

Circuit Court of the U. States
May Term 1839.

Harrison Gray & others in Equity

vs.
John B Russell & others.

Master's Report.

And now Geo. S. Curtis, Master in Chancery, to whom the said cause was referred under the annexed order of the last Term of this Court, having heard the several parties by their counsel from day to day, makes his Report of the several matters in the said order referred, and of the evidence produced before him under the separate allegations in the Complainant's Bill, as follows:

I. "That the Defendants' Grammar adopts the same Title as the Complainant's"; - and under the said allegation, the following Title pages are offered in evidence -

Complainant's

Adam's

Latin Grammar
with some improvements

and the
following additions;

Rules for the right pronunciation
of the

Latin Language;

a metrical Key to the odes of Horace;

a List of Latin Authors arranged according
to the different ages of Roman Literature;

Tables
showing the value of the various coins
weights and measures used among the
Romans.

By Benjamin V. Gould
Master of the Public Latin School of Boston.

Defendants.

Adam's

"Latin Grammar;

with numerous

Additions and Improvements.

Designed to aid

The more advanced Student by further eluci-
dations

of the

Latin Classics.

By Geo. Townsend, F. M.

Late Professor of the Latin Language
and Literature in the University
of the City of New York."

It must be remembered that if the grammar be the
first book put into the learner's hands, it should
also be the last to leave them.

Left to Bachmann's Greek Gram.

This Edition is adopted by the University of Cam-
bridge Mass. and is recommended to the use of
those who are preparing for that Seminary.

1836

II. That Defd's Grammar adopts the plan of Compl's in omitting the whole of the original work relating to English Grammar, omitting precisely the same pages throughout, particularly at pages 16, 18, 68, 69, 71, 72, 73, 122, 124, 224, 260, 285, 297, 305, 310, of Defd's book.

Complainant's evidence

Defendants' evidence

It is proved that on each of the said pages in Defd's work there is an entire omission of all matter relating specifically to English Grammar; that the same omissions had been previously made by the Compl't; and that in former editions of Adams, there was considerable matter relating to English Grammar.

Defendants
The Defendants offered in evidence an edition of Adams's Lat. Gram. by Dr. Fitch President of Williams College; the copy produced was of the 4th edition, Troy, 1814. There is prefixed to it an Advertisement by the Faculty of that college, which contains the following passage: "But the English part of this Grammar, which very considerably increases its size & price, is found by experience to be not only useless, but very inconvenient to the student and instructor. An Abridgment of this Grammar having been shown to us, in which the English part and other useless parts are omitted, we hereby recommended this cheap, abridged and more convenient edition to all students who expect to resort to this college and direct" &c. - This Advertisement is dated Dec 30, 1805; and the Defd's rely upon it as showing that the plan of omitting English Grammar from the Editions of Adams, began as far back as that date.

- Reply -

It is pointed out by the Compl't, that Dr. Fitch does not omit all the English Grammar, as both the Complainant's and Defd's do.

as on p. 7. of Fitch,

"Compound words should be divided into the parts of which they are made up; as up-on, with-out &c. and so in Latin words, ab-utor, in-urs, propter-ca-et-erum, &c. In like manner, when a syllable is added in the formation of the English verb; as loved, lov-ing, lov-eth, will-ing &c.

They also show that the last clause is omitted by both Compl't and Defendants -

a similar passage is shown on page

8 of Fitch's Gram. which is omitted by both Compl't; & Defd's.

and on p. 9 of Fitch the following

"The English Language has one part of speech more than the Latin, namely the Articler."

This is also not found in Compl't's or Defd's Book.

That Need's in his Abridgment does not omit all English Grammar, but places some of it together with other matter in notes at the bottom of the pages; as on page 3, 4. -

Summary

It would appear, from the evidence in this cause, that the Defd's Grammar does make the omissions of these particulars of English Grammar which are exhibited in the above reply of the Compl't; and it is not shown that any work had omitted those particulars, before the Defd's, except the Compl't's. ~~It is also not shown that~~ The plan of omitting to teach a system of English Grammar in concurrence with the Latin, which seems to have been the original design of

III. "That the Dreyfells' Grammar has rules of accent imposed to the original grammar, after the plan of Gould's (the Compend's) edition some of the rules being substantially taken from Gould's."

Compend's Evidence

Drell's Evidence

The Compend show that the said Rules in both the Grammars are substantially the same.

The Drells suggest that the said Rules were taken by both the Compend & Drells from Walker's Key, and a sheet published by Professor Chumbrlain of Guelph College, since they also show that Gould admits them to be from Walker, and the System used at Guelph College, in his Preface, p. iv.

They also show that of Chavand's

- Rules Obs. 1 is not in Gould
- Obs. 2 is not in the same Language
- Obs. 3 is not in the same Idiomology.

Summary.

The Rules referred to in this alteration are not the expression of principles inherent in the nature and structure of the language itself; but they are the conventional Rules which have been fixed upon by the moderns to regulate the pronunciation of a dead language. The Rules themselves are drawn from the analogous principles of the pronunciation of English; but the resort to those analogies is a conventional idea.

I find that Gould's Rules of Accent (only two in number, are not original, and that the idea of pronouncing Latin in analogy to the received pronunciation of our own Language, is not original. The Latin Language has been so pronounced in England since the time of Henry VIII. to whose reign the Latin Grammars are traceable - and the Continental Nations have always pronounced it in analogy with their own languages; but there have been attempts by the learned to suggest what the lost pronunciation of the Romans actually was. But the common source from which the Drells, Compend both Gould & Chavand took this plan and the substance of the rules, is Walker's Key; and it appears that in this work, the idea, or system of pronouncing Latin in analogy with the pronunciation of English ~~is not~~ is as fully and systematically propounded as it is by Gould;

- 2. that the substance of the two Rules given by Gould is also given by Walker, and Prof. Chumbrlain.
- 3. that the same Rules in substance, ^{and by Gould} are given by Chavand, but not in the same words.

IV. That the Dells' Grammar follows Gould's plan by prefixing Rules for the sound of the vowels, and copies some of the Rules literally and takes others substantially, as in the 11th page.

Complainant's evidence.

Defendant's evidence.

Summary.

That the said Rules are found in both Grammars.

The Dells suggest that ^{of} the said Rules obs. 4 & 5 are different in phrasology and examples: obs. 6 is not found in Gould, and they allege that obs. 8 of Consonance is an improvement on the corresponding passage in Gould, with one additional example; and that exception 2 of Blow-and has two additional examples. In regard to the Rules for the sound of C, G, and CH, they show that the usage in Gould is new, being tabular, with words as examples which Gould has not; and that the materials are found in Walker's Key, Smith's et. Scamper, Grammar, and Gory's Proseody.

Reply.

The Dells contend that the Rules respecting C, G, and CH are very dissimilar in Gory's Proseody, Smith's Gram. and Mason's Key; but that in Gould & Blow-and they are substantially the same.

Summary.

The same observations made under the last preceding head, are applicable here. Whether or not they vary the principles of law applicable to the facts, I conceive not to be within my province. The result of those facts, upon the evidence, is, that the plan of giving rules for the sound of vowels is not original with the Dells; that the rules themselves for the sound of C, G, and CH, have been in substance preformed by earlier grammarians; some in one, and by some in another form; that of the rules for the sound of vowels, found in Gould, the I. with the "observation" under it, is given in substance by Walker; but that the remainder (about 3/4 of the whole) viz. II. III. IV. V. with the three short propositions under them, called exceptions & observations, are substantially the same in Blow-and as in Gould. I consider that the variations in phrasology & examples, in these last, on which the Dells rely to rebut the charge of a literal piracy, do successfully rebut that charge; but that the allegation of their being substantially the same, is sustained. It is likewise proved that Mr. Blow-and has added some Rules, as above stated, and those additions are of obvious importance and utility.

V That the Edfells Grammar has followed the plan of Gould in marking the quantity of the penultimate vowel in the Latin words throughout the work, where the quantity was not determined

Compelt's Evidence.

Edfells' Evidence.

The Compelt's show that the plan of marking the vowels is the same in both works, and eight instances are pointed-out by them where Mr. Gould's work contains ~~typographical~~ errors, in the marking of vowels, and the same errors are found in the same places in Cleaveland's book: and the Compelt's rely upon this as circumstantial evidence of a direct copying on the part of the latter from the work of the former.

Answer
The Edfells contend that the plan of marking the penultimate vowel is not new or peculiar to Gould, the support of which they produce

- Adam's Gram. Edinb. 1773
- Rich's Adam's Gram. Troy, 1814.
- Smith's A. Gram. Gram. Boston 1806.
- Adam's Gram. Albany 1820
- Lump's Latin Gram. N. York 1801
- Adam's Gram. N. York 1820
- Adam abridg'd, N. Haven 1825?
- Fiske's Latin
- Grault's Gram. London 1823
- The London Lat. Gram 1787.

Reply.

That none of the authors made it a rule to mark the penultimate; and that, as an example, the Superlatives of adjectives are seldom marked by the other authors, but always by Gould & Cleaveland.

Summary. X

The earliest trace of a plan of marking the quantity of the penultimate vowel is in the Lat. Gram. of 1757. From thence, down to the most recent of the authors and editors cited by the Edfells, it is apparent that this plan has been followed by all, to a greater or less extent. Of those authors & editors, it appears that Smith makes the most frequent use of it, and I find that he marks the Superlatives of adjectives. The result of the evidence upon this point may be stated thus - that ^{it is proved} that the Compelt's Editor has made use of this plan to a greater extent than any previous writer, but that previous writers had used it more or less; and that the Edfells Editor has made use of it to the same extent and on the same words, as the Compelt's had done.

In regard to the eight instances of similar errors, I find that of those eight words, the same mistakes had been made in three of them in the Edinb. Edition of 1773, and in Dr. Sitch's Edition of 1814, when the other five are marked, ^{in these last editions} as the Compelt's say they should be marked. In Cleaveland they are marked precisely as in Gould.

