Making Law Modern

The Curricular Canon, 1875–1925

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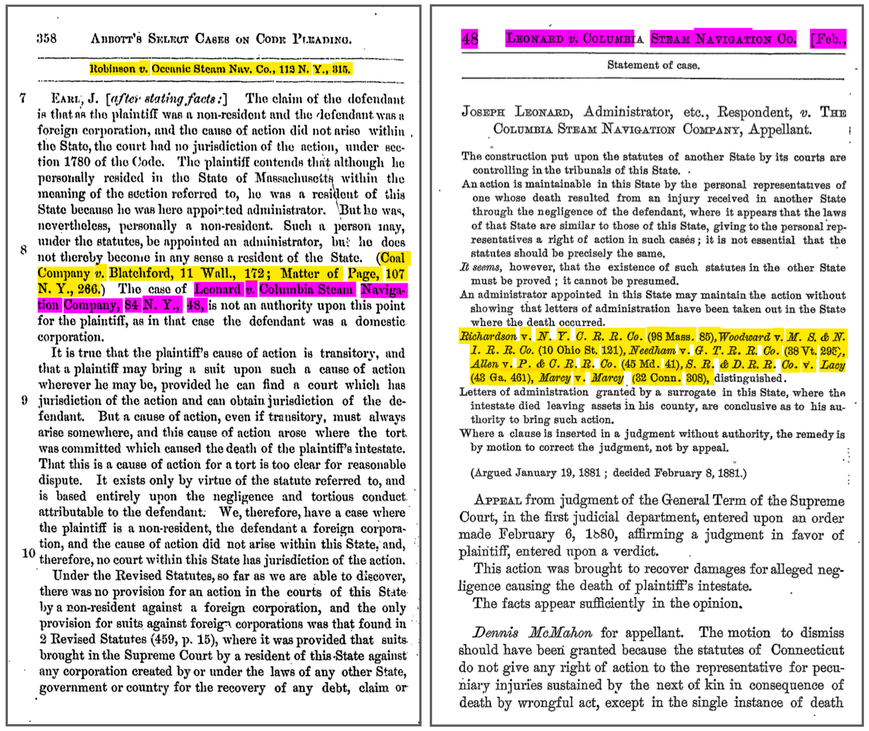
From 1789 to 1920, private entrepreneurs and publicly subsidized reporters published 1.6 million judicial decisions from America's vast array of courts. To understand these precedents, practitioners published over 10 thousand digests, commentaries, and treatises. Our project visualizes the connections between these two corpora by detecting citations to case authority in the text of treatises and textbooks.



358 ABBOTT'S SELECT CASES ON CODE PLEADING.

Robinson v. Oceanic Steam Nav. Co., 112 N. Y., 315.

EARL, J. [*after stating facts:*] The claim of the defendant is that as the plaintiff was a non-resident and the defendant was a foreign corporation, and the cause of action did not arise within the State, the court had no jurisdiction of the action, under section 1780 of the Code. The plaintiff contends that although he personally resided in the State of Massachusetts within the meaning of the section referred to, he was a resident of this State because he was here appointed administrator. But he was, nevertheless, personally a non-resident. Such a person may, under the statutes, be appointed an administrator, but he does not thereby become in any sense a resident of the State. (Coal Company *v.* Blatchford, 11 Wall., 172; Matter of Page, 107 N. Y., 266.) The case of Leonard *v.* Columbia Steam Navigation Company, 84 N. Y., 48, is not an authority upon this point for the plaintiff, as in that case the defendant was a domestic corporation.

It is true that the plaintiff's cause of action is transitory, and that a plaintiff may bring a suit upon such a cause of action wherever he may be, provided he can find a court which has jurisdiction of the action and can obtain jurisdiction of the defendant. But a cause of action, even if transitory, must always arise somewhere, and this cause of action arose where the tort was committed which caused the death of the plaintiff's intestate. That this is a cause of action for a tort is too clear for reasonable dispute. It exists only by virtue of the statute referred to, and is based entirely upon the negligence and tortious conduct attributable to the defendant. We, therefore, have a case where the plaintiff is a non-resident, the defendant a foreign corporation, and the cause of action did not arise within this State, and, therefore, no court within this State has jurisdiction of the action.

