

Catalogue of Dampier Manuscripts: Grose-Dampier Paper Books

MS #	Date	Case	Court	Reported	Type 1	Type 2	Notes
							Prefatory Note, Dampier Paper Books: Dampier was on King's Bench for a short period, from 23 June 1813 until his death on February 3, 1816. Apparently the first few of the first bundle of the "Dampier" PBs were not Dampier's but Justice Nash Grose's, who resigned on June 16, 1813, succeeded by Dampier on June 23, 1813. On informing Guy Holborn about this, he checked Brown's Law List and confirmed that Grose's clerks carried over to Dampier (also, when Lawrence earlier departed KB for CB in 1808, he took his clerks with him), so the clerks probably were the keepers of the PBs and passed them on to succeeding judges. Possibly Grose himself handed the PBs over to Dampier. At any rate PB's 1 - 4 below are Grose PBs, and the first three are replete with his scrawled notes on the backsides of the pages. PB's 5-14 are all shown at the tops of the folded captions as from Trinity Term 1813, and the handwriting changes to Dampier's neater, rather curly script. PB's 5-7 must have been Justice Grose's. PB 8 (the case of <i>R. v. Inhabitants of Framsdén</i> , heard on June 26, 1813) shows "Mr Justice Dampier" on the caption. PB 15 is of the case of <i>Evans v. Soule</i> , 2 M & S 1. According to Maule and Selwyn (see the footnotes at 2 M&S 1 and at 1 M&S 304), a batch of cases was heard in April 1813 in Serjeants' Inn to clear up a backlog, including <i>Evans v. Soule</i> . Grose would have been on the bench in April 1813, which is why the PB for this case (#15) is designated "Mr. Justice Grose" on the folded caption. These cases were then held over until November (by then Dampier was on the bench), when Ellenborough pronounced judgment on them. So Dampier would have had possession of Grose's PB for the case. Also, several PB's from Hilary Term 1811 through Easter Term 1813 were later slotted into the series (#'s 43-47). These appear to have been Justice Grose's PB's. Probably these, too, were held over for judgment until after Dampier arrived.
1	June 10, 1810 Printed Report: June 17, 1812	<i>Nonnen v. Reid</i>	King's Bench	16 East 176	Insurance		
2	June 10, 1810	<i>Nonnen v. Kettlewell</i>	King's Bench	16 East 176	Insurance		Fully reported. Copies made of the insurance policies in the two cases, plus the Order of Council of 7 January 1807, with added Instruction, 10 th June 1810.
3	April 22, 1812 Printed Report: 9 May, 1812	<i>Kinnear v. Tarrant</i>	King's Bench	15 East 622			Grose notes inside. Not a case of interest. [Grose PB]
4		<i>Robinson v. Howden</i>	King's Bench	Unreported			No notes, but with "Mr. Justice Grose" on the folded caption.
8	June 26, 1813	<i>R. v. Inhabitants of Framsdén</i>	King's Bench	Unreported			5-14 are all shown at the top as scheduled for Trinity Term 1813, and the handwriting changes to Dampier's neater, rather curly script. PB's 5-7 appear to have been Justice Grose's, but Dampier must have taken possession after his arrival on June 23, as shown by annotations in his handwriting. From PBD 8, <i>R. v. Inhabitants of Framsdén</i> , "Mr. Justice Dampier" is shown on the captions. That case was to be argued on 26 June, three days after Dampier became a judge. Most are reported cases, in 1 M&S part 3, Trinity Term 1813.
21	6 November, 1813	<i>Palmer v. Moxon</i>	King's Bench	2 M&S 43	Conditions	Statute	Interesting case about endorsement of a bill of sale per 34 G.3.c.38.s.15 – not a condition precedent, but a condition subsequent to be done in a reasonable time.
25	6 November, 1813	<i>Adley v. Reeves</i>	King's Bench	2 M&S 53			This is the first Dampier PB in which extensive notes by him appear. Fully reported, though.
28	11 November, 1813	<i>Simeon v. Bazett</i>	King's Bench	2 M&S 94	Insurance		Fat PB, but fairly fully reported. Interesting case of insuring a ship heading for the Baltic with liberty to carry simulated papers, and upholding the insurance against confiscation by the Prussian government. See also <i>Hagedorn v. Bazett</i> , 2 M&S 100, which is PBD 29, fully reported.