VI. That the Feltts have introduced into their edition the same new heads in various places, particularly at pages 35, 78, 303, 305.

Compt's Evidence.

Feltts' Evidence.

The Feltts evidence that there is no substantial difference in the above particulars between Compt's and the preceding editions of Adams - in respect of which they produce
Genl. Edition 1795
Fitch " 1818
N. York " 1818

Summary.

Of the ~~two~~ particulars alleged by the Compt's, two are found unaltered and set down in the same way in former editions in the other two (pages 78 & 303) the coincidence consists in setting down the same heads

"Formation of the Degrees"

and

"Proso-dy"

VII. That the Feltts have copied in many instances the division of paragraphs and discrimination of what was important, by printing the same in a distinct type, particularly at pages 67, 69, 73, 74, 78, 115, 196, 197, 298.

Compt's Evidence.

Feltts' Evidence.

The first counsel that there is nothing more in the matters here alleged, than the like divisions substantially, as to be found in prior editions. My office edit. Edition 1792:

- N. York — 1790
- Boston — 1792
- Fitch — 1818.

Summary.

I do not perceive that this allegation involves any thing more than a use of similar type; or rather the use of a similar mode of distinguishing what is more from what is less important to the learner. I find that the same thing had been done in the earlier editions of Adams; and that the system itself is not peculiar to the Compt's.

See same matters stated in the original edit. Edition. —

VIII. That the Stpts have adopted in many instances the transpor-
tion of matter from the text to the notes, and from one part of
the work to another, particularly at pages 15, 16, 63, 76, 81, 98, 116,
328."

Complet's evidence.

Stpts's evidence.

Mr. Stpts alleges, that the matter here said
to be transported from the text to the notes,
is in the prior editions of Adam, and
is distinguished by a smaller type, whether
in the text or notes; and that Gould
has done nothing but place the original
matter upon a different part of the
pages, and without any advantage or
improvement from that circumstance.

The statement made by the ^{Summary} Stpts is substantiated upon the evidence, except in
relation ^{to the note} on the 328th page, because and which is as follows:

"A strophe or stanza includes as many lines as are necessary
to show all the different kinds of verse measure in an ode.

It is called strophe, which in Greek literally means a turning,
because at the end of it you turn back to the same kind

of verse with which you began."

This note is not shown to be in
any of the prior editions. All the other matter, embraced in the above ^{reference} pages, is
found in the original work - and Mr. Gould's peculiarity consists in placing
it ^{in notes, the same as followed by Gould} at the bottom of the pages, instead of leaving it in the text. So far as the
question of this being an improvement is a question of fact, I do not perceive
how it is an improvement, and nothing on that head, is suggested by the Complet's.
So far as it is a question of Law, I do not report.

In regard to the note above recited, I find that it was original with the
Complet's, and has been adopted by the Stpts.

IX. "That the Bills have followed - Gould in giving the English of the cases and members of nouns declined as paradigms."

Copley's Evidence.

Bills' Evidence.

The Bills allege that the same thing had been ^{done} long before by various authors, and that Gould has only followed them.

They cite

- Wells's Adam 1824
- Etton's Gram. 1788
- Merchant's Key to Gram. 1787
- Living's Gram. 1787
- Edwin's Adam 1793
- Milner 1742
- Smith
- Tones
- Salem Sat. Gram. 1783
- Wharm's Evidence 49

Summary

The result of this evidence is, that by all the above cited authors and editors except the three last, the English of ^{the} cases and members of nouns declined as paradigms are given, more or less; and that by some of them they are given as correctly and to as great extent, as by Gould. They do not always use the same paradigms, which have been used by Gould, and which Blackland has also used.

X. That the Bills have copied literally in part and substituted in part remarks on gender assigned to the declension of nouns."

Copley's Evidence

Bills' Evidence.

The Bills allege that their work is not the same, in his reprints, with the Copley's - that the arrangement of the remarks is different - that Gould follows Adam in placing these remarks after "some Rules of Declension" - that Living and follows Gould Grant in placing them before "Number" "Case" and "Declension" -

That Blackland in his first paragraph on Gender is now - that the 3^d & 4th are in substance in Grant, 1st, which probably served as Gould's basis.

Summary

The passage in question consists in both works of a statement or discussion of gender, as one of the topics involved in the science of Grammar, including first a statement of the natural philosophy of Gender, and then a description of grammatical gender as founded on the analogies of natural gender, and the conventional principles that have been resorted to, to complete the system, where those analogies fail. — The original work of Mr. Gould, and subsequent editions of it in this country, contain the substance of what is given by Bond in his two first paragraphs, on the grammatical gender of Latin Nouns: but he did not preface the remarks with a distinct statement of natural gender, thereby suggesting and stating the analogies on which grammatical gender is founded. Mr. Gould's original statement began simply "Nouns in Latin are said to be of different genders", not merely from the distinction of sex, but chiefly from their being joined with an adjective of one termination and not of another." This presupposes that the student is already acquainted with the fact that on the analogies of natural gender the philosophy of grammar

has constructed its genders of words. But in Mr. Gould's work this fact is brought to the notice of the reader: and Mr. Cleaveland has done the same thing; and so far as the former is ^{either by mistake or his matter, or arrangement, or continuation} entirely original upon this point, so far as latter has violated his exclusive right. It appears ~~clearly~~ that in Mr. Grant's very philosophical "Institutes of Latin Grammar," (London 1823,) the distinction between natural and grammatical gender is pointedly expressed, and it is shown how the grammatical gender of the Latin language involves something more than the distinction of natural gender. Mr. Gould has gone a little further than this in stating that "on this distinction of the sexes did gender originally depend"; (which statement Mr. Cleaveland does not copy.) Mr. Cleaveland's paragraph on the same ^{and the original edition} topic embraces the substance of what is found in Grant, and in different phraseology from that used by Gould.

There comes a paragraph stating the grammatical meaning of "common" gender and "doubtful gender", which is in terms identically the same in Cleaveland as in Bond, while the substance of it is found in Grant.

This is followed by a paragraph on the ^{philosophical} distinction between "common" and "doubtful gender", which is in terms identically the same in Cleaveland as in Bond, and the substance of which is not found elsewhere.

XI. That the Hills have adopted the arrangement of the terminations of the several declensions in columns, instead of putting them in transverse lines, as they were arranged in the original work of Mr. Green.

Compt's Evidence.

Hills' Evidence.

The Hills argue that Gould's arrangement is not new - that it had been adopted long before by Grammaticians - and they produce Jones's Lat. Gram. 1814 - and they further contend that the change of form is entirely unimportant.

Summary.

In the original work of Mr. Adams, there is prefixed to each declension of nouns, a model of the terminations of that declension, arranged in transverse lines. The alleged infringement consists in putting these terminations in columns, after the Compt's plan. I find these are the same tables in Jones's Grammar, and that they are arranged in columns.

XII. That the Hills have copied the additional termination of the vocative and ablative cases of the word "Achilles"; and have adopted from Gould the declension at length of the words "opus", "dogma", "parvus", "arundo", "Dido", "calcar", "actus", and "trax", in the third declension, and given the English to the words "opus" and "parvus".

Compt's Evidence.

Hills' Evidence.

The Hills state that these words are thus declined at length in various Grammars of earlier date, and produce

Etton Grammar	1788 & 1814
Hill's Grammar	1824
Jones	1814
Shant	1791
Sherrill Taylor's	1787
Hillier	1742

Reply.

The Compt's alleges that but about half of the said words are declined in the works mentioned.

That the model of declining "Achilles" is peculiar to Gould, in which he has been followed by Green and Lamb.

As to the word "Achilles" they say, it is declined at length as by Gould, in

Salem Gram. (1801)	1783
S. Smith	1812
Wilmer	1742
Green	

Summary.

Of these words, "opus", "jurus", and "calcar" are declined at length, by several of the authors cited by the Hells, and the English of the two first is given. "Dogm", "mund", "fidi", "actus" and "box" I do not find declined at length in any other authors than Gould and Cleveland.

In regard to the word "Archives", ~~it does not appear that it is~~ ~~declined~~ ~~by~~ ~~any~~ ~~author~~ ~~who~~ ~~has~~ ~~been~~ ~~so~~ ~~declined~~ ~~previously~~, — as Gould and Cleveland have declined it, in Joyce's Salem Gramr 1783. It is not so declined in any of the editions prior of Adams prior to Gould's.

XIII "That the Dictionaries have followed Gould in making a distinct head of heterogeneous nouns, and heteroclytic nouns, in pages 55, 56; have adopted and copied the article heteroclytic, in page 56; copied the word "depremi" under the head of "diphthota" in defective nouns."

Crompton's Evidence.

Dixell's Evidence.

- The Dictionaries state, ~~that~~ in reference to
1. The distinct head of heterogeneous nouns, that the language is imitation that made use of in the prior editions; that the mechanical distribution of the types on the page is different; that the captions of the two classes of nouns are like those of Gould, but that the names of the two classes were used originally by Adam, as in the Great Edition, p. 49-50.
 2. The distinct head of heteroclytic, that in addition to the remarks made under the former head Grant has a distinct caption of heteroclytic p. 45 also likewise p. 47 also the Port Royal Grammar vol. 1. p. 126 -
 3. The copying of the article "heteroclytic" - that it is taken from the prior Editions, as the Edinburgh's p. 50 -

Summary.

It appears that the whole of this matter in relation to heterogeneous and heteroclytic nouns, as it is found in Gould and Leaveland, existed in the original work of Mr. Adam - verbatim; and that the only improvement made upon it by Gould consists in placing distinct captions over the same matter. This may be best exhibited by comparison.

Adam, (Edinburgh 1793)

"Irregular Nouns"

Irregular nouns may be reduced to three classes, variable, defective and redundant

I. Variable Nouns

Nouns are variable, either in gender, or declension, or in both.