Under the Revised Statutes, so far as we are able to discover, there was no provision for an action in the courts of this State by a non-resident against a foreign corporation, and the only provision for suits against foreign corporations was that found in 2 Revised Statutes (459, p. 15), where it was provided that suits brought in the Supreme Court by a resident of this State against any corporation created by or under the laws of any other State, government or country for the recovery of any debt, claim or

48 LEONARD *v.* COLUMBIA STEAM NAVIGATION CO. [Feb.,

Statement of case.

JOSEPH LEONARD, Administrator, etc., Respondent, *v.* THE COLUMBIA STEAM NAVIGATION COMPANY, Appellant.

The construction put upon the statutes of another State by its courts are controlling in the tribunals of this State.

An action is maintainable in this State by the personal representatives of one whose death resulted from an injury received in another State through the negligence of the defendant, where it appears that the laws of that State are similar to those of this State, giving to the personal representatives a right of action in such cases; it is not essential that the statutes should be precisely the same.

It seems, however, that the existence of such statutes in the other State must be proved; it cannot be presumed.

An administrator appointed in this State may maintain the action without showing that letters of administration have been taken out in the State where the death occurred.

Richardson v. *N. Y. C. R. R. Co.* (98 Mass. 85), *Woodward* v. *M. S. & N. I. R. R. Co.* (10 Ohio St. 121), *Needham* v. *G. T. R. R. Co.* (38 Vt. 294), *Allen* v. *P. & C. R. R. Co.* (45 Md. 41), *S. R. & D. R. R. Co.* v. *Lacy* (43 Ga. 461), *Marcy* v. *Marcy* (32 Conn. 308), distinguished.

Letters of administration granted by a surrogate in this State, where the intestate died leaving assets in his county, are conclusive as to his authority to bring such action.

Where a clause is inserted in a judgment without authority, the remedy is by motion to correct the judgment, not by appeal.

(Argued January 19, 1881; decided February 8, 1881.)

APPEAL from judgment of the General Term of the Supreme Court, in the first judicial department, entered upon an order made February 6, 1880, affirming a judgment in favor of plaintiff, entered upon a verdict.

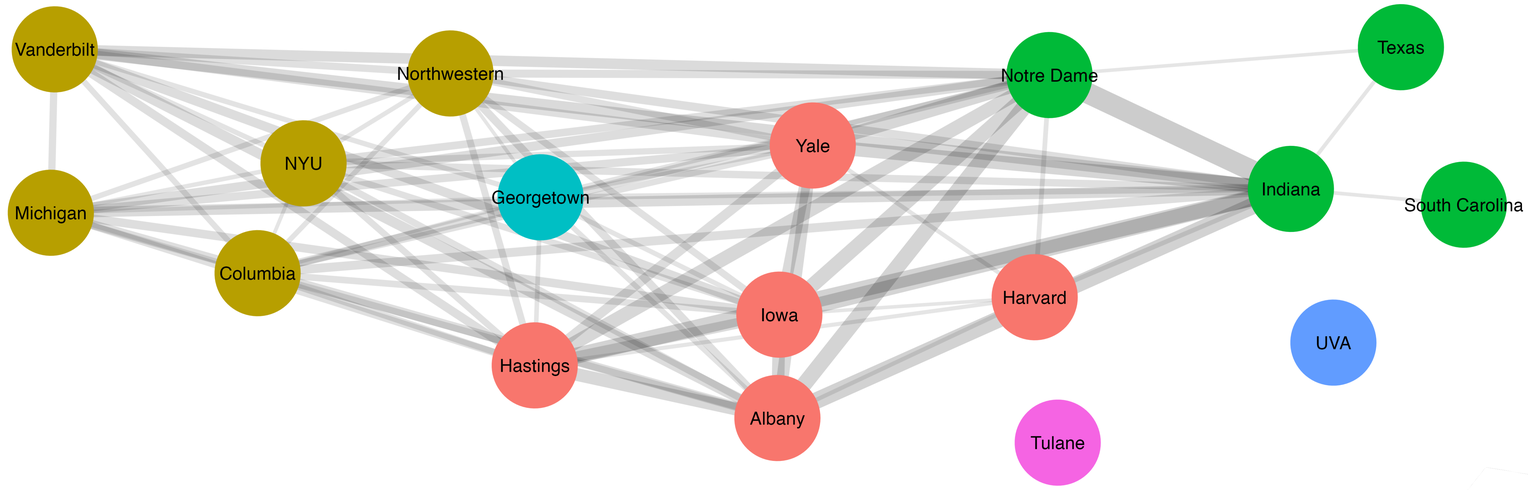
This action was brought to recover damages for alleged negligence causing the death of plaintiff's intestate.

