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REZNIKOFF'S TESTIMONY**

Editing Corpus Juris, Charles Reznikoff became obsessed with the stories of suffering preserved in published cases of the National Reporter System. Over many years he wrote Testimony, a long sequence of poems telling those stories. Reznikoff's manuscripts and annotated photocopies of the original cases show how he found literature in the law.

By the term 'objectivist' I suppose a writer may be meant who does not write directly about his feelings but about what he sees and hears; who is restricted almost to the testimony of a witness in a court of law; and who expresses his feelings indirectly by the selection of his subject matter and, if he writes in verse, by its music. Now suppose in a court of law, you are testifying in a negligence case. You cannot get up on the stand and say, "The man was negligent." That's a conclusion of fact. What you'd be compelled to say is how the man acted. Did he stop before he crossed the street? Did he look? The judges of whether he is negligent or not are the jury in that case and the judges of what you say as a poet are the readers. That is, there is an analogy between testimony in the courts and the testimony of a poet.

—Charles Reznikoff¹

He was so unfashionable in his simple diction, his clarity, that he finally became fashionable. And he will survive even fashion.

—Shirley Kaufman²

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¹ L.S. Dembo, *The "Objectivist" Poet: Four Interviews [Charles Reznikoff]*, 10 (2) *Contemporary Literature* 193, 194-95 (1969)(reprinted as "Charles Reznikoff: A Talk with L.S. Dembo," in Milton Hindus (ed.), *CHARLES REZNIKOFF: MAN AND POET* 97-107 (Orono, Maine: National Poetry Foundation, University of Maine at Orono, 1984).

² Shirley Kaufman, *Charles Reznikoff, 1894-1976: An Appreciation*, *Midstream*, Aug./Sept. 1976, at 51, 51.

I. IMMIGRANTS

When terrorists assassinated Czar Alexander II of Russia in 1881, state-supported pogroms against Jews immediately increased and persisted into the 1890s.³ Sarah Yetta Wolwovsky and Nathan Reznikoff grew up during this time of persecution and poverty, and fled to America in 1892, supporting themselves by sewing piecework in Brooklyn's Jewish ghetto, Brownsville.⁴ Charles Reznikoff, their first child, was born there in 1894.⁵

In his parents' final years, Reznikoff carefully recorded their Russian experiences. Gogol or Dostoevsky might have written these grim accounts. Reznikoff's mother remembered:

The day after Easter I heard shouts and cheers outside. I ran into the yard and met our landlady and her daughter at the gate. Many men were running along the street. I had never seen any of them before.

"What is it?" I asked our landlady. "A fire?"

"No," she said, "they are going to ill the *sheenies*."

"Oh," I said, "and you whose daughter I taught how to sew say this, you who are always telling me how much I did for you!"

"I can't help it," she said, "but they are going to beat them up."⁶

His father told similar stories. For example,

A subscriber to a Russian newspaper used to read aloud what was written about the Jews: how an enemy of Israel wrote that they were not a useful people but thought only about their Talmud and, for a living, robbed the Russians, and that was why the peasants were so poor. . . . My father said all this talk was a waste of time—the Jews were in exile and had to suffer.⁷

Charles Reznikoff spent his childhood in apartments piled with his parents' sewing and populated by refugees. In his *Family Chronicle*, he recounts:

³ Bernard Pares, *A HISTORY OF RUSSIA* 403-30 (New York: Knopf, 1953).

⁴ Charles Reznikoff, *FAMILY CHRONICLE* (New York: Markus Wiener Pub., 1988)(1969). The year in which Reznikoff's parents emigrated is not explicitly stated, but can be inferred: Sarah Yetta was twelve years old in 1881; she was twenty when her father died [in 1889]; her father had been dead for "almost three years" when she arrived in America [in 1892], where Nathan had arrived a short time earlier. *Id.* at 30-31, 55, 74.

⁵ Milton Hindus, "Introduction," to Milton Hindus (ed.), *CHARLES REZNIKOFF: MAN AND POET* *supra* note 1, 15-33, at 16.

⁶ Reznikoff, *supra* note 4, at 64.

⁷ *Id.* at 120-21.

There were now new troubles for the Jews of Russia. *The Evening Journal* had pictures of a mob rushing down a street with scythe blades—tied upright to poles—on which were stuck the bodies of babies or the peevish heads of bearded Jews. Immigrants, cousins, and second cousins and even strangers, stayed with my parents for a night or for weeks. Sometimes one came unexpectedly, before the letter he had mailed in Germany, walking heavily upstairs to our door in boots into which his trousers were tucked and wearing a round hat of Persian lambskin like a Cossack.⁸

America supplied its own measure of poverty and persecution, if less intense than that of Czarist Russia. As a schoolboy Reznikoff was often called 'yid' and chased down the street: "Sooner, or later, a stone would be shied at me or a bit of garbage flung into my face."⁹ Racists attacked his uncle and grandfather in Brooklyn.¹⁰ Whereas Russia had possessed a somber literary tradition adequate to express such experiences, American writing at the turn of the century was typified by Horatio Alger's jingoistic optimism.¹¹ Despite this popular propaganda, America was no land of hope and glory to Reznikoff, but merely the most recent setting for the immemorial facts of Diaspora. In the course of his writing career, Reznikoff entitled three books *By the Waters of Manhattan*,¹² an allusion to a lament sung by an ancient generation of Jewish exiles: "By the waters of Babylon we sat down and wept, when we remembered thee, O Sion."¹³

II. LAW STUDIES

In 1912, at the age of eighteen, Reznikoff entered New York University's Law School. "NYU was a poor man's law school," he later explained.¹⁴ "Most of my fellow students were older than I and earnest (almost all worked during the day in factories or in law offices)."¹⁵

⁸ *Id.* at 212.