Those which vary in gender are called heterogeneous, and may be reduced to the following classes;

1. masculine in the singular and neuter in the plural

Sc. 20.

Gould

"Irregular Nouns"

Irregular nouns may be reduced to three classes, variable, defective and redundant.

I. Variable Nouns

Nouns are variable either in gender, or declension, or in both.

Heterogeneous Nouns

Those which vary in gender are called heterogeneous, and may be reduced to the following classes

1. masculine in the singular and neuter in the plural -

Sc. 20.

And so with the title of heteroclytes; in reference to which it is also true that the other authors cited have each a distinct head of heteroclytes. In reference to the entire article of heteroclytes, a part of it is found in the original Adam, and the rest is taken from Grant & Smith, by Mr. Gould, and arranged into this article; the same being used by Cleveland.

In regard to the word "repress", it appears, that in addition to the examples under the head of "diploca" given by Mr. Adam, Mr. Gould gave the word "repress", which has been adopted by the Fells' editor.

by Boulder, is given in full in the stone book, and partially in other
numbers —

XV XIV. That the Dfells. have adopted & copied the change of the English translation of the imperfect and future tenses of the Latin verbs, and adopted and copied Gould's improvement in giving the entire Latin words in each of the voices, tenses, persons & numbers.

Compto. Evidence.

The Compto. allege that the translation of the imperfect tense in the Eton Gram^r is different from that in Gould and Cleaveland. That the translation of the future given by Gould and followed by Cleaveland is different from all the other grammars.

Dfells. Evidence.

The Dfells. contend that this English translation of the imperfect tense was adopted in some grammars long before Gould or Tolam. as in the Eton Gram^r (1788) p. 22. that the same mode of constructing the English future has been also long known - and that this particular form of rendering the imperfect is also given by Tolam himself, as well as the usual one of "loved". That the entire Latin words in each of the voices &c. are given in the Eton Gram^r p. 22 and others -

Summary

The imperfect tense had been rendered in the Eton Gram^r as cited by the Dfells, in the same manner as it is given by Gould & Cleaveland.

In respect to the future tense,

Mr. Gould's:

I shall love.
 Thou wilt love,
 You will love;
 We shall love,
 Ye or you will love,
 They will love.

The Eton Gram^r:

I shall or will love,
 Thou shalt or will love,
 Ye shall or will love:
 We shall or will love,
 Ye shall or will love.
 They shall or will love.

This form of the future it is alleged by the Dfells. has been long used in English Grammars, and they do not cite any works to show it.

The "entire Latin words in each of the voices, tenses, persons and numbers" are given in the Eton Grammar, as they are by Gould and subsequently by Cleaveland.

XVI. That the Bells have adopted and copied Gould's entire English Translation of the Latin word in the paradigms of the 2^d, 3^d & 4th conjugations and both voices and all the moods, tenses numbers and persons in the 97th and the following page of their the said Bells Edition.

Compt's Evidence.

Bells' Evidence.

The Bells state that the same had been done long before, in the translation of the paradigms of the 2^d, 3^d, 4th conjugations as in

The etor Gram? p. 25 — 48

Mont's — 15 — 46.

and also that the same had been done in regard to both voices and all the moods &c as on their 97th and following page, in

The etor Gram? p. 34 &c
and others —

Summary.

The paradigms given under the 2^d, 3^d & 4th conjugations, in the etor Gramman are translated in all the moods, tenses and persons of both voices; tho' the paradigms made use of are not the same as those in Gould & Cleveland.

XVII. That the Bells have adopted Gould's paradigm of a verb ("cupio") in "io" in the third conjugation, in page 103 of their edition

Compt's Evidence.

Bells' Evidence.

The Bells allege that this had been given in other works, and produce

Wier's Gram? London 1828

The Bells reply that "cupio" as conjugated by Wier is different from that which is conjugated by Gould & Cleveland.

Summary

I find the same verb-conjugation in Hickie, and it is obvious that whatever grammarian undertakes to set down and conjugate a Latin verb must give the same forms, unless there are differences of authority as to what those forms actually are. Mr. Hickie's conjugation of the verb is the same with Mr. Gould's. The only difference between them is, that the tenses which Mr. Gould calls the "Perfect" and "Pluperfect", Mr. Hickie calls the "Present-perfect" and "Past-perfect"; ^{see. 74.} a difference which is apparently quite immaterial, some grammarians following one system of naming the tenses, and some another. The verb as given by Gould is adopted by Cleveland.

XVIII. "That the Effels have in page 117 of their edition copied partly literally and partly substantially. Gould's rules for the formation of the various tenses of verbs, and in page 127 had adopted from Gould the word "prosum" as a paradigm under irregular verbs."

Gould's evidence.

Effels Evidence

The Effels state that in the old editions of Adams are found examples of tenses formed in the four conjugations; that these are omitted in Gould's Grammar and in Cleveland's, and the Rules for such formations are substituted. That under this head Cleveland clips from Gould in as many and as important respects as the Bill cares to have borrowed by Gould from Adams; that the Rules in Cleveland are very much enlarged or improved by him upon the Edinburgh and American editions of Adams, in the following instances

- 1. Cleveland makes separate heads of Participles of Verbs, with variations, and gives examples under Verbs.
- 2. In the verb voice he has altered the arrangement by making separate articles of the Indicative & Subjunctive modes, the Imperative, Infinitives and Participles
- 3. Under Indicative and Subjunctive Modes, the remarks are all different from Gould's; and Cleveland gives examples from 3 Conjugations in 6 Colours.

"Prosum"

The Effels urge that Adams sets out one part of prosum with irregularities; so also Grant p. 151; Smith p. 61-2.

The compiler says that "prosum" is given by Adams, Grant & Smith as the Effels contend.

Summary

In the original work of Mr. Adams, under the head "Formation of verbs", the word

of forming the different tenses was given by examples, by setting down the
root tense, and then running off the terminations of the different tenses
formed from it. Mr. Gould substituted for this mode a statement of
Rules for each tense; giving the general principle corresponding to each
form as it had been set down by Adam. Now in respect to the rules for
the Indicative, Subjunctive, Imperative & Infinitive modes, ^{in the active voice} I find that
Mr. Bloomfield gives Substantially the same, with a variation of phrasol-
ogy in some slight particulars, which appears to me to be studied. The
remainder of this topic, upon the formation of the passive voice, I find
to be either new matter, or such as does not appear to me to involve
any invasion of Mr. Gould's original matter.

In regard to "Prose", Mr. Adam originally gave it as a paradigm
of the irregular verbs; and set forth its tenses sufficiently to give
the learner an idea of its construction. He did not however give
them throughout, in all the moods numbers persons &c. - But this had
been done by Smith, as fully as it has since been done by Gould.

XIX. "That the D^{ts}., on page 272, have adopted & copied Gould's 51st 52^d & 56th Rules of Syntax, and on pages 56 & 273 have copied Gould's observations on the 51th 53^d & 54th Rules of Syntax."

"Complete Evidence."

"Full Evidence."

The Complete show that 9 lines of the 2^d observation under Rule 50 are copied; — 9 lines of the 2^d observation under Rule 53 are also copied; — four words of the 2^d observation under Rule 54 are copied; —

The D^{ts} also state that the material copy of nine lines under Rule 50, are principally classical quotations, which may be found, for the most part in Grant p. 245, 246, and in the Dictionary. —

That the 2^d observation under Rule 53 is from Grant p. 250-1, 248-9;

the 2^d —

That the arrangement of the quotations alluded to under Rule 50 is peculiar to Gould and followed precisely by Cleveland.

That the phraseology of the 2^d obs. under Rule 53 is Gould's and is followed by Cleveland —

Summary.

Rule 50. The phraseology of this Rule, as given by Gould is slightly different from that in the old editions, and I consider Mr. Gould's form the better one — it is more intelligible to a young learner. The principle is of course the same. The observations under this Rule are the same as in the old editions, with the exception of 4 lines with which the 2^d observation closes. It is suggested by the D^{ts}. that these are made up of classical quotations, and are taken from Grant &c. A part of them are so, and the principle or statement of fact which they are introduced to illustrate, is stated in Grant. But another part of them, with a similar rule or principle, I do not find in Grant; and the conclusion to which I have arrived on this point is, that the phraseology of the Rule itself, and a small amount of original matter in this 2^d observation have been adopted by the D^{ts}.

Rule 51. Mr. Gould made a similar improvement in the phraseology of this Rule, which has been followed by Mr. Cleveland.

Rule 52. The same is true of this Rule.

Rule 53. I do not find the 2^d obs. under this Rule to be so original that the using of it is an infringement; on that ground, it is taken home; ^{noted in by Cleveland} and of the arrangement or combination of the matter drawn from other sources (viz) Gould a copy right, it would seem to be a violation

Rule 54. is the same in the old editions, throughout. }
Rule 56. The phraseology of this Rule is slightly improved by Gould, and the same is used by Cleveland.

XX. That the Bill have in page 303, adopted Gould's distinct head of Prosody, and at page 304 his rules for quantity, and at pages 303, 305, 313, 315, 316, have copied many of Gould's observations on these Rules.

Bill's Evidence.

The Bill suggest that the definition of Prosody as a quantity Gould p. 253, the phonology is original, and that it has been followed by Cleveland.

Bill's Evidence

The Bill contend that the adoption of Prosody as a distinct head has been used by Grammarians from the earliest times, in the grammars of various languages; and they refer to the grammars cited in this case, generally, and particularly to Grant p. 340

4 Ford Grant (1793) p. 1987

Summary.

