*; ff. 305v-313, *De nominatione facta per regem*; ff. 313v-324, *De manucaptione*; ff. 324v-325v, blank; ff. 326-329, *De profero faciendo*; ff. 329-335, *De carta per donacionis de defendo*; ff. 336-360v, supplementary writs not accounted for in the table of contents, with a final set of writs *De conductu*; explicit, "T[este] R[ege] apud Redynge xix die Augusti Anno octavo."

This manuscript contains a collection of Original Writs, likely written and illuminated in London. It is one of a clearly recognizable group of luxurious and closely related legal manuscripts associated with the Inns of Court in the middle of the second half of the fifteenth century. The latest writ here was issued on 19 August 1468 at Reading [in the 8th year of the reign of Edward IV], where Parliament had met that year to avoid the plague in Westminster. Because the writs are fictitious or rather are listed as they were and constantly reused, the proper names or initials are not indicative of provenance or date. The Inns of Court in London are the professional associations (Lincoln's Inn, Middle Temple, Gray's Inn, Inner Temple) to one of which every English barrister had to belong.

This is a deluxe example of a manual of procedure law, central to Common Law. The *Register brevium* contains a selection of writs which commenced action in order to allow for the oral pleadings that followed. Register of Writs were produced as formulary books. They provided a range of writs previously issued in chancery--the first step in the judicial process and the only means of implementing the law enacted in the Statutes--and served as exemplars in the pursuit of any action in the protection of rights or liberties. They were the "basis" of the medieval common law, a guide to its leading principles, and a commentary upon their application" (Plunkett, p. 111).

The Register of Writs is a formulary of real and fictitious examples of documents issued by the Royal Chancery. According to Sir Edward Coke, the Register of Writs is "the name of a most ancient Book and of great Authority in Law." It consists of an enumeration of original writs current in the English Chancery, that is, writs originating actions (Bracton observed that "there may be as many kinds of writs as there are kinds of actions"). From these royal writs the common law descends (see De Haas and Hall, 1970, p. xi). Registers of Writs can be traced back to the twelfth century and were used by lawyers and religious houses as well as by members of the Chancery. Such books were continually modified and updated and the many blank spaces in the manuscript are in anticipation of constant additions. It was printed four times, 1531-1687 (with the first edition published by William Rastell in 1531).

The number of writs increased from about thirty-nine in the time of Glanvill (ca. 1189) to more than 400 in the reign of Edward I (1272-1307). The present *Register* is a later example, which accounts for its bulky nature, as the number of writs increased and some are included with their variants. During the twelfth and thirteenth centuries, the tendency was in England to create an appropriate writ for the protection of every private right or interest. The formulas employed by the Chancery were collected and arranged to suit the convenience of the clerks or attorneys using them. These form-books, or catalogs of writs, were known as Registers and the twelfth century collection called Glanvill may well be the earliest collection (see Van Caenegem, 1959, p. 11). Registers of writs were books of practice and one of the most valuable sources a lawyer could consult to determine legal remedies available at common law, for the early "writs of course" embodied the law of England as much as the later statutes of Parliament. Surprisingly, official texts of the Register did not exist, and copies of the Register were not uniform in arrangement: each practitioner had a Register compiled for his own use so that he might find the proper model of a writ when he needed it.

LITERATURE

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Thesaurus brevium, or a collection of approved forms of writs and pleadings. . . ., London, T. Basset, 1687.

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ONLINE RESOURCES

English Legal History Materials

<http://vi.uh.edu/pages/bob/elhone/elhmat.html>

Sixteenth-century Lawyer's Library

<http://www.law.harvard.edu/library/collections/special/>

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