⁹ Charles Reznikoff, *POEMS 1937-1975*, at 152-53 (Santa Barbara, California: Black Sparrow Press, 1977).

¹⁰ *Id.* at 154-55.

¹¹ Emory Elliott (ed.), *COLUMBIA LITERARY HISTORY OF THE UNITED STATES 556-58* (New York: Columbia University Press, 1988). See generally Ralph D. Gardner, *HORATIO ALGER, OR, THE AMERICAN HERO ERA* (Mendota, Illinois: Wayside Press, 1964).

¹² A collection of poetry in 1929, a novel in 1930, a volume of selected poems in 1962.

¹³ *Psalm 137:1* (BOOK OF COMMON PRAYER (1928)).

¹⁴ Sternburg, *A Conversation with Charles Reznikoff*, 2 *Montemora* 113, 113 (1976).

¹⁵ Reznikoff, *supra* note 9, at 168.

Reznikoff studied law at night while his days were spent helping his parents in the small millinery business they had established.¹⁶

Reznikoff found his studies at refuge. "The noise of the street was far away—ten stories below; far away, too, the worry and noise of my parents' shop"¹⁷ Everyday life had meant expedience, drudgery, humiliation. Here was an ideal. Legal writing appealed to Reznikoff both intellectually and aesthetically: "the plain sunlight of the cases, the sharp prose, the forthright speech of the judges. . . . I soon saw the law in its elements as a beautiful order in which benefit balanced obligation and nothing was without its reason—or reasons."¹⁸

Ironically, this very idealism caused Reznikoff to balk at practicing as an attorney. After he was admitted to the Bar in 1916, his father confronted him:

"Aren't you going to send out notices . . . [t]hat you have been admitted to the bar, you're ready to practice." I said, "But I'm not ready to practice." So I thought again and I thought, well . . . young lawyers won't get any clients. So I sent out notices and I had a number of cases right away—you know, the kind of cases that others wouldn't take because there's no money in it. I didn't know what to do¹⁹

Many years later, Reznikoff's wife recalled how the problem solved itself: "A cousin had insisted on his services had lost the case: a happy development which freed him from further family solicitation."²⁰ Such public exposure must have rankled, for it "soured him on the prospects of practicing histrionics in the courtroom."²¹ From Reznikoff's point of view, the ideal of the law had proved as untenable in the real world as the ideal of America.

III. CORPUS JURIS

Reznikoff continued to help his parents in their business, which began to prosper in the booming economy of the First World War.²² It was for him the course of least resistance, one which allowed him to concentrate on writing poetry, a passion his family agreed to tolerate. "I found that working for my father, well, your mind was free. Shipping

¹⁶ Syrkin, *supra* note 5, at 38.

¹⁷ Reznikoff, *supra* note 9, at 169.

¹⁸ *Id.* at 168-69.

¹⁹ Sternburg, *supra* note 14, at 114.

²⁰ Syrkin, *supra* note 5, at 38.

²¹ Milton Hindus, "Introduction," to Charles Reznikoff, *BY THE WATERS OF MANHATTAN* x (New York: C. Boni, 1930).

²² Reznikoff, *supra* note 4, at 303.

was nothing, it was no strain on your mind, even selling was nothing. . . . Hours are nothing—it's the mental energy that I wanted. So I never went back to the practice of law.²³

Marie Syrkin met Reznikoff in 1927, when he was thirty-three. At that time, she recalls, “no longer a salesman, he was receiving a regular allowance of twenty-five dollars a week from the family concern for labors past. Now he could devote himself wholly to his poetry.”²⁴ The stock market crash cut short this arrangement. Reznikoff's parents lost almost everything.²⁵ For the first time in his life, Reznikoff was forced to go out and look for a job. This would have been particularly difficult in 1930 if the neglected law degree had not suddenly proved useful. The American Law Book Company had offices in Brooklyn,²⁶ and Reznikoff found “a berth”²⁷ there on the editorial staff of the legal encyclopedia *Corpus Juris*. He did not expect to enjoy the work, which “was superficial for the most part and dull; poorly paid and it deserved no more. However, it offered me a living.”²⁸

Nonetheless, he gradually discovered a fascination with certain cases he was required to analyze. Extracting the point of law may have been “dull” for Reznikoff the lawyer, but Reznikoff the poet found other sources of interest.

Once in a while I could see in the facts of a case details of the time and place, and it seemed to me that out of such material the century and a half during which the United States has been a nation could be written up, not merely from the standpoint of an individual, as in diaries, nor merely from the angle of the unusual, as in newspapers, but from every standpoint—as many standpoints as were provided by the witnesses themselves.²⁹

He began to collect “an amazing assortment of frightening, comic, perverse, deeply troubled lives . . . the flat, spare, colloquial language of men and women from small towns in courtrooms all over America . . . telling the facts of their marriages, accidents, murders, foreclosures, adulteries. . . .”³⁰

²³ Sternburg, *supra* note 14, at 114.

²⁴ Syrkin, *supra* note 5, at 38.

²⁵ Reznikoff, *supra* note 4, at 309.

²⁶ Syrkin, *supra* note 5, at 41.

²⁷ Reznikoff, *supra* note 9, at 122.

²⁸ *Id.*

²⁹ Charles Reznikoff, *TESTIMONY* xiii (New York: The Objectivist Press, 1934).

³⁰ Kaufman, *supra* note 2, at 56.