1. In regard to Prosody, as a distinct head, ~~without looking further~~, it appears that both Grant and the Oxford Grant head of Prosody, under a distinct head. With respect to the definition of Prosody, the Bill does not charge any infringement, and I do not therefore suppose that I am bound to hunt evidence respecting it.
2. The rules for quantity at page 304, and the observations on these Rules at p. 303, 305, 313, 315, 316. -
 On page 305 (6) the only alleged improvement given by Gould, which has been followed by Cleveland, is taken from Grant, and arranged as it stands in Grant.
 On page 313, the substance of Gould's improvement is from Grant, and adopted by Cleveland.
 On pages 315, 316, I find that Cleveland has adopted some original matter of Gould's, about 1/4 of a page, which is not shown to me to exist elsewhere.

XXI. "That the Dfells. have copied substantially Gould's metrical key or explanations of the various kinds of verse in Horace, and at page 343 copied Gould's addition in the Appendix on the subject of abbreviations, punctuation, Capitals, Division of Roman Months, Tables of Roman Coins, weights and measures."

Compl'ts. Evidence.

Dfells. Evidence.

The Dfells contend that the electrical Key in Gould was taken from Hooper's Prosoody, and that Cleveland's is from the same; but the article on the combinations of metres is from Carey's Prosoody or Hooper's p. 35.

That the Note under Capitals is substantially from Grant, p. 3.

That the Notes on Italics & Notes, in Gould p. 284, are in substance from Adams' Roman Antiquities, p. 218.

That the Tables of Roman Months is from the same p. 279 - also from Smith p. 134.

That the Tables of Coins, weights & measures are given by Gould & Cleveland both, on the authority of Adams' Roman Antiquities; and that Cleveland had also used Kees' Cyclopaedia, not "Com".

Summary.

The Metrical Key to the Odes of Horace is found in Hooper's Prosoody (Philadelphia 1819) precisely the same as in Gould and Cleveland.

So also is the article on the combinations of metres, Hexabatum.

In ~~the~~ regard to the matter in the Appendix, Mr. Gould has added nothing on the subject of abbreviations, punctuation, and Capitals, to what was in the original work of Adams, except this note; "Two capitals in this way denote the plural number, as L. D. Legis Doctor, L. S. D. Legum Doctor." In Grant, the mode of representing a contracted plural is printed out, in this manner; "Coss, Consules, doubling the last letter." Mr. Cleveland gives the same as Gould.

The article on the Division of Roman Months, in Gould, contains nothing original; what additions were made by him are very slight, and are in substance as Smith; and the Table of Months is literatim as Smith, etc. Cleveland is the same with Mr. Gould.

The Tables of Coins weights & measures are expressly stated by Gould to be given
on the authority of Adam's Roman Antiquities. Some additional remarks on
the Roman Money, by Gould, seem to be exactly followed by Beauclerk.

XXII. That the Defendants have taken in most instances literally and in others substantially, making very slight alterations from the matter added in said Gould's edition to Adam's original work, on the following pages of said new Edition - *vs. vs.*

This allegation is merely a general recapitulation of the several allegations above examined. As I have been requested by the Comptrol's counsel to report the amount of matter taken by the Defds from their work, I accordingly find, that substantially the whole of what was added by Mr. Gould to the old editions of Adam (whether from one or another source, or as matter more purely of invention on his own part,) has been adopted by the Defds. How far this matter was drawn from other sources and from authors alike open to the Defds, or Comptrols, appears under each of the foregoing heads. How far the use of such matter by the Defds, in the same form or arrangement, or in the same phraseology, or in different phraseology, (which seem to be the main questions arising in this cause) affect constitute an infringement of copy-right, I conceive to belong solely to the province of the Court.

fees = \$200
 17 - - - - -

all which is respectfully submitted.

Geo. S. Curtis Master in Chancery,

Gray et al in Eq. vs Russell et al

Prepaid of Master
Nov-1839. Paid -

Nov-1839. Paid -
F. B. Allen

Receipt of the Master

To the Honorable Justices of the Circuit
Court of the United States of America holden at Boston
within & for the District of Massachusetts.

The bill of Complaint of Harrison
Gay, James Brown & Charles Brown against John B
Russell, Samuel Thaxter and John F. Williams.

Respectfully complaining Show unto your Honors
your orators ^{Harrison Gay, James Brown & Charles Brown} ~~James Brown~~ ^{of Boston} in the County of Suffolk - ~~and Charles~~
~~Russell, Charles Russell~~, within the said District of Massachu-
setts and all being citizens of the United States, book sellers, being
intitled under the name, style & form of William Gay & Co.
that heretofore in the year of our Lord eighteen hundred thirty five
certain persons doing business under the name, style & form of
Cummings, Hilliard & Co, viz. William Hilliard, Timothy
Harrington Carter and Charles Coffin Little, all citizens of the
said United States & resident in said district published a book
intitled "Adams Latin Grammar with some improvements & the
following additions; rules for the right pronunciation of the Latin
language, a metrical key to the odes of Horace - a list of Latin
authors arranged according to the different ages of Roman literature,
tables showing the value of the various coins, weights & measures
used among the Romans, by Benjamin A. Gould, Master of the
Public Latin School of Boston" being a new edition of a
foreign publication, which edition was prepared by said Benjamin
A. Gould, who then was & since is a citizen of & resident in the
said United States, & who at the time of preparing the same, agreed
in writing upon sufficient consideration that said Cummings
Hilliard & Company should be the exclusive proprietors of, & take
out a copyright in their names for the same. A printed copy of
the title of which book, being such new edition, the said firm
of Cummings, Hilliard & Co on the 7th July 1835, being then
such exclusive proprietors of the same and solely entitled to a
copy-right of the same, deposed & did in the office of the ^{clerk of the} District

Court of the United States for the Said District, of Massachusetts, before the said book had been published, which title was on that day recorded in the ^{sup}office of the Clerk of said District Court, & the said Cummings, Hilliard & Company caused to be published & inserted in the page immediately following the title page of said book a copy of the record of the Certificate of the Clerk of the Said District Court of the United States that the title of said book had been deposited in the office of said Clerk on the day aforesaid; and within two months from the date of said Certificate, said Cummings, Hilliard & Co caused a copy thereof to be published in a newspaper printed in Boston in said District, for the space of four weeks, & within six months from the publication of said book caused a copy of the same to be delivered to the Secretary of State of the United States & to be preserved in the office of that office, and took all the measures & steps requisite by law for securing said copyright, and said firm of Cummings, Hilliard & Co their assigns have had the legal & exclusive right of publishing said book being such new edition from the time of the date of said Certificate to the present time, and by & in virtue of the laws of the United States in force at the time of obtaining said Certificate & publishing said book & acted since its publication, the assigns of the said Cummings, Hilliard & Co & the assigns of such assigns have the exclusive right of publishing said book for the term of fourteen years from the date of said Certificate, which period has not yet expired, & also of renewing & prolonging such copyright for the period of fourteen years from & after the expiration of said first period of fourteen years.

And the pleffs further shew that, by assignments in writing for sufficient consideration made by the original proprietor and intermediate assignments, ^{or parties} assigns & the assigns of their assigns from time to time, ^{the} assigns, assignees & proprietors each & all of them, being residents in said Territory of the said United States, the plaintiffs for a valuable consideration became the sole legal proprietors in their own right, of said copyright on the Seventh day of March in the year of our Lord eighteen hundred & thirty three, & ever since that time have been & now are such sole proprietors, & ever since the said Seventh of March have had & now have the sole exclusive right, of printing, publishing & exposing to Sale & selling copies of the improvements & additions made & originally published in said edition of said work, entitled as aforesaid, in which edition the

-ticularly at pages 16. 18. 68. 69. 71. 72. 78. 172. 274. 260. 285. 297. 305
 310 of Sof. d. Cromwell's edition. it has rules of accent prefixed,
 to the original grammar after the plan of Gould's edition, some of
 the rules being substantially taken from Gould's - it follows Gould's
 plan by prefixing rules for the sound of the vowels, & copies some
 of the rules literally, & takes others substantially, as in the 11th page
 the said Cromwell, in his edition has followed the plan of Gould
 in marking the quantity of the penultimate vowel in the Latin words
 throughout the work when the quantity was not determined by being
 placed before another vowel, a double consonant, or two single Conso-
 nants - I had introduced into his edition the same new head &
 the device placed, particularly, at pages 55. 78. 303. 305 & copied in
 many instances the division of paragraphs & discrimination of what
 was important, by printing the same in a distinct type, particularly,
 at pages 67. 69. 73. 74. 87. 118. 196. 197. 298 adopted in various instances
 the transposition of matter from the text, to the notes & from one part
 of the work to another, particularly, at pages, 15. 16. 68. 76. 81. 82. 90. 116
 120. has followed Gould in giving the English of the cases & numbers
 of nouns declined as paradigms. has copied, literally in part & substan-
 tially in part, remarks on gender prefixed to the declension of nouns,
 has adopted the arrangement of the terminations of the several declension
 in columns instead of putting them in transverse lines as they were
 arranged in the original work of Mr. Haam - has copied the additional
 termination of the vocative & ablative cases of the word Anchises has
 adopted literally, from Gould's edition the declension at length of
 the words opus. dogma. parent. urando. dido. calcar. plus & vox in
 the third declension & given the English of the words opus, parent, followed
 Gould in making a distinct head of heterogeneous nouns & heteroclitic
 nouns in pages 53. 54. has adopted & copied the article of Hetero-
 clitic in page 54. ~~particular & copied Gould's edition in giving~~
~~the English of the various declensions, which declensions~~ ~~page 54~~
 copied the words suprem under the head of defectives in defective nouns
 has followed Gould's edition in giving the English at length of the
 different numbers & cases of nouns declined, as paradigms. I follow-
 ed & copied Gould's edition in giving the English of the adjectives
 declined in his said Cromwell's edition page 68 & has in pages
 74. adopted the paradigms pridem & plus in adjectives - and
utempere - has adopted & copied the change of the English
 translation of the imperfect & future tenses of ^{the Latin verb} & adopts
utempere - Gould's order of the principal parts of verbs prefixed
 to each ^{paradigm} ~~paradigm~~ & adopted & copied Gould's improvement

