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Alexander Forrester's Chancery Reports (1732-1739)

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ALEXANDER FORRESTER'S
CHANCERY REPORTS
(1732-1739)

Edited by
W. Hamilton Bryson

William S. Hein & Co., Inc.
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2006
Alexander Forrester has been a lawyer since his own time, and his work was published not by his own intentions but by the years. Therefore, it has been decided to publish here the remainder of Forrester's chancery reports (1732-1739). These reports contain the opinions of all very good equity judges, especially those in the period of important developments in equity, such as trusts. Although most of these cases were reported in other sources, these reports will add a new layer of information. These reports were taken by Forrester, who was taking notes in court, and orally their opinions. To have a complete record of these events will be useful. Two eyes see better than one.

I would like to thank the Managers and innkeepers of the Mead's Inn for permission to publish the documents, and his colleagues at the library who supported these courtesies. Also, I would like to thank the staff at the University of Richmond and at the Library of Virginia. The manuscript was typed by Eliza, and I would like to make a particular acknowledgement.
Forrester's Reports

INTRODUCTION

ALEXANDER FORRESTER

Alexander Forrester was born around 1711, probably in France. He was the son of Andrew Forrester and Jean Cunning-ham Forrester, Scots Jacobites, who had gone into exile with King James II. He entered the Inner Temple in 1727 and was called to the bar in 1731. He began his reports in early 1732. He was made a bencher on 27 November 1762. He had a large law practice in the Court of Chancery, the House of Lords, the Privy Council, and the Board of Trade. One of his regular clients was the duke of Bedford. In 1754, he represented the lower house of the General Assembly of Virginia in a very contentious dispute before the Privy Council against the Lieutenant Governor of Virginia over fees for putting the seal to royal patents. At the time of his death, he had chambers at 6 New Square, Lincoln’s Inn. He was a member of Parliament from 1758 to 1774, where he was an adherent to the duke of Bedford’s party. He died unmarried on 2

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2 See J. H. Smith, Appeals to the Privy Council from the American Plantations (1950), passim.


Forrester's Reports

July 1787 in London at the age of 76 and was buried in the vault of the Temple Church. 1

FORRESTER’S REPORTS

Lincoln's Inn MSS. Misc. 52 and Misc. 54.

These two books, which are a set, were given to Lincoln's Inn in May 1844 by William Selwyn (1775-1855). 3 They contain Alexander Forrester's reports of cases in the Court of Chancery dating from 1732 to 1739, some of which have been printed already, as follows.

LI MS. Misc. 52, pp. 1-45, first printed below.
LI MS. Misc. 54, ff. 22-65, first printed below.

Lincoln's Inn MS. Misc. 359.

This is the same as LI MS. 52, pp. 1-88, i.e. Case Nos. 1-21, below, and Cases tempore Talbot, pp. 1-58.

4 Note that the case of Tanner v. Morse (Ch. 1733), LI MS. Misc. 52, p. 45, is printed out of order at Cases tempore Talbot 284, 25 E.R. 779, and the case of Wheeler v. Trotter (Ch. 1736), Case No. 22, LI MS. Misc. 54, f. 15, was omitted.
Lincoln’s Inn MS. Misc. 509.

This book includes Case Nos. 1-24, below, and Cases *tempore* Talbot, pp. 1-217, 284.

Lincoln’s Inn MS. Misc. 393.

This is an unbound assemblage of Forrester’s reports in several booklets, including Case Nos. 1-18, 22-25, below, and Cases *tempore* Talbot, pp. 3-28, 38-58, 111-217.

British Library MS. Hargrave 152.


*Cases in equity during the time of the late Lord Chancellor Talbot with tables of the names of cases and principal matters.* [London] In the Savoy, Printed by Henry Lintot for T. Waller, 1741.

vi, 286, [18] p. 32 cm.

Lord Bathurst observed that only pages 1-217 are Forrester’s reports. This is confirmed by an examination of the manuscripts.