Reznikoff knew better than to share his literary discoveries with his employers, those journeymen who “had manufactured successfully many thick volumes, which almost every good lawyer in the country owned—or looked into.”³¹ Certainly he was never tempted to write poetry on company time. If anything, he performed his duties too conscientiously,

painstakingly examining the minutiae of a case and phrasing his analysis . . . “accurately” according to his own standards. With no gift for easy generalizations, he would ponder fine points slowly and cautiously. Trying to aid him in his laborious perplexities, a well-disposed head at *Corpus Juris* once admonished him kindly: “When I hire a carpenter, I don’t want a cabinet maker.” Though this particular chief liked him and gave him ample leeway, the day came when a less sensitive superior decided that Charles would never write up cases at the speed and in the style required.³²

Reznikoff felt more puzzled than angry when the “less sensitive superior” fire him. “I had done a bad job, so it seemed, instead of, as I had fancied, rather a good one”³³ There was a sort of consolation in the fact that he had grown to expect incomprehensible misfortunes as an inevitable part of his heritage.

Although Reznikoff stayed with *Corpus Juris* for only “a couple of years”³⁴ before being dismissed as incompetent, the experience was crucial for his writing. There and then he conceived *Testimony*. Forty years later he completed the project, which scholar Milton Hindus has called “a concept in poetry so completely original that I cannot think of any precedent for it.”³⁵

IV. LAW AND LITERATURE

As recently as 1988, law and literature was labelled by one *Harvard Law Review* writer as “a newly fashionable area of legal scholarship.”³⁶ Certainly every issue of *Current Law Index* now contains numerous

³¹ Charles Reznikoff, Dismissal 2 (unpublished manuscript in Charles Reznikoff Papers (box 17, folder 2), Archive for New Poetry, Mandeville Department of Special Collections, Central University Library, University of California, San Diego) [hereinafter Papers].

³² Syrkin, *supra* note 5, at 45.

³³ Reznikoff, *supra* note 29, at [4].

³⁴ Syrkin, *supra* note 5, at 45.

³⁵ Milton Hindus, CHARLES REZNIKOFF: A CRITICAL ESSAY 65 (Santa Barbara, California: Black Sparrow Press, 1977).

³⁶ Paul Gewirtz, *Aeschylus’ Law*, 101 Harv. L. Rev. 1043, 1043 (1988).

citations under the heading “Law and Literature.”³⁷ Although it may be “newly fashionable,”

[t] field of law and literature is not new. Nineteenth-century English lawyers wrote about depictions of the legal system by Shakespeare, Dickens, and other famous writers. Wigmore thought lawyers should read the great writers to learn about human nature. Cardozo’s paper “Law and Literature” analyzed the literary style of judicial opinions. But only since the publication in 1973 of James Boyd White’s *The Legal Imagination* has a distinct, self-conscious field of law and literature emerged.³⁸

To guide explorers of this surprisingly complex subject, two excellent bibliographies are available,³⁹ from which one can identify several broad themes:

- Quotations from literature and the limitation of literary style add grace to legal writing.
- Legal writing can be studied as a legitimate branch of literature.
- Literature provides social criticism to broaden the lawyer’s outlook, or direct criticism of the legal system as a healthy chastisement.
- Theories of language and of morality are equally vital to law and to literature.
- Literature often portrays the world of law schools, law firms, and courtrooms.
- Actual crimes have often inspired great literature.

Literary journals have discussed Charles Reznikoff’s work extensively,⁴⁰ but no law journal has yet recognized the importance of his

³⁷ The 1989 annual, part A, contains nineteen citations under this subject heading. CURRENT LAW INDEX 528 (1989). In addition, related materials is listed under the headings “Law in literature” and “Lawyers as authors.”

³⁸ Richard Posner, *Law and Literature: A Relation Reargued*, 72 Va. L. Rev. 1351, 1352 (1986) (footnotes omitted).

³⁹ Harold Suretsky, *Search for a Theory: An Annotated Bibliography of Writings on the Relation of Law to Literature and the Humanities*, 32 Rutgers L. Rev. 727 (1979); David R. Papke, *Law and Literature: A Comment and Bibliography of Secondary Works*, 73 Law Lib. J. 421 (1980).

⁴⁰ An online search of the *MLA International Bibliography* for “Reznikoff” retrieved fifty records concerning Charles Reznikoff (Sept. 25, 1990). See also Linda Simon, “An Annotated Bibliography of Works About Charles Reznikoff: 1920-1983,” in CHARLES REZNIKOFF: MAN AND POET, *supra* note 1, 411-440 (citing eighty items; unfortunately, many citations are incomplete or inaccurate).

writings.⁴¹ One explanation may be that *Testimony* does not fit neatly into any of the categories listed above. The vast genre of fact-based crime and courtroom stories are entirely different in method and purpose from Reznikoff's adaptations.

An American Tragedy by Theodore Dreiser is the classic fictional elaboration of a published case.⁴² The businesslike summary of Grace Brown's murder by her lover, Chester Gillette, comprised scarcely two pages in the appellate court opinion. Dreiser's treatment, where the faceless murderer of the case became the subject of a full-length portrait, exceeded 800 pages. Dreiser's artistic mission involved building up details of personality and circumstance which would allow the murderer to appear as a unique individual, capable of engaging the reader's sympathy.

Reznikoff was not interested in arousing sympathy for an individual. The discouragements—even meagerness—of his own life led him to distrust that glamorization of individuals practiced by virtually all novelists. Dreiser's first task had been to replace the impersonal, underlined Chester Gillette of the *Northeastern Reporter* with the exquisitely sentient Clyde Griffiths of his imagination. Reznikoff particularly valued the impersonal, almost anonymous quality of the protagonists in printed cases.⁴³ He had begun to see the *National Reporter System* as a repository, an archive of human voices representing the experience of millions, but buried in law offices and law libraries where no one ever thought of listening to them. His purpose in *Testimony* would be the humble one of allowing those voices to be heard.