in giving the entire Latin words in each of the three moods, tenses, persons & numbers (the entire English translation of the Latin ^{words} in the paradigm of the 2^d, 3^d & 4th conjugations both voiced and the moods, tenses, numbers & persons in the ^{of the following} page of his said Cleveland's edition; & had adopted Gould's ~~Latin~~ ^{Latin} paradigm of a verb (capio) in in the third conjugation in page 108 of said Cleveland's edition - & has in page 107 of his edition copied verbatim & partly substantially, Gould's rules for the formation of the various tenses of verbs, & in page 174 had adopted from Gould the word prosum, as a paradigm under irregular verbs, & in page 272 had adopted, & copied, Gould's 50th 51st 52^d & 56th rule 3 of Syntax, & on said last mentioned page & ~~on~~ ⁱⁿ page 273 has copied Gould's observations on the 50th 53^d & 54th rules of Syntax & in page 300 adopted Gould's distinct head of prolepsy & rule 3 for ⁱⁿ ~~the~~ ^{the} handling - and in page 303 305 308 315 316 has copied many of Gould's observations on those rules, has copied substantially Gould's metrical Key or explanation of the various kinds of verse in Horace, & has at page 333 copied Gould's addition in the appendix on the subject, of punctuation, Capitals, Abbreviations, Division of Roman Months, tables of Roman Coins, weights, & measures, so that in the said new edition, besides the adoption of the plan of said Gould's edition in omitting the part of the original work relating to English Grammar, & in marking the quantity of the ante penultimate syllable in Latin words throughout, & moving of the transposition from the left to the notes, or from one place to another in the left, & otherwise imitating & following the same, as already set forth, the edition of the said ~~new~~ ^{new} Cleveland's edition so ~~copied~~ ^{copied} by said Russell & Shattuck & Co had taken in most instances liberally & in others substantially, making very slight alterations, from the matter added in said Gould's edition to Adams's original work, on the following pages of said new edition sold by said Russell Shattuck & Co, viz, pages 11. 12. 17. 18. 22. 30. 32. 33. 34. 58. 69. 70. 72. 75. 92. 93. 101. 102. 103. 104. 105. 106. 107. 109. 110. 111. 113. 114. 115. 116. 117. 118. 119. ²⁷² 273. 274. 298. 303. 305. 306. 307. 315. 316. 317. 318. 326. 329. 330. 331. 332. 333 & in the appendix to the same to the amount of thirty pages or more, being a very large proportion of the additions, alterations & improvements made by the said Gould in his edition of said work belonging to the plainiffs as aforesaid.

And the pleiffs further show that in consequence of the Defendants having so exposed & sold the said Cleveland's edition the sales of the plainiffs have been hindered & rendered less in number than they would have been had the said Russell & Shattuck & Co not so exposed & sold and sold said pirated edition - All which acts & doings of the said Russell Shattuck & Co are contrary to equity & good conscience & tend to the manifest wrong & injury of the plainiffs in the premises in

consideration whereof, and forasmuch, as the pliffs are
 remediless in the premises at and by the rules of the Common
 Law & cannot have adequate relief, save in a Court of Equity
 where matters of this & like nature, are properly cognizable and
 relievable: your orators pray this honorable Court, to issue a
 writ of Subpoena in due form of law directed to said Russell
 Shattuck & Williams thereby commanding them at a certain
 day & under a certain penalty therein specified to appear before
 this Honorable Court, to answer, all & singular the matters
 and things herein before set forth & complained of, particularly
 how many Copies of said Cleveland's edition of said Grammar
 they have sold & what number they have on hand - and that
 they may abide such order & decree, as the Court shall make in the
 premises, and that, they the said Russell Shattuck & Williams may
 be restrained by injunction from selling or exposing (sale) or con-
 sidering or being in any way concerned in the selling or exposing to
 sale or otherwise disposing of any Copies of said Cleveland's
 edition of said work, and that, they be ordered & decreed to
 render an account, of the Copies of the same that, they have
 sold, & to pay over the profits of such sales to the pliffs - and
 that, they be ordered to surrender & deliver up to the pliffs
 all the Copies of said Cleveland's edition they have on hand & that
 they be ordered & decreed to pay the pliffs their costs in this
 Suit and that, the pliffs may have such further other
 relief, in the premises as this Honorable Court may seem
 meet: & the nature & circumstances of the case may seem
 to require -

Hamilton Gray
 James Brown
 Charles Brown

Subscribed at
 Suffolk County ss. Aug 23rd 1836

Brown & Charles Brown two of the plaintiffs the above bill and
 made oaths that the facts stated in said bill, as far as they
 have come within their knowledge are true and that they truly
 believe the facts set forth in the bill derived from information
 from other persons, are true,

Abraham
 Willard Phillips } Justice
 of the }
 Peace }
 Benjamin Brown
 James Brown
 Charles Brown

Gray Ad vs ~~J. H. Russell et al~~

Let a subpoena issue
to the defendants in
due form of Law re-
turnable to the first
day of the next Term
of the Circuit Court to
appear at 10 o'clock
for the testimony of
deposits on the 15th day of
October next - given under
my hand this 23rd day of
August 1836

W. B. B. Attorney at Law
at the Court of the
Commons of the
State

To Francis Bassett Esq
Clerk of the Dist^{ct} Court

August 24. 1836
Subpoena issued

Massachusetts vs.

Librant Court of the United States

May Term 1838

Hilliard, Gray & Co

v.

Ruffell & Shattuck

} In Chancery

The defendants reserving to themselves & each of them all benefit of exception which can or may be taken to the said Bill of the Complainants, for injure thereto, or to so much of such parts thereof as these Defendants are advised ~~are~~ material or necessary for them or either of them to make answer unto, severally answering, Say:

That they deny all intention of infringing upon and have not as they believe, infringed upon the copy rights of another work entitled "Adem's Latin Grammar" with some improvements & the following additions:

" Rules for the right pronunciation of the Latin language

" a metrical Key to the Odes of Horace, a list of Latin

" Authors arranged according to the different ages of Roman

" Literature; Tables showing the value of the various

" coins, weights & measures used among the Romans -

" by Benjamin A. Gould, Master of the Public Latin School

" Boston "

And these Defendants maintain, that

The



To the Honorable Justices of the Circuit Court
of the United States of America Residing at Boston
within and for the district of Massachusetts.

Your memorialist the Subscriber, the Editor of
a work entitled Adams Latin Grammar with numerous addi-
tions and improvements, designed to suit the same advanced Student,
by further elucidations of the Latin Language, by C. D.
Wentworth A. M. late Professor of the Latin Language and
Literature in the University of the City of New York
respectfully but humbly offers that he had intended
to improve upon and has not infringed upon the copy
right of another work entitled Adams Latin Grammar
with some improvements, and the following additional
titles of the same name of the Latin Language,
as printed by the order of Honor, a list of Latin
Literature suitable for the different ages of scholars
and which embraces also the Grammars, by Benjamin
Gould Master of the Public Latin School Boston
as well as a clearly stated title of the same name
found in the Latin Grammar of Doctor Alexander Blain,
of Elizabeth first published in 1772, is viewed by all
publishers and editors in the light of a classic; and that
with just as much propriety might any one claim to have a
copy right of Honor as a copy right of Adams Latin Grammar
unless it be improved by many and great additions, to which
additions only can any publisher claim an exclusive right
that since that work was first introduced into the United States

a vast number of editions have been published in different parts of the country, each editor improving upon his predecessor; in Boston, Amherst (Massachusetts), in Troy, and Albany and New York, ~~in New York~~ in Philadelphia, Pennsylvania, and in Baltimore Maryland - And these Defendants now submit;

~~The object of the Defendant is to show that~~
 that in ~~the~~ the edition of Edm^d's Grammar published by Elliot and Gray and Company of Boston, ^{the said edition} but four additions, and those not original, have been made to the old ~~Edinburgh~~ ^{Edinburgh} edition of 1793 - but that in the edition ~~published~~ published by William Marshall and Company of ~~Philadelphia~~ Philadelphia, ^{of which is the subject of the present suit,} great additions and improvements have been introduced. ~~These Defendants do not deny, that it is true,~~ ~~as set forth in the complaint,~~ that in

some instances the Philadelphia Grammar and the Boston Grammar coincide in some improvements made in the latter upon the Edinburgh edition. But this has arisen, not because the ~~same were~~ ^{same were} copied from the Boston edition, but because the editors of ~~the two editions~~ ^{the two editions} ~~both derive~~ ^{both derive} their improvements from the same sources; the former, however, without acknowledgements; while the latter stated in the preface of his edition the sources whence he derived his new matter introduced. ~~But to come to,~~ ~~to show~~ In proof of this, the Defendants submit the following facts:

1. The ~~Philadelphia~~ ^{Philadelphia} edition does not adopt the same title as asserted, ^{as may be seen by comparing the two side by side; it will be seen at a glance} ~~that the title pages are entirely dissimilar;~~ ~~To see~~

3

the title page of the said Philadelphia edition purports,
~~the work proceeds that it is Adams' Grammar, and it~~
~~should; just as an edition of Adams' Book would~~
~~probably have. The Head of Adams.~~

2^d The same edition does, as is alleged, omit
~~It does omit~~ the English part of Adams' Grammar;
but not to follow the edition of Gould's; for the same
thing had before been done by others; among whom was
the Reverend Ebenezer Titch D.D. President
of Williams College, in ~~the~~ his fourth edition published
at Troy in 1844; which work, now out of print, ~~the~~
~~subscriber had constantly by him in preparing his~~
~~edition was constantly referred to in preparing~~
the said Philadelphia edition -

3^d These Defendants admit, that to the same edition are
~~It is true that the subscriber has profited, notes~~
for Latin Pronunciation as in ^{the} Boston edition of Gould's;
but it is not true that he ~~obtained~~ any part of them,
from Gould; ~~but they were taken~~ ^{were copied} chiefly from Walker's Key,
and from a small sheet printed by the late Professor
Chimborlain of Dartmouth College for the use of his
classes; ~~the latter~~ both have gone to the same main
source, Walker's Key; but the ^{editor of the said Philadelphia edition} ~~subscriber~~ drew more especially,
and made ~~use of~~ ^{thereby} a much better arrangement.