The facts appear sufficiently in the opinion.

Dennis McMahon for appellant. The motion to dismiss should have been granted because the statutes of Connecticut do not give any right of action to the representative for pecuniary injuries sustained by the next of kin in consequence of death by wrongful act, except in the single instance of death

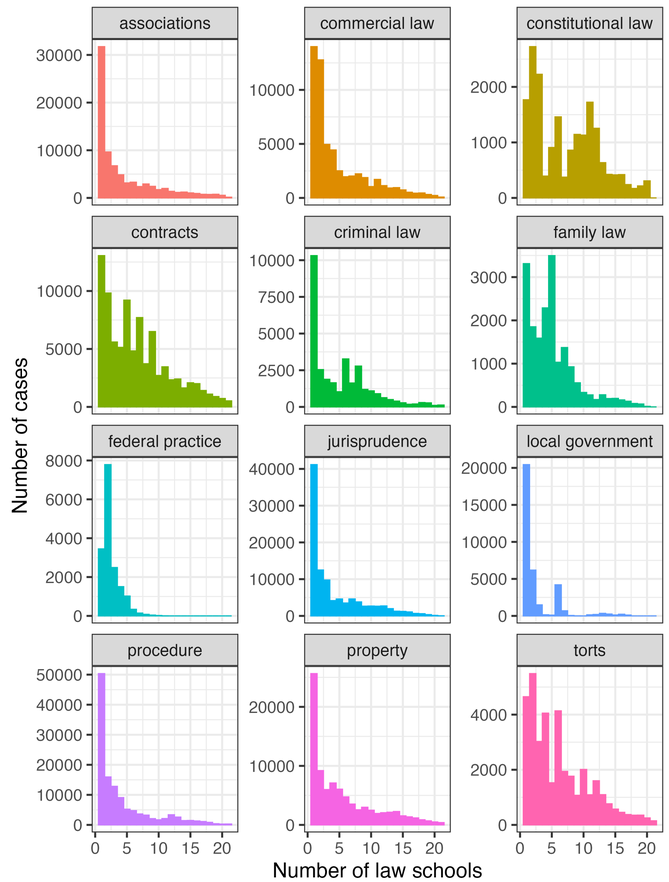
Our subproject on the curricular canon hones in on a subset of these texts: casebooks assigned to students in 21 American law schools from 1875 to 1925. Our project asks what cases were taught, in which courses, at which regions and schools during the golden age of the "case method" in legal education?

Archival researchers re-created the book lists from the law schools. We connected assigned books to the cases they cite, giving us a large database of law schools linked to textbooks linked to cases, all with supplemental data about region, course topics, dates of assignments, and more.



By the late nineteenth century, law schools were converging on a canon of case law. The network above shows connections between 17 law schools based on the number of shared cases (at least 10 thousand) that were cited in their textbooks in courses taught before 1890. (Chicago, Penn, Colorado, Cornell are in our database but were founded after 1890.)

The network shows that the legal curriculum was becoming densely connected. However, some law schools shared more cases in common, as seen in the colored groups in the network. The histogram to the right demonstrates that legal fields such as constitutional law, torts, and contracts had a better defined canon than other fields. In those fields, the same cases were taught at more law schools, including a fair number of cases taught at nearly every law school.



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