⁴¹ Indexes checked through August 1990.

⁴² *People v. Gillette*, 83 N.E. 680 (N.Y. Ct. App. 1908). Other famous examples are *E. Poe, Politician* (1835), based on *Beauchamp's Trial* (1826), reprinted in Loren J. Kallsen (ed.), *THE KENTUCKY TRAGEDY* 165-320 (Indianapolis: Bobbs-Merrill, 1963); Herman Melville, *BILLY BUDD* (1924) (written ca. 1890), based on *United States v. Mackenzie*, 26 F. Cas. 1118 (1843) (No. 15, 690); Jerome Lawrence & Robert E. Lee, *INHERIT THE WIND* (New York: Random House, 1955), based on *Scopes v. State*, 289 S.W. 363 (1927); Truman Capote, *IN COLD BLOOD* (New York: Random House, 1966), based on *State v. Hickock and Smith*, 363 P.2d 541 (Kan. 1962); Norman Mailer, *THE EXECUTIONER'S SONG* (Boston: Little, Brown, 1979), based on *Gilmore v. Utah*, 429 U.S. 1012 (1976).

⁴³ See Baritz, *The Historian as Playwright*, 195 *Nation* 340, 340 (1962). Reznikoff clipped this article and underlined the sentence, "No historian, to my knowledge, has yet attempted plotlessness, though it would be neither impossible nor undesirable." Papers, *supra* note 31, box 19, folder 1.

V. TESTIMONY

"It's a lie!" she cried. He struck her in the face with his newspaper, and then with his straw hat; and she struck back with a fish she had just bought and then with the pocketbook she still held in her hand. The steel clasp scratched his face and it began to bleed. As she left the store, he shouted after her that she should not come back and his house was closed to her forever! He went upstairs to the rooms where they lived and gathered up all her clothing he could find and cut and slashed it with knife and scissors.⁴⁴

Reznikoff discovered this fight between husband and wife in the middle of a long, intricate, and tedious divorce action. Even the paragraph from which he drew the facts is repetitive and laborious:

The complainant denied the charge, and charged her husband with lying. He struck her in the face with his straw hat and with a newspaper. She struck him, first with a fish which she had just been buying for breakfast, and then with a pocketbook which she held in her hand, and whose steel clasp scratched his face and drew blood. The parties were separated. The complainant left the house, and defendant shouted after her, and sent word to her by his son that she could not come back again. She went to her father's house. Three days afterwards the husband said to the son, who was working for him in his store, that he must decide whether he would go with his mother or stay with him. The son decided to go with the mother, and left. The husband then sent word to the wife to take away her clothing, but, before delivering it to her, mutilated each piece of it thoroughly with a knife or scissors, or other sharp instrument, so that a large number of costly female garments of all kinds were utterly destroyed, and in that condition sent to the wife.⁴⁵

Reading this clumsy prose, one wonders how it first commanded Reznikoff's attention. Perhaps he noticed the specific collection of unexpected objects—straw hat, newspaper, fish, pocketbook—with which the couple suddenly flail at each other. The scene is homely, ludicrous, quite frightening, and unforgettable. No fiction writer or dramatist could have been bold or foolish enough to show a woman hitting her husband with a fish in any context but a slapstick farce. Yet no reader could react to Reznikoff's poem as a joke. The hatred is too

⁴⁴ Charles Reznikoff, 1 TESTIMONY 183-84 (Santa Barbara: Black Sparrow Press, 1978).

⁴⁵ Streitwolf v. Streitwolf, 47 A. 14, 18 (N.J. Ch. 1900).

desperately concrete, and perfectly demonstrated by the fact that the antagonists cannot spare time to locate proper weapons.

The poet limited the remainder of the episode, as he told it, to the husband's shouted curse and his vindictive action. For the sake of concision, Reznikoff dispensed with surrounding circumstances and exact chronology. The phrase "this house is closed [to] you forever!" actually appeared on the previous page of the printed case in a letter written weeks earlier,⁴⁶ and the husband ruined his wife's clothing at a later date. Reznikoff "saw" this symbolic destruction committed immediately and offered it to the reader in the starkest possible language. One thinks of the archaic horrors of the Old Testament, a recurrent frame of reference for Reznikoff.⁴⁷ He both appropriated and altered the original wording without scruples. Reznikoff's conscience was devoted to the one aim of accurately representing the particular emotions he had discovered. "One reason for using the case books is that a case is in the public domain. No one has a right to it, but everyone can use it."⁴⁸ Nor was privacy an issue. Reznikoff either changed or omitted the names of the parties.⁴⁹ He hoped to avoid any tone of gossip anecdote.

A remarkable handwritten formula survives among his papers. Few poets can ever have articulated their creative procedure so explicitly as Reznikoff here described how he set to work on *Testimony*:

The Method of Revision

1. Write all seemingly good lines
2. Examine every word to remove all possible latinisms and unnecessary words
3. Examine the meaning of the sentences in their order
4. Examine the rhythm of the lines
5. Examine the rhythm of the whole
6. Then revision by contemplation⁵⁰

Reznikoff's humility was real enough, and shows itself in his preference for the term "revision" in place of "creation." The final step in the process, though, "revision by contemplation," quietly reasserts the poet's status, for it signifies nothing else than the simple application of genius.

⁴⁶ *Id.* at 17.

⁴⁷ See *supra* notes 12-13 and accompanying text.

⁴⁸ Sternburg, *supra* note 14, at 117.

⁴⁹ "Note: All that follows is based on law reports of the several states. The names of all persons are fictitious and those of villages and towns have been changed." Reznikoff, *supra* note 44, at [9].