4. These Defendants do not deny, that the said last mentioned Editor
~~It is true that the subscriber has marked~~ "the quantities
of the penultimate vowel in the Latin words throughout his
the work, when the quantity was not ascertained by being
placed before another vowel, a double consonant or
two

his single comments, ~~but what great merit~~
~~or originality there is in this he is at a loss to~~
~~conceive~~ In most instances it had been done before,
in the Edinburgh Edition and in Dr Jortons of
1814; and these Defendants deny that there is any
originality or ground of claim to a copy right therefor.

5. These Defendants admit, that there are, in
~~the said Philadelphia edition in some instances~~
~~instances~~ ^{in some instances} divisions of heads similar to those in
Goulds Edition; but they deny that these divisions
have any claim to originality or exclusive right

6. These Defendants admit, that the editor of the
said last mentioned edition ~~has~~
~~has not~~ declined, as any ^{two} might do, the
Latin nouns, given as paradigms, with the English;
and this, because they could not be declined rightly
but in one way. But this is done in the New-
York edition of Adams and in prior works.

These Defendants contend & maintain, that
7. as ~~to~~ ^{to} ~~be~~ ^{be} ~~found~~ ^{found} on p. 17 the first part of the
remarks are entirely new, in the latter part, as they aver,
Gould has taken his views on the subject from
the Edinburgh edition of Adams and from Guals
Latin Grammar p. 6.

8. They admit, that ~~said~~ ~~Editor~~
~~the~~ ^{he} has arranged the terminations of the several
declensions in columns, and in doing so has followed
others; among which is the New York Edition
edited by Robert Patterson.

9. They admit, that ~~he~~
~~he~~ ^{he} has taken the word "concluses" as declined
in Guals M. Hampshire Latin Grammar page

Grammars of 1806 page 61.

18 They ~~are~~ ^{do not} maintain, ~~that~~ the English alterations of Adams's Rules 50, 51, 52, and 56 have no claim to originality, being substantially to be found in preceding works.

They deny

10 ~~by a single instance to say~~ that the "poor lines" in the Prose, which are in Gould's best ~~not~~ in the Edinburgh edition ~~the substances are taken from Gould~~; but ~~that~~ they are from the same source from which Gould took his, ^{viz.} Grant's Latin Grammar and Basor's Latin Prose, as may be seen by a reference to those books. - For the two and a half lines on page 256 of Gould's see Grant's Grammar page 361 -

For the	5 lines on page	257	See Grant's Gram.	p. 363, 364, 365, & 6.
"	"	2	" " "	367, 368
"	"	3	" " "	371
"	"	4	" " "	389
"	"	14	" " "	356, 357 & 358.

And finally ~~the substance~~ as to all other charges of infringement of copy right, ^{they} ~~denies~~ that any of the alleged improvements of Gould's Grammar have any claim to originality, but may be found substantially in preceding works, ~~and are not entitled to that~~ ^{and are not entitled to that} protection of a copy right by law.

And, for the purpose of showing the material differences ~~between the two works in question, no this easily~~ ^{between the two works in question, no this easily} ~~they~~ ^{they} ~~of sufficient to ask leave to submit to the consideration of the Court here, the following~~ ^{of sufficient to ask leave to submit to the consideration of the Court here, the following} distinguishing characteristics of the said Philadelphia edition

as published by the said Cleveland, the editor thereof - viz.

1. The said Editor has ⁷
in 1830, the Rule for the pronunciation of Latin by the
Introductory Remarks, and by observations first and sixth
on page eleven, observations fifteen and sixteen
on page twelve; and by greatly enlarging (from Walker's
observations three, eight, nine and ten, on the same pages.

2^o He has added ^{which}
the first paragraph on Gender page 17, ^{is new, & is}
not to be found in any other edition of this grammar.

3^o He has thrown out the long lists of regular nouns
found in all other editions of Adams's and in their place
has substituted lists of irregular nouns.

4th To the list of nouns that are Masculine, found
in Gould on page 18, and in his edition page 19, he
has added the following words to wit; Os, Cordos, -
Osul, Voles, Juvenis, ~~Paro~~, Parous, Praesul, Sallites and
Verna.

5th He has added on pages 19 & 20 three entire new lists
of nouns, that present some peculiarities.

6th He has made an entire new division of Nouns
and cases, as will be seen on pages 20 and 21,
and has on page 21 introduced entire new matter,
consisting of twenty five lines on the process & significations
of the Second cases

7. To the exceptions of nouns of the first Declension, that
form the dative and ablative plural in abus, he has
added explanatory and limiting observations;
and to the

to the General Rules of Declension on page 22^d he has added those new subs.

- 8. He has added exception 5th on page 26 to nouns of the second declension
- 9. On page 27 he has declined Deus in full
- 10. On page 45 he has added exception in the vocative singular; and on page 47 exception 3^d in the dative plural.
- 11. On pages 48, 49, 50 and 51, four consecutive pages, he has given a list of nouns of the third declension, that present some peculiarity in the formation of the Ablative singular, and nominative and genitive plural.
- 12. On page 54 he has added two observations under nouns of the 5th declension giving a number of classical citations.
- 13. On page 55 he has given a synopsis of the Five Declensions.
- 14. The lists of Defective nouns on pages 58 and 59. he has greatly improved, and enlarged by the following words - horreum, Fringi, Fraxo, Latet, potus,
Eryjes

Erupes, Despicatus, Indeficatus, Inuissum, Decemplacum,
 Milicium, Procium, **France**, Seginis, Hostatus, Sorsui,
 Obtentus, Tabum, **Has**, nefas, Algas, Obey, Salius, Nemo,
 Localis, Quatus, Quatus.

15. ~~To the fourth list of nouns on page 60 he has~~
 added three to the sixth list on page 61 he has added twenty more
 added twenty more; to the seventh list on page 61
 he has added eleven; to the eighth list on page 61 and
 62 he has added four; to the ninth list on page 62
 he has added four; to the tenth list on page 62 and 63
 he has added four.
16. The eleventh, twelfth, thirteenth and fourteenth lists
 of irregular nouns on pages 63, 64 and 65, are entirely new,
 and contain two hundred and eleven new nouns.
17. The remarks on proper-names on page 60, containing
 twenty two lines, are entirely new.
18. The exceptions of ablatives in the formation of the
 Ablative singular; on page 72, are much enlarged
 from the Leipzig edition of Adam.
19. The three paragraphs on page 76 on the Cardinal
 and Distributive numbers are also new.
20. The formation of the degrees of Comparison on page 78
 he has arranged differently, and ~~as he thinks~~ improved.
21. The list of adjectives that want the superlative on
 page

page 80, is greatly enlarged.

22. On page 81, he has introduced a list of adjectives twenty seven in number that are irregular and unusual in their comparison.
23. The 13th, 14th, 15th, 16th, 17th, 18th, 19th, 20th and 21st observations on the pronouns on pages 80 and 88 are entirely new.
24. The remarks on the tenses of the Verbs on pages 90 and 91 comprising more than a page and added to the Edinburgh Edition as are also the remarks on persons on page 92
25. The arrangement of the Imperative and Common Verbs to follow: verbs of the fourth conjugation is new,
26. The formation of the tenses on pages 117, 118 & 119 are greatly enlarged and elucidated beyond that found in any other edition of Adam's Grammar.
27. He has rejected entirely the Verbs of ~~Part~~ Adam of 1st, 2^d, 3^d & 4th conjugation, to be found in Gould's edition from page 121 to 143, and instead of those twenty two pages, has substituted fifty three pages from page 123 in his edition to page 176. ~~To any original scholar.~~ It is well known, that the Supine rarely occurs
in

in the Latin Verb, and that there are few verbs that have all the participles of both voices.

~~But~~ Adam has, in his grammar conjugated all the verbs with the Supine and in hundreds and hundreds of instances where this is not to be found; and Gould, in his edition, by taking the Edinburgh Edition, without one single alteration or addition, has thus perpetuated the thousand and six hundred ~~of Adam; and Gould~~ ^{of Adam; and Gould} ~~errors~~ ^{errors} ~~in the country, his repetition~~ ^{in toto}, and given lists of verbs, with the parts that are to be found in the Classics with the Classical authorities. In Dr. Adam's Grammar ~~he it is~~ there is not one single reference to Classical authority, while in the ~~edition of the~~ ^{said Philadelphia} ~~edition~~ there are in the first conjugation, seven hundred and seventy four; in the second conjugation four hundred and six; in the third conjugation, one thousand one hundred and forty seven, and in the fourth conjugation three hundred and sixty; making in all the thousand six hundred and eighty six citations of the Classics and old Grammarians, to support the parts of the verb that are introduced.

20. To the irregular and defective verbs from page 106 to page 188, the ~~same~~ ^{said} ~~author~~ ^{author} has made many additions; supported the parts, that are found, by three hundred and forty two Classical citations; and in the remarks on the verbs, pages 193, 194, 195 (not found in any other edition of Adam's Grammar) he has introduced eighty two more citations from the Classics; making in all three thousand

thousand one hundred and ten classical References, not found in any other edition of the same work.

29. To the list of redundant Verbs, pages 190, 191, & 192, he has made large additions.

In Gould's edition the number of redundant Verbs is eighty three; but in the ^{1812 Philadelphia} ~~London~~ edition "hundred and ten"; making one hundred and twenty seven verbs more.