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43	May 11, 1813	<i>Goold v. Goold</i>	King's Bench	Unreported	Real property	Inheritance	Caption copied, said to be a copy of the special verdict, PB for Mr. Justice Grose, cur adv 11 May 1813, judgment for defendant. Caption copied, plus the opinion that Grose drafted, to which he adds this note: "This was the judgment as I first drew it, but Le Blanc doubted whether the giving such an estate as herein described was not a novelty & as it was not necessary to determine what estate the defendant took, provided the plaintiff took no estate of inheritance, I altered it." Not sure why this PB was slotted into Dampier's pile – there is nothing apparent about Dampier's participation in the case. If the case was taken under advisement on 11 May, possibly the judgment was not issued until after Dampier joined the court on June 23.
44	Trinity term 1815 Printed Report: 31 May, 1811	<i>Mogg v. Mogg</i>	King's Bench	1 Mer. [Merivale] 654	Will		Case out of Chancery argued in KB 9-12 June 1812 (when Grose was on the court, Dampier not yet), then before the Rolls, Trinity term 1815, as reported by Merivale. Extensive wrangle about the meaning of a will and the descent of property, with quarrelling siblings. There are some autograph papers in DPB 45, presumably Grose's, but nothing copied.
47	Easter 1811	<i>Flindt v. Reid</i>	King's Bench	Unreported	Insurance		Caption says set for argument Tuesday, 8 February. Special verdict is from Easter 1811. Question stated: "Whether the defendant is liable to pay a Prussian subject for a loss occasioned by his own Government?" On the caption is noted: "the same point as in Simeon v. Bazett" (see PB 28, above). Judgment for plaintiff. No Grose notes. Nothing copied. (Dampier not yet on the court.)
57	23 November, 1813	<i>Boelim v. Combe</i>	King's Bench	2 M&S 172	Insurance	Form Contract	Case noted here because of intrinsic interest. Insurance policy on goods using the standard Lloyds marine insurance form, but covering the goods while being transported overland to a specified destination and thence by a packet. Loss occurred in overland portion. Scarlett contended that the terms of the marine policy were meant to be incorporated, as far as may be, into the land adventure, including the perils enumerated, and none of the enumerated perils covered what had happened. Ellenborough wouldn't buy it. He said that insurance on goods by land-carriage had to cover loss by miscarriage, what else could it mean? And anyway the term "barratry" in the marine policy was broad enough to cover the fraud and negligence of the carrier's servants.
59	25 May, 1821	<i>Deffell v. Brocklebank</i>	King's Bench	3 Bligh P.C. 561	Charter		Demurrer book. Caption: "This is a case upon a blundering unintelligible Charter Party, which can never be brought into Precedent." A 16-page demurrer book, with 11 alleged breaches. Holroyd for P; Scarlett for D. Dampier took some notes of arguments of counsel, accompanied by a doodled drawing of a man's head in profile. No notes of opinions of judges. Only additional doc = a separate sheet stating the questions to be argued, which are not understandable without reference to the details in the demurrer. No indication of outcome, other than the caption note. Sounds like the case was just thrown out.
62		<i>Grosz v. Moxon</i>	King's Bench	Unreported	Pleadings		Caption: "An agent cannot plead to an action of assumpsit brought against him that the undertaking was on behalf of his principal and that the plaintiff is indebted to his principal in a larger amount, without averring that the plaintiff had notice that the undertaking was on behalf of his principal." Judgment for plaintiff. "Vide P.B.B. 223, Mesen & al v. Crighton." And in Dampier's brief note on the back of p. 1, he writes: This is the converse of the case of George v. Clagett, 7 T.R. 359." Nothing copied. [NB: these cases with few or no backside notes, some of which are unreported, may be examples of Ellenborough's rough style – as quoted in the Nisi Prius article, like a rhinoceros plowing through a field of sugar cane.]
63		<i>Hodgson v. Spink</i>	King's Bench	Unreported	Bankruptcy		Caption: "Cash notes on the bankrupt cannot be set off against an action brought by the assignees without averring that they were in defendant's possession before the bankruptcy, though the assignees have inadvertently taken them in payment & have not returned them to the defendant." Not copied.
65	10 May, 1814	<i>Hagedorn v. Oliverson</i>	King's Bench	2 M&S 485	Insurance		Fully reported insurance case, another one involving simulated papers and the interest of an alien enemy. Copied the insurance policy and the caption page.