⁵⁰ Papers, *supra* note 31, box 19, folder 2.

Reznikoff developed these principles of “revision” over many years. In 1934, shortly after leaving the American Law Book Company, he published a small volume called *Testimony*⁵¹ under the imprint of the Objectivist Press, a collective of avant-garde writers.⁵² “I glanced through several hundred volumes of old cases—not a great many as law reports go—and found almost all that follows.”⁵³ He rendered excerpts from some fifty cases into short paragraphs of prose in this first attempt. It strikes one as an interesting collection of documentary fragments. However, none of the pieces approaches the unified, authoritative impact of the individual poems in the later two-volume *Testimony*, published in the mid-sixties. (See Appendix 1, the bibliography of Reznikoff’s works.)

After this first show of enthusiasm, Reznikoff set aside his intention to rewrite the National Reporter System. His wife said that in the 1940s and 1950s he had “a modest, by our standards adequate, livelihood”⁵⁴ doing freelance editing and translating. In her memoir, his wife hints that her teaching income was more stable, but that Reznikoff wished to do his part. He once proposed to “devote himself wholly to writing lucrative fiction, ‘a best-seller.’”⁵⁵ Samuel Butler could have advised him: “The older I grow the more convinced I become of the folly and credulity of the public; but at the same time the harder do I see it is to impose oneself upon that folly and credulity.”⁵⁶

Needless to say, nothing came of the best-seller. Three tentative verse treatments of actual cases appeared in a 1941 collection of self-published poetry.⁵⁷ Two of these poems reappeared in the volume of selected verse published by New Directions in 1962.⁵⁸ But not until the mid-1960s did Reznikoff return with enthusiasm to the *Testimony* he had envisioned thirty years before.⁵⁹ Now in his seventies, he found himself living in the America of race riots, war protests, and assassinations. How apposite the harsh tone of his daily reading must have

⁵¹ Reznikoff, *supra* note 29.

⁵² Sternburg, *supra* note 14, at 117. For a discussion of objectivist literary theory, see Randolph Chilton, “Charles Reznikoff: Objectivist Witness,” in CHARLES REZNIKOFF: MAN AND POET, *supra* note 5, at 199-223.

⁵³ Reznikoff, *supra* note 29, at [v].

⁵⁴ Syrkin, *supra* note 5, at 53.

⁵⁵ *Id.* at 51.

⁵⁶ Samuel Butler, THE WAY OF ALL FLESH 379 (1944) (1903).

⁵⁷ Charles Reznikoff, GOING TO AND FRO AND WALKING UP AND DOWN 49-56 (New York: [Futuro Press], 1941).

⁵⁸ Charles Reznikoff, BY THE WATERS OF MANHATTAN 74-75 (New York: New Directions, 1962).

⁵⁹ Syrkin, *supra* note 5, at 63.

seemed as he sat in the law library going through volume after volume of the *Reporters* and making notes in innumerable yellow pads. Several of these notesheets have been preserved.⁶⁰

Next to his citations Reznikoff would record a striking phrase, a piece of dialogue, or an idea for the poem he intended to write: "Peo. v. Corey, 42 NE 1066 (murder of an Indian) . . . use the *letter* for his thoughts as he watched Indian and girl talk together . . ."⁶¹ These notes amply confirm Reznikoff's statement that "I might go through a volume of a thousand pages and find just one case from which to take the facts and rearrange them so as to be interesting."⁶²

Reznikoff naturally took special notice of the hardships of immigrants. Most of the accounts he found described their working conditions, including this one from the *New York Supplement* concerning a twelve-year-old Italian girl who spoke no English: "Shortly after she commenced operating the machine the wheels became clogged with an ear of corn, and, in attempting to push the ear towards the knives, her hand was drawn in, one of her fingers was taken off, and the hand itself was considerably lacerated and injured."⁶³ Here is Reznikoff's verse description:

Soon afterwards the wheels of the machine
became clogged with an ear of corn
and in trying to push the ear towards the knives
her hand was drawn in, one of her fingers torn off
and the rest of her hand mangled.⁶⁴

The appellate court affirmed that the child was insufficiently instructed in the dangers of the machinery and upheld an award of damages.⁶⁵ Reznikoff typically ignored these facts, to concentrate exclusively on her sufferings. His alterations were directed toward removing the euphemisms which the judge had employed. The girl's finger is not "taken" off, but "torn" off. The vague medical jargon "considerably lacerated and injured" becomes "mangled." The court writes of "the hand itself" as if it were an inanimate object. By substituting "the rest of her hand" the poet

⁶⁰ Papers, *supra* note 31, box 12, folder 4. These notes are the principal source for identifying the original cases on which Reznikoff based the poems in *Testimony*. See Appendix 2, Table of Cases, *infra* p. 666.

⁶¹ *Id.* The poem based on *People v. Corey*, 42 N.E. 1066 (1896) appears in Reznikoff, *supra* note 44, at 180.

⁶² Sternburg, *supra* note 14, at 117.

⁶³ *Sciolina v. Erie Preserving Co.*, 7 A.D. 417, 419, 39 N.Y.S. 916, 917 (1896).

⁶⁴ Papers, *supra* note 31, box 17, folder 2 (poem not included in the published *Testimony*).

⁶⁵ *Sciolina*, 7 A.D., at 423-24, 39 N.Y.S. at 920.

restores its human vulnerability. Further, Reznikoff's long, rhythmic lines seem to reflect the inexorability of the machine.⁶⁶

People use dishonest language to protect themselves from other people's pain. Reznikoff regarded this habit as an intolerable self-indulgence. Richard Posner found a similar example of "judicial style" written seventy-nine years later than *Sciolina*.