30. The Prepositions ~~the numbers~~ are transferred from the Syntax to their proper place, in Etymology; but instead of allowing them but three pages and a half, he has given eight and an half pages to them. See pages 202, 203, 204, 205, 206, 207, 208, 209, 210

31. To the "Prepositions in Compositions," which are treated so slightly in the Edinburgh and Gould's editions (occupying but one third part of a page) the ^{1812 Philadelphia} ~~London~~ has devoted particular attention, giving to them more than three pages; as will be seen by reference to pages 210, 211, 212 & 213.

32. The "Significations of Words" under the head of —

1. "False Significations not to be adopted" and —
2. "to facilitate" the knowledge of the true

meaning

meaning of "Words" is entirely new - See pages 215,
216, 217, 218 and 219

33. The four paragraphs on page 221, occupying nearly thirty lines upon simple and compound sentences, are entirely new.
34. The four observations under Rule 1st occupying 16 lines are also new.
35. The observation 19, under Rule 2^d, on page 223 occupying 8 lines is also new.
36. The three observations (16), (17) & (18) under Rule third occupying 17 lines are also new.
37. The observation 25 under rule 4th occupying five lines, is also new.
38. The five observations (34), (35), (36), (40) & (41) occupying 18 lines are also new.
39. The observation (57) under Rule 7th occupying 9 lines is also new.
40. The observation 158, under Rule 8th of 8 lines is also new.
41. So also the following observations are entirely new and not to be found as they ^{dependant upon} ~~subsequent~~ believe, in any

any other edition of Adams Grammar; viz. :
 The observation (64, under Rule 9th of Clines,
 the list of adjectives that are followed by a noun -
 73, under rule 10th of 84 lines on two pages.
 the three observations (76, 81, & 82) of 29 lines
 under Rule 11th - the two observations (99)
 (100) of 13 lines under Rule 13th - the three
 observations (108, 109, (110) of 19 lines, under
 Rule 15th - the seven observations (121, 124
 (123, (130) (131) (132) & (134) of 220 lines,
 under Rule 17th - the three observations (136)
 (137, 138) of 26 lines under Rule 18th, - the
 observation (146) of 3 lines under Rule 19th,
 a part of the observation (148) of 4 lines un-
 der Rule 20th - the greater part of the ob-
 servation, 181, of 8 lines under Rule 21 - the
 observation of 4 lines under Rule 22 - the
 observation (161) of 5 lines under Rule 23 - the
 two observations (183, 184) of 8 lines under Rule
 24 - the two observations (187) (188) of 30 lines
 under Rule 28 - the two observations (220) (221)
 of 12 lines under Rule 30 - the two observations
 (224) (228) of 13 lines under the two observations (254)
 (255) of 9 lines under Rule 38 - the two observations
 (290) (292) of 18 lines under Rule 40 - the observa-
 tion (277) of 4 lines under Rule (4) the Rules
 (42) and (43) of 9 lines - the five observations
 (342) (343) (344) (345) (346) of 65 lines under
 Rule 56 - the observation (377) of 9 lines

under

under Rule 62.

The defendant avers, that

✓ ~~it will~~ it will be seen, that while Goulds edition has but about 1-30 lines more in the Syntax than are in the Edinburgh Edition, ^{and Philadelphia} the ~~edition of the~~ ~~Subscribers~~ contains about seven hundred lines more than any other ~~edit~~ one. And in

∴ In addition to all this, the ^{said Cleveland} ~~Subscriber~~ has numbered every paragraph in the Syntax of his edition, to facilitate reference.

42. The appendix to Syntax (to be found in Adams's Grammar and in Goulds without alteration) containing verbs with their meanings, the ^{said Cleveland} ~~Subscriber~~ has entirely rejected being ~~in his edition~~ altogether useless and out of place in a Grammar.

43. Under Figures of Syntax the ^{said Cleveland} ~~Subscriber~~ has added to his edition the observations 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406 & 407 on pages 288, 289, and 290 consisting of 88 lines.

44. Under "prosody," the ^{he} ~~Subscriber~~ has added observations 17, 21, 62, 63, 64, 65, 66, 76, 77, 80, 96 & 120

45. Besides this he has greatly enlarged the metres of Horace and the different kinds of Latin Verses to be found on pages 319, 320, 321, 322, 323, 329

330 and 331. —

46 - The Defendants further ask leave to submit to the Court here, the following facts, viz: ~~the subscribers should also draw attention to~~

~~the following facts~~ First that while there are not as they believe two consecutive pages of new matter in Gould's edition of Adams Grammar until within four pages of the appendix that is to say from page 9th to page 277 there are in the ^{said Philadelphia} ~~subscribers~~ edition the following four consecutive new pages - On nouns - pages 48, 49, 50, 51, two in pages 63 and 64 fifty three pages in the verbs from page 123 to page 176, two more or 6 pages 194 & 195 eleven and a half in the prepositions, on pages 202, 203, 204, 205, 206, 209, 208, 209, 210, 211, 212, 213 four on the signification of verbs on pages 215, 216, 217, 218, 219, and four in the Syntax on pages 243, 244, 245, 246.

- Second; that while there is not the slightest addition to the old Edinburgh in Gould's edition from page 119 to 164 by which the hundreds & hundreds of errors in that grammar are perpetuated, there are in the ^{said Philadelphia} ~~subscribers~~ edition, under the same subjects, scarcely three pages of entire new matter - Third; that while the edition of Gould, in the whole syntax is the same as the old Edinburgh totidem verbis with the exception of about thirty lines, ~~there are~~ the subscribers have added about seven hundred lines to the said Philadelphia edition ~~hundred~~

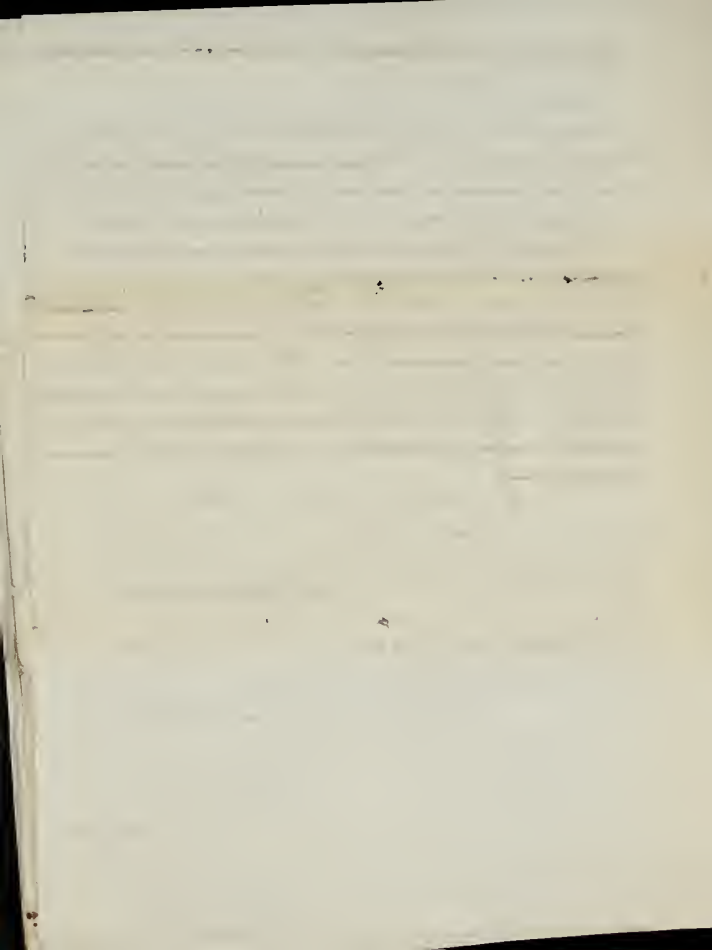
~~hundred lines to the~~ Philadelphia edition

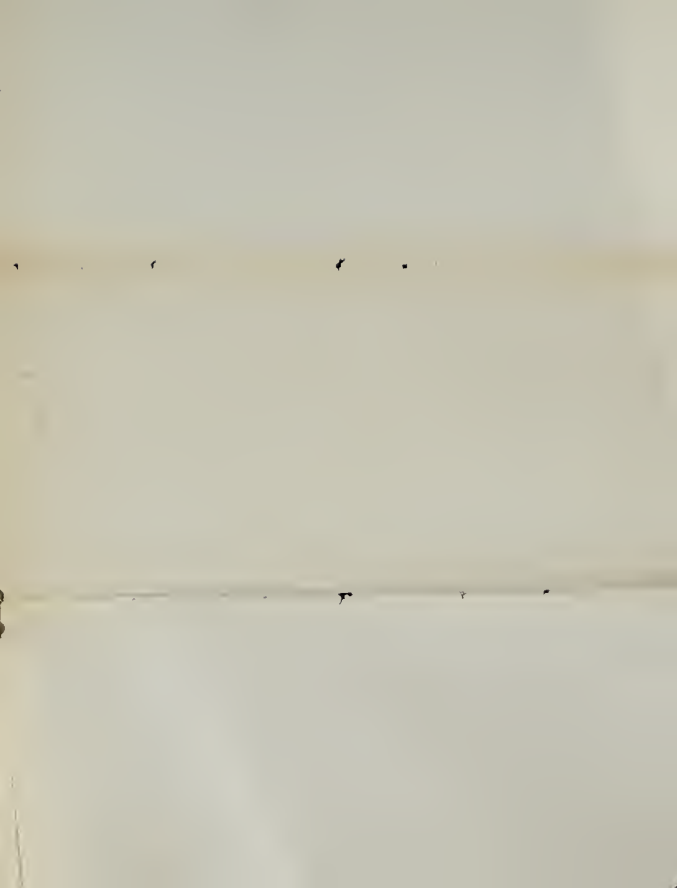
~~In conclusion the subscribers would only say
that he considered Adams's later Government in the
light of a classic, and he trusts the time will
never come when any one book seller in the United
States will have the exclusive privilege of
publishing editions of the editorial writings that
the time will never come when it shall be decided
that the best abridgements of any matter had been
published and therefore that there can be no im-
provement that those must be so utterly made
it is. If such should be the decision he
wonderfully intemperate would be the prospect of the rising
generation~~

All which matters & things these
Defendants are ~~quite~~ ready & willing to
aver, maintain & prove as this Honorable
Court shall direct; ~~and~~ and humbly pray to be hence dismissed
with their reasonable costs & charges in
this behalf most wrongfully sustained

Russell & Shattuck

by
Jno Pickering
their attorney





Erving of ad

or

Mr. Foxe what

—
Erving of ad

~~Erving of ad~~

—
Folio 2^{no}

June 1838

in Coates's office

Circuit Court of U. S.
October Term, 1838

Harrison Gray Dethart in Equity
versus
John B. Russell & others

Ordered that this case be referred to George D. Curtis, Master in Chancery to examine and report the Coincidences and Differences of the Plaintiffs' and Defendants' Grammars, — how far the Author of the Defendants Grammar had used the Plaintiffs' Grammar in compiling his own, and how far he had made use of similar or the same materials, independent of any use, or with how great a use of the Plaintiffs' Grammar, and to report the Evidence in the case, so far as either Party may request, and his conclusions thereupon, whether the whole or any part, and if any what parts of the Dfs Grammar are an Infringement of the Plaintiffs' copyright

By the Court,

Francis Bassett, Clerk

A true Copy

Attest Francis Bassett Clerk.