75		<i>Doe, d. Crickitt v. Blake</i>	King's Bench	Unreported	Will		Caption: "This is a decision upon such a will & so many codicils so worded that no Precedent can ever be drawn from it." There are a few backside notes, e.g. Ellenborough: "There must be some uncertainty as there are various intentions expressed."

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81		<i>Wickham v. Bank of England</i>	King's Bench	Unreported	Stock		Caption: "If there are two executors & specific legacies are made of stock, the bank are not bound to comply with the request of the to executors to transfer to one only – nor to the request of several of the legatees to that effect if all do not join, so as to give the two executors an action against the bank for not complying with their request." Also: "Judgment for the defendants as the request does not raise the question." Also: "The practice is stated incorrectly in the case in Douglas." From interior backside notes, the case in Douglas is identified as R. v. Bank of England, Douglas 506.
82	27 June, 1814	<i>Wilkinson v. Loudonsack</i>	King's Bench	3 M&S 117	Negligence		Fully reported, with long Ellenborough opinion. Only reason to note the case here is to quote the headnote, which is much more succinct than in the printed report: "An action will not lie against a person for damages incurred by improper package of goods on an illegal voyage, though neither party knew that the voyage was illegal when the ship sailed."
86	15 November, 1813	<i>Foster v. Stewart</i>	King's Bench	3 M&S 191	Apprenticeship		Interesting holding. Headnote: "The Master of an apprentice may waive the tort & bring money had & received against the party seducing him, for wages earned by the apprentice while he continues with him wrongfully." Ellenborough's opinion (see pp. 198-99) is interesting, esp. his reliance on & interpretation of Mansfield's decision in <i>Hambly v. Trott</i> , Cowp. 375. See also Gaselee's discussion of <i>Hambly</i> at 193-94.
88	19 November, 1814	<i>R. v. Inhabitants of Billingshurst</i>	King's Bench	3 M&S 250	Marriage		Noted only to mark the presence in the printed report of six "sentences" delivered by Sir Wm Scott in the Consistory Court, at pp. 259-67, on the validity of various marriages.
93	June 21, 1814 Printed Report: 28 November, 1814	<i>Storer v. Gordon</i>	King's Bench	3 M&S 308	Contract	Condition	Fully reported, long case holding that the delivery of the outward cargo was not a condition precedent to have a homeward bound cargo. Very fat PB dated 21 June 1814; printed report is dated November 28, 1814. In Dampier's PB, he took very few notes, less than a half-page, but opposite notes of Marryatt's argument is a lovely ink sketch of a rather severe-looking man in profile, perhaps of Marryatt? Would make a nice illustration if photographed. Dampier appears to have been bored. (Marryatt does not appear in the printed report of the November argument.)
94	22 November, 1814	<i>Barker v. Hodgson</i>	King's Bench	3 M&S 267	Contract	Impracticability	Case of alleged commercial impracticability. D covenanted to send cargo alongside at a foreign port, but did not do so because of the outbreak of an infectious disease at the port such that all public intercourse was prohibited by the law of the port. Word "impracticable" used in the report of the case. Contract allowed 60 running days for the delivery of outward cargo and loading of homeward cargo, and it was during these 60 days that the outbreak happened. Ellenborough op. is short – "The question here is, on which side the burthen is to fall." If the performance had been rendered unlawful, "the contract would have been dissolved" and defendant would have been excused. But here the freighter was prevented from furnishing a loading by events that happened at a foreign port, and "the contract is neither dissolved nor is he excused for not performing it, but must answer in damages." Not very clear. But the reporters help Ellenborough out in the headnote by noting the replication that defendant might have sent the cargo alongside before all intercourse became unlawful or impracticable. The recitation in the report of the replication also says that the ship stayed 10 days in port after the outward cargo was delivered and could have delivered the homeward cargo during that time. Copied.