The sentence reads: "In August 1971, appellee's 17-year-old daughter was the victim of a rape and did not survive the incident." The rapists killed her; the words "did not survive the rape" [sic] are an unconscious borrowing of the standard phraseology for describing a medical procedure in the course of which the patient dies: "X was operated on for a massive tumor but did not survive the operation." No normal person says, "X was shot, and did not survive the incident"; he says, "X was killed." The Court shied away from stating the blunt truth bluntly.⁶⁷

New Directions had been pleased in 1962 by the good reviews and acceptable sales of Reznikoff's selected poems, *By the Waters of Manhattan*.⁶⁸ On the strength of that success, the firm accepted a volume of new poems based on court cases. *Testimony: The United States, 1885-1890*, published in 1965, contained three sections: South, North, and West. Reznikoff roughly preserved the geographical divisions of the National Reporter System. In imitation of West Publishing Company's digest topics, he further divided his material into subject areas: "Social Life, Domestic Scenes, Boys and Girls, Machine Age, Property, Negroes, Persons and Places, Railroads, Stagecoaches, Town and Country, Chinese." Reznikoff clearly wished to stress his indebtedness to the published reporters, rather than conceal it.

The influential poet and critic Hayden Carruth had loudly praised the 1962 volume of selected poems. He was "captivated, enthralled, swept away—what *is* the word? Delighted, awed, roused. . . . No one else writes like this: this is the strength of very nearly total originality."⁶⁹ Just as loudly, he reviled the newly published *Testimony*:

⁶⁶ Kathryn Shevelov has studied Reznikoff's use of poetic devices in *Testimony*: "Music'—by which [Reznikoff] means meter, assonance, alliteration, parallelism, and repetition—charges these poems with emotional power." Shevelov, *History and Objectification in Charles Reznikoff's Documentary Poems, Testimony and Holocaust*, 1 *Sagetrieb* 290, 293 (1982).

⁶⁷ Posner, *supra* note 38, at 1391 (citing *Cox Broadcasting Corp. v. Cohn*, 420 U.S. 469, 471 (1975) (footnotes omitted)).

⁶⁸ Syrkin, *supra* note 5, at 61.

⁶⁹ Carruth, *The Tide Comes In* (Book Review), 195 *Nation* 312 (1962).

We cannot even tell what effect is intended ultimately for this volume. It consists of many small vignettes drawn from law reports of cases tried in various states during the years in question. Each is a brief study of violence, disloyalty, or stupidity. There is no accompanying apparatus, no narrative, no lyrical or meditative commentary, no intrusion of the author whatever.

. . . In the face of the obvious risks, I will say that the language of this book is not poetry at all, but prose printed in irregular lines, and rather lifeless prose at that.⁷⁰

Many agreed with him.⁷¹ Reznikoff's new work found few defenders. Cynthia Ozick was the most eloquent:

That Whitman's bright America should be the wailing wall on which this horrendous mural is hung is a bit of cutting pedagogy: it teaches us that America is not exempt from the articles of history, and that, as Marlowe made, his wise Mephistopheles observe, "Where we are is Hell." And *who* we are also: our doctrine of the sacredness of the individual emerges from these sequences of violation null and void. What Reznikoff's America comes to is

The bleating of calves
kept overnight at a slaughterhouse
to be slaughtered in the morning.
In short, the condition of Mankind.⁷²

Marie Syrkin sided with the majority in disliking her husband's latest production.

I confess that a little *Testimony* went a long way with me. Like any philistine I saw it in the main as chopped up prose. . . . In theory I understood the virtue of distilling the essence of a situation and offering it to the reader without aesthetic additives, but I could not help grieving over the hours he spent poring over lawbooks in distant libraries to which he went in all weathers.⁷³

To the librarians in charge of those "distant libraries" Reznikoff must have appeared to be yet another harmless crank haunting the stacks.

New Directions rejected the second volume, *Testimony: The United States, 1891-1900*, and Reznikoff printed it himself in 1968.⁷⁴ Over the

⁷⁰ Carruth, *A Failure of Contempt* (Book Review), 107 *Poetry* 396, 396-97 (1966).

⁷¹ See Dickey, *The Thing Itself* (Book Review), 19 *Hudson Rev.* 146, 151-52 (1966); *Book Review*, 3 *Choice* 311 (1966).

⁷² Cynthia Ozick, *Against the Grain* (Book Review), *CongressBi-Weekly*, May 9, 1966, at 18. The verse of Reznikoff's that Ozick quotes is in Reznikoff, *supra* note 44, at 45.

⁷³ Syrkin, *supra*, note 5, at 64.

⁷⁴ *Id.*

next seven years, as he entered his eighties, Reznikoff completed two further volumes covering 1901-1910 and 1911-1915. These were unpublished at his death in 1976.⁷⁵ In 1978 and 1979 Black Sparrow Press produced the complete *Testimony*, incorporating all four original books and covering the period from 1885 to 1915.⁷⁶ It was a sumptuous two-volume text, which Reznikoff did not have the satisfaction of seeing, but his ego had always been engaged in his work to a remarkably small extent.