ORDER

to the order

to receive of the

Rs.

==

District of Mass. B.

Circuit Court U.S.

Oct. 9. 1839

Hamson Gray et al in Equity v
John B. Russell et al

This cause came on to be heard ~~at~~ at
 this Term upon the bill and answer
 & the Master's report in the case and
 was argued by Counsel, on consideration
 whereof it is ordered adjudged & decreed
^{that the Master's Report be & the same is hereby approved & confirmed; & that}
 by the Court, that the Said Defendants
 be, and they hereby are, severally, ^{& respectively} res-
~~trained~~ ^{trained} and enjoined from selling or
 exposing to sale, or causing or being
 in any way interested ^{or concerned} in the selling
 or exposing to sale of, any copies
 of Said Cleaveland's Said edition
^{in the said Bill - answer mentioned}
 of said grammar, and that the
 plffs. recover their costs. And
^{against the said Defendants}
 the plffs waiving ~~the~~ as far as regards
 these Defendants the accounts prayed
 for by the bill The Court do not
 direct any accounts whatsoever in
 the premises -

that the Master's
 report be & the same
 is hereby approved &
 confirmed & that

Deane

UNITED STATES OF AMERICA.

Massachusetts District, ss.

To John Brooks Russell, Lemuel
Shattuck of Boston in said District of
Massachusetts, & John D. W. Williams
of Newbury in said District, Bookellers
doing business under the name and
style of Russell, Shattuck & Company

CREDITING.

FOR CERTAIN CAUSES offered before the Circuit Court of the United States of America, for
the first Circuit, within and for the Massachusetts District, as a Court of Chancery, WE COMMAND AND STRICTLY
ENJOIN you, laying all other matters aside, and notwithstanding any excuse, that you personally be and appear
before our said Circuit Court, ~~at the Rules~~, to be holden at the Office of the Clerk of our said Court, in Boston
in said District, on the ~~first Monday~~, being the *fifteenth* day of *October* next,
to answer concerning those things, which shall then and there be objected against you by

Harris or Gray, James Brown & Charles Brown
all of Boston aforesaid, all being Citizens of the
United States, Bookellers, doing business under the
name, style & firm of Hilliard, Gray & Co, in
their Bill of Complaint

and to do further and receive that which our said Circuit Court shall consider in this behalf. And this you are
in no wise to omit, under the penalty of *Five hundred* dollars
And have you there this writ.

Witness the Honorable *Roger B. Taney* at Boston,
this *twenty seventh* day of *August* A. D. 18*56*, in
the *Sixty first* year of the Independence of the United States of America.

Francis Barrett Clerk.

United States of America }
Massachusetts District Ct. } Boston August 23. 1836.

By virtue of the within
process I have summoned the within named
John Brooks Russell Lemuel Shultz and John
D. W. Williams, by giving to each of them in hand
a true and attested copy hereof.

3 Ex: \$6.00
3 Cop: 3.00
1 Exec: \$1.00
\$10.00

Wm. J. Deputat
Justice of the Peace
Marshaw.

Subscribed

1456
Gang will or Shultz & Co

Map District of

Circuit Court of U.S.
May Term 1868

Harrison Gray et al in Equity
vs
John B. Russell et al

These repliants having & reserving to them
selves all & all manner of advantage of
exception, which may be had & taken to the
manifest errors, uncertainties & insufficiencies of
the answers of Said Defendants for replication
thereunto saying that they do & will ever main-
tain & prove their said bill to be true, certain
& sufficient, in the law, to be answered unto by
the Said Defendants & that the answer is very
uncertain, evasive & insufficient, in the ^{law} to be
replied unto by the repliants without that that
any other matter, or thing in the said answer
contained material or effectual in the law to be
replied unto & herein thereby well & sufficiently
replied unto, Confessed or avoided, traversed or denied
is true, all which matters & things these repliants
are ready to aver, maintain & prove as this Honorable
Court shall direct & humbly pray as in & by
their said bill they have already prayed
by Phillips & Robins
Plffs Solicitors

Gray & Bristle
Septica tenuis

June 22. 1838

Yale -

Circuit Court of U.S. Mass.

May Term 1835

James Green & others vs. the
✓

John B. Russell & others

Agreed that if on a hearing it
should appear that on questions
to the answer the Deft would be in-
titled to further inquiry, disclosure
statement or account by Deft.
Material to a decision on the
merits & to the Deft remedy
the Deft shall be bound to
answer their answer accor-
dingly, notwithstanding the
replication being filed & the
cause having proceeded to
a hearing
Jm Pickering for Deft

Gov. Court of N. S. Mass. Dec. October T. 1839 -

C. A. No. 6.

Harrison Gray et al in Eq. vs J. B. Russell et al

Phys. Costs

	Entry of Subpoena	7.00
1836	marshals fees	10.00
October T.	Attendance 21 days	6.93
	Cost	.50
1837		
May T.	Attendance 29 days	9.57
	Cost	.50
October T.	Attendance 20 days	6.60
	Cost	.50
1838		
May T.	Attendance 25 days	10.25
	Cost	.50
	order witnesses	.50
October T.	Attendance 22 days	7.26
	Order to Refer to Master	.50
	Copy of Order	.50
	Cost	.50
1839		
May T.	Attendance 24 days	7.92
	Cost	.50
October T.	Attendance 16 days	5.20
	Filing copies	12.40
	Attendance at Rules 39 days	11.40
	3 of Continues at Rules	25.00
	Receipt Copy of filing	10.00
	Enough fees before the Master	20.00
	Carriage fee in Court	2.00
	Fees of clerk tax	39.00
	Fee for Bellmays Report	39.00

Tended by

Phillips & Robins. Th. Linnell

and

Francis Barrett

\$391.00
Clerk.

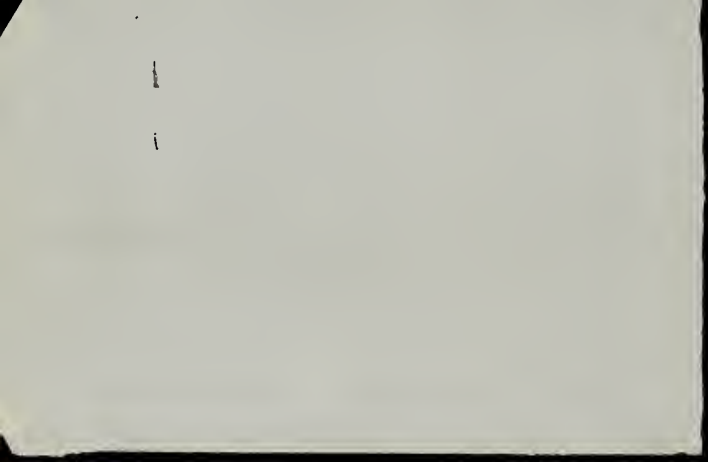
Costa

U. S. Circuit Court -

Holland, Gray & Co.

v.
Russell, Shattuck & Co.

It is agreed that the bill of
Mr Dillaway, being \$39. may be taxed
for Pickering for \$4.44



Nos.	Description of Papers.	No. of sheets or papers.	
		Plaintiffs or li- bellants papers.	Defendants or respondents pa- pers.
1	<i>Bill</i>	4	
2	<i>Subpoena</i>	1	
3	<i>Answer</i>		5
4	<i>Replication</i>	1	
5	<i>Agreement of parties</i>	1	
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BOSTON,

1832. Received of the Clerks of

Massachusetts District Court, by order of Court, the following Paper as described in
the within List, viz.: No.

(12)
Gray v. vs. Russell and

LIST OF PAPERS.

1832

Circuit Court 5th S.
Oct 17, 1838

Harrison Gray & others in Equity

v

John B. Merrill & others

Ordered that this case
be referred to George T.
Curtis, Master in Chancery,
to examine & report the
similarities & differences
of the plaintiffs' Latin gram-
mars, - how far the ^{author of the} Latin
Grammar has used the
plaintiffs' grammar in
compiling his own; and
how far he has made
use of similar or the
same materials in-
dependently of any use

or with how great a use of
the Wells Grammar, & to
what ^{in the case} ~~the~~ wisdom,
is far as either party may
express, & his conclusions
thereupon, whether the
whole or any part, ^{part,} ~~part,~~ ^{what}
parts, of the said Grammar
are an infringement of
the Wells copyright.

By the Court
Francis Bawth, Clerk

Copy of the W Russell school

Order appointing a
Master -

Jan. 5th - 1839 -