98	2 February, 1815	<i>Wright v. Barlow</i>	King's Bench	3 M&S 512	Real property	Statute of Frauds	Court said that a devised power to charge the land by deed attested by two or more witnesses was not well-executed by a deed said to be signed, sealed, and delivered in presence of 2 witnesses, when the attestation on the deed only said "sealed and delivered" in the witnesses' presence. Ellenborough said the court felt bound by <i>Doe v. Peach</i> , 2 M&S 576 – if the parties wanted "to agitate the question farther," it s/b by writ of error, "for without the assistance of the other judges he should not be inclined to overrule a decision which the Court upon the authority of a like decision in another court, had so recently come to, and that not without reluctance." This was a case from Chancery, and the certificate was signed by Ellenborough, Le Blanc, and Bayley. Apparently Dampier did not participate (he is shown as absent in a number of cases in the reports, tho not in this one). On the folded caption on Dampier's PB, he wrote out the certificate (as on p. 515 in the printed report) and added: "Mr. J. Bayley told me this was the certificate. I have great doubts on the cases described on the Statute of Frauds. In this case if the appointment had been by will, the word signed need not have been in the attestation."

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100	23 January, 1815	<i>Doe d. Thomson v. Pitcher</i>	King's Bench	3 M&S 407	Procedure		Case was reserved by Chief Baron Thompson at the Hertfordshire assizes – he directed a verdict for the P on the meeting house and for the defendant on the farm, which the jury gave. Ellenborough ruled that the judgment should be for the defendants. Dampier's PB includes a very detailed report from Thompson of the evidence from the trial and how Thompson reasoned. Copied, as a good example of this procedure.
103	23 January, 1815	<i>Barber v. Tilson</i>	King's Bench	3 M&S 429	Statute		Dampier did not participate, tho he received a PB. Case fully reported – noted only as an example of the perplexities in deciding whether an old statute remained in force. Here, a statute of Elizabeth was found to remain in force, despite some apparent inclinations to the contrary in prior cases.
141		<i>R. v. The Participants of the said Level (Level of Hatfield Chace).</i>	King's Bench	Unreported			Noted only because there is another Dampier sketch, more rudimentary than the one noted above.
144	6 May, 1815	<i>R. v. Marsden</i>	King's Bench	4 M&S 164	Libel		Libel case. Report of Baron Woods from Essex is included. Copied, as another example of such reports. Jury convicted the defendant, but verdict thrown out here – innuendo too weak that "Sloe Juice" meant William Smith.
145	9 June, 1815	<i>The Trinity House v Clark</i>	King's Bench	4 M&S 288	Tolls		Fully reported – interesting case in which Trinity House sought tolls and duties that would normally be payable for a ship passing certain lights, buoys beacons, etc. In this case, the ship Britannica, was under a three-month charter to the Crown, and the question was who should be called the owner – the Crown or Clark. Held: The Crown, pro hac vice. Fat PB, but very few Dampier notes. Included in the PB is a copy of the charter, which I copied just for general interest. Note that the word "furniture" continues in use.
146	June 1815	<i>Ainsworth v. Crompton</i>	King's Bench	Unreported	Contract		Fat PB. Caption: "A covenant to raise as much water by means of a steam engine on the premises (which both parties were to repair) as the plaintiff should require is satisfied by raising as much as the steam engine kept in proper repair will supply." Dampier's only notes: "Monday June 5 1815. Richardson for demurrer. Question whether this is an absolute contract or qualified by the <u>steam engine</u> . The whole instrument to be considered." The contract calls for the delivery by the steam engine of the amount of water required on at least 6 hours notice. Interesting case, result seems correct. Nothing copied.
147		<i>Ramsbottom v. Woodthorpe</i>	King's Bench	Unreported	Lien	Negotiable instruments	Caption: "A banker has a lien on bills placed in his hands till his balance is paid and does not lose it by discounting them to put himself in cash." Inside, a few notes, plus a sketch of a ram named "Ramsbottom". Whole thing copied.
153	June 1815	<i>Sykes v. Bacon</i>	King's Bench	Unreported	Negotiable instruments		Argument (on demurrer and joinder) on Friday, June 2, 1815. Odd that this case is unreported – Wilson for the plaintiff; Sir Vicary Gibbs for defendant. PB runs 15 pages. Caption: "The holder of a bill of exchange may maintain an action against the acceptor, though he has indorsed over to his own agent, if he has got it back again before action brought & holds it at the time of the action." No Dampier notes. Nothing copied.
168	23 November, 1815	<i>Bailey v. Warden</i>	King's Bench	4 M&S 400	Court martial		Interesting court martial case, with lively facts. Also a very simple caricature by Dampier.
170	28 November, 1815	<i>Bates v. Winstanley</i>	King's Bench	4 M&S 429			Noted only because of another simple caricature. Occurs against notes of argument by Reader. Another was started opposite notes of Denman in reply, but left unfinished.