I am sufficiently interested in what has been said to have it published without any personal credit by the use of my name or for any fee. . . . Of course, this is not true for one who is eager for fame or fee, but after all, he is only mortal, and neither fame nor fee can mean much to him when he is dead.⁷⁷

The complete *Testimony* contains over 450 eyewitness accounts in verse. Reznikoff chose to document the period of his family's hardships and of his own childhood. Those years had stamped him for life with pessimism and with tenderness. It was the pessimism which reviewers found "shocking, disgusting, unreadable, and unpoetic."⁷⁸

A man in his forties going
to work early in the morning
with his coat on his arm and a dinnerpail in his other hand
stopped for a moment
to watch two dogcatchers leave their wagon
trying to catch a stray dog. Among those watching were boys
who began to make fun of the dogcatchers
by barking like dogs.
One of the dogcatchers—a brawny fellow—angered,
singled out the man as he stood near the others smiling,
and struck him with his fist on the jaw
a blow that sent him to the brick sidewalk
where he lay unconscious with a fractured skull.⁷⁹

One cannot help remembering the woman with her fish.⁸⁰ There is here the same undercurrent of absurdity, rigorously controlled by the dignity

⁷⁵ See Cooney, *Editor's Note to Reznikoff*, *supra* note 44, at [7].

⁷⁶ Editor's Note: This set was in print and available from Black Sparrow Press at the time this article was first published in 1990.

⁷⁷ Papers, *supra* note 31, box 17, folder 2. These statements appear in a two-page unpublished draft of prefatory material for *Testimony*.

⁷⁸ Shevelov, *supra* note 66, at 291.

⁷⁹ Charles Reznikoff, 2 TESTIMONY 195-96 (Santa Barbara: Black Sparrow Press, 1979). This poem is based on State v. John, 72 S.W. 525 (Mo. 1903).

⁸⁰ See *supra*, notes 44-45 and accompanying text.

and simplicity of Reznikoff's diction. The bystanders are hoping for amusement from the dogcatcher, as the reader may be hoping for amusement from the poem. The blow cuts off these expectations, cuts them off unfairly, with the unfairness that runs through myths and fairy tales and Bible stories. Cain hits Abel. The dogcatcher hits the smiling workman.

No more than the writer of *Genesis* did Reznikoff expect the reader to enjoy violent spectacles. As Santayana observed, however, "Art does not seek out the pathetic, the tragic, and the absurd; it is life that has imposed them upon our attention, and enlisted art in their service, to make the contemplation of them, since it is inevitable, at least as tolerable as possible."⁸¹ Reznikoff's pessimism was the farthest thing from brutality. If his vision of human life was more than ordinarily bleak, his tenderness had need to be more than ordinarily strong.

He was seventy and homeless,
estranged from his wife who owned the farm.
He would visit her now and then
and beg her to share some of her property with him
for his support—
visits wrangling and unpleasant
and bad for his wife who had heart disease.

His son was in a field nearby
stacking wheat—
for it was the harvest season—
and a boy, shortly before noon,
ran out to the field and told him
to come home at once:
his mother had fainted as a result of a meeting with his father
and was thought to be dying.
His son came at once
and sent to town for a doctor.
His father had left the house
and gone down the public road, slowly, leaning on his cane.

The old man found a battered tin can—it had been opened—
and top ragged and rusted,
and crept under a heavy, rank hedge on the side of the road
and cut his throat with the top of the can.
But he could not cut deeply enough to die quickly
and crawled to a well and drowned himself.

⁸¹ George Santayana, *THE SENSE OF BEAUTY: BEING THE OUTLINE OF AESTHETIC THEORY* 221 (New York: C. Scribner's Sons, 1896).

His son later went to the well
and found his father's body lying in the water.
At the funeral, his younger brother saw his grief and said to him,
"You need not be crying: you are glad of it—
and I am damned glad of it, too."⁸²

How to account for the power of this poem? Can its effect be explained? The critic David Cecil seems to approach it as he attempts to define tragedy.

In real life people are not able to express their deeper feelings adequately. And most novelists have their characters as inarticulate as they would be in life. "Oh, God!" they cry, at moments of crisis, "no" . . . endeavoring by these distraught monosyllables to convey storms of fear and woe raging in their hearts. It is the peculiar art of the tragic poet to translate these incoherent feelings into adequate words.⁸³

Reznikoff himself confirms Cecil's idea:

I think poetry deals essentially with feelings, the feelings of the man who writes it and the feelings of the reader, though it may fail in either direction. That perhaps is one of the distinctions between poetry and prose. The latter can be written admirably without evoking any feeling, but poetry is inherently an expression of feeling.⁸⁴

America has not produced a great number of tragic poets.⁸⁵ Reznikoff found a way to practice that "peculiar art," acknowledged since antiquity as absolutely the highest.⁸⁶ In his lifetime the achievement went virtually unrecognized. His contemporary, Carl Sandburg, appealed much more successfully to popular taste, with his verse "influenced by Walt Whitman" that "celebrat[ed] industrial and agricultural America."⁸⁷

⁸² Reznikoff, *supra* note 79, at 163-64. This poem is based on *State v. McAnarney*, 79 P. 137 (Kan. 1905).

⁸³ David Cecil, *SIR WALTER SCOTT* 47-48 (London: Constable and Company Limited, 1933).

⁸⁴ Dembo, *supra* note 1, at 196.

⁸⁵ "America, as a social and political organization, is committed to a cheerful view of life. It could not be otherwise. The sense of tragedy is a luxury of aristocratic societies. . . ." Robert Warshaw, *THE IMMEDIATE EXPERIENCE: MOVIES, COMICS, THEATRE AND OTHER ASPECTS OF POPULAR CULTURE* 127 (Garden City, New York: Doubleday, 1962).

⁸⁶ See generally *ARISTOTLE'S POETICS* (O. Hardison ed., 1968); Philip Sidney, *AN APOLOGIE FOR POETRIE* (1595); Richard Benson Sewall, *THE VISION OF TRAGEDY* (New Haven: Yale University Press, New ed., 1980).

⁸⁷ *BENÉT'S READER'S ENCYCLOPEDIA* 862-63 (3rd ed. 1987).