*Cases in equity during the time of the late Lord Chancellor Talbot with tables of the names of cases and principal matters.* [Dublin]. Printed by and for Thomas Bacon, 1742.

vi, 286, [18] p. 32 cm.

*Cases in equity during the time of the late Lord Chancellor Talbot with tables of the names of the cases and principal matters.* The second edition, with many references, and large notes. [London] In the Savoy, Printed by Henry Lintot for T. Waller, 1753.

vi, 286, [18] p. 32 cm.

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Forrester's Reports

Cases in equity during the time of the late Lord Chancellor Talbot with tables of the names of cases and principal matters. The 3rd ed., with references to the proceedings in the court, and to later cases, by John Griffith Williams. London, Printed by A. Strahan and W. Woodfall for Whieldon and Butterworth, 1792.

xv, [1], 286, [*287]-*297, 287-316 (i.e. 420) p. 25 cm. Paging irregular, following paging of earlier edition inset in the margin of the text.

The Preface to this third edition states 'The following collection of cases is well known to have been taken from the notes of Mr. Forrester . . . and . . . originally published . . . without the sanction of the author's name.'

John Griffith Williams was born around 1760, the son of John Williams of Ruthin, Denbighshire. He entered Queen's College, Oxford, on 30 October 1778 at the age of eighteen. J. Foster, Alumni Oxonienses (1888), part 2, vol. 4, p. 1566. He was called to the bar at Lincoln's Inn on 4 February 1784. Records of the Hon. Soc. of Lincoln's Inn (1902), vol. 4, p. 239. He is last mentioned in J. Browne, General Law List for the Year 1799, p. 43. He died insolvent in 1799, before 6 November 1799, when his chambers in Lincoln's Inn were rented to a new tenant. Lincoln's Inn MS. Searles Court Books (E2A2), vol. 2, p. 31. I would like to thank Guy Holborn, the Librarian of Lincoln's Inn, for this information.

Cases in equity during the time of the late Lord Chancellor Talbot with tables of the names of cases and principal matters. The third edition, with references to the proceedings in the court, and to later cases, by John Griffith Williams. Dublin, Printed by Henry Watts, 1793.

ix, [5], 313 (i.e. 416) p. 22 cm.

English Reports, vol. 25, pp. 626-745 (1903).

Forrester never intended for his reports to be published. However, he lent them to a friend, whose clerk, a Mr. Ridge of the Middle Temple, made surreptitiously a copy of part of them and sold them to the bookseller discovered that his work was a Waller in the Court of Chancery the publication.2 However, he after books to be sold.3 The high quantity immediately recognized, and there one by John Griffith Williams notable for its scholarly edition not mention Forrester's authorship tionally that they were made by 'Forrester's Reports'.4

1 J. W. Wallace, The Reporters (4th Richardson (1770), Ambler 694, 695, 2
3 See Gee v. Pritchard (1818), 2 Sw
4 J. G. Marvin, Legal Bibliography argument in Harrison v. Field (1795), 2 Heard v. Stanford (1736), Cases tempor
Forrester's Reports

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and sold them to the bookseller, T. Waller.1 When Forrester discovered that his work was about to be published, he sued Waller in the Court of Chancery and got an injunction restraining the publication.2 However, he afterwards relented and allowed the books to be sold.3 The high quality of these reports was immediately recognized, and there were several later editions, the one by John Griffith Williams (c. 1760-1799) in 1792 being notable for its scholarly erudition. Although the first editions did not mention Forrester's authorship, it was well known internationally that they were made by him, and they are often cited as 'Forrester's Reports'.4


2 Forrester v. Waller (13 June 1741), as noted in Osborne v. Donaldson (1765), 2 Eden 327, 328, 28 E.R. 924; Millar v. Taylor (1769), 4 Burrow 2303, 2331, 98 E.R. 201, 216.