Today Reznikoff's reputation is gradually increasing,⁸⁸ but has still only begun to reflect his true stature.

VI. CONCLUSION

[V]erse must have its hard stem of wood and its grimy roots⁸⁹

Modern poets worship their own emotions and spend their lives pursuing self-expression: such is the legend. In writing *Testimony*, Charles Reznikoff effaced himself as thoroughly as any lawyer writing a brief. "His training in the law, whatever other use he may have made of it, exerted a decisive influence upon his conception of the role of the writer as an impartial and restrained witness to the life of his time. . . ."⁹⁰ So flamboyant a figure as Allen Ginsberg asserted, "I don't know any other poet who is so interested in what actually happened as Reznikoff."⁹¹ The heavy volumes of the regional reporters in their hundreds and thousands contained far more of "what actually happened" than any individual could possibly observe for himself in a single lifetime. "I was only a miner and refiner of the metal there," Reznikoff wrote.⁹² One also reads, in another context, the bolder and undeniably pertinent claim that "he could make music out of the legalistic, the driest, of this reading . . . as a savage can out of sticks and a hide."⁹³ Every law library in America contains the identical mountain of raw material which Reznikoff taught himself to mine and refine. His work shows all of us who use those libraries something new about the significance of the relics we handle.

⁸⁸ See *supra* note 40 for critical sources.

⁸⁹ Charles Reznikoff, *THE LIONHEARTED: A STORY ABOUT THE JEWS IN MEDIEVAL ENGLAND* 64 (Philadelphia: Jewish Publication Society of America, 1944).

⁹⁰ Hindus, *supra* note 5, at 23.

⁹¹ Allen Ginsberg, "Reznikoff's Poetics," in CHARLES REZNIKOFF: MAN AND POET, *supra* note 5, 139-150, at 148 (1984).

⁹² Papers, *supra* note 31, box 10, folder 1. This sentence was cancelled from the preface to the 1965 *Testimony*.

⁹³ Reznikoff, *supra* note 89, at 172.

APPENDIX 1
SELECTED PUBLISHED WORKS BY CHARLES REZNIKOFF

- By the Waters of Manhattan: An Annual.* Self-published, 1929.
- By the Waters of Manhattan.* New York: C. Boni, 1930.
- Testimony.* New York: Objectivist Press, 1934.
- Going to and Fro and Walking Up and Down.* New York: Futuro Press, 1941.
- The Lionhearted: A Story about the Jews in Medieval England.* Philadelphia: Jewish Pub. Soc'y of America, 1944.
- The Jews of Charleston: A History of an American Jewish Community.* Philadelphia: Jewish Pub. Soc'y of America, 1950.
- By the Waters of Manhattan: Selected Verse.* New York: New Directions, 1962.
- Testimony: The United States, 1885-1890: Recitative.* New York: New Directions, 1965.
- Testimony: The United States, 1891-1900.* Self-published, 1968.
- Family Chronicle.* London: Norton Bailey, 1969. Reprint. New York: Markus Wiener Pub., 1988.
- Holocaust.* Los Angeles: Black Sparrow Press, 1975.
- The Complete Poems of Charles Reznikoff.* Edited by Seamus Cooney. 2 vols. Vol. 1, *Poems, 1918-1936.* Vol. 2, *Poems, 1937-1975.* Santa Barbara, California: Black Sparrow Press, 1976, 1977.
- First, There Is the Need.* Santa Barbara: Black Sparrow Press, 1977.
- The Manner Music.* Santa Barbara: Black Sparrow Press, 1977.
- Testimony: The United States, 1885-1915: Recitative.* 2 vols. Santa Barbara: Black Sparrow Press, 1978, 1979.
- Poems 1918-1975.* Edited by Seamus Cooney. Santa Rosa, California: Black Sparrow Press, 1989.

APPENDIX 2
TABLE OF CASES

Reznikoff's notes and manuscripts provide enough information to establish links between the following cases and poems, which comprise about one-third of the published total.

| <i>Reporter Citation</i> | <i>Case Name</i> | <i>Testimony Citation</i> |
|--------------------------|--|---------------------------|
| 23 A. 1094 (1892) | Michael v. Stanley | I, 240, 5 |
| 24 A. 1114 (1892) | Town of Weybridge v. Cushman | I, 205, 1 |
| 26 A. 505 (1893) | Lucke v. Clothing Cutters' & Trimmers' Assembly No. 7, 507 | I, 255, XII |
| 26 A. 629 (1893) | Sowles v. Moore | I, 170, 2 |
| 26 A. 706 (1893) | Stewart v. Jordon | I, 221, 2 |
| 27 A. 465 (1893) | Hildreth v. Marshall | I, 218, 1 |
| 30 A. 681 (1894) | Bodee v. State | I, 235, 11 |
| 33 A. 1017 (1896) | Yoders v. Township of Amwell | I, 172, 1 |
| 39 A. 33 (1898) | Perret v. Perret | I, 199, 11 |
| 41 A. 1083 (1898) | American Tobacco Co. v. Strickling | I, 238, 2 |
| 42 A. 60 (1898) | Maryland Steel Co. v. Marney | I, 244, 11 |
| 44 A. 524 (1895) | Tyler v. Concord & M.R.R. | I, 248, 2 |
| 44 A. 809 (1898) | Buch v. Amory Mfg. Co. | I, 242, 8 |

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| 47 A. 14 (1900) | Streitwolf v. Streitwolf | I, 183, 1 |
| 60 A. 521 (1905) | Avakian v. Avakian | II, 204, 11 |
| 61 A. 966 (1904) | State v. Powell | II, 146, 3 |
| 80 A. 146 (1911) | State v. Brown | II, 233, I |
| 81 A. 25 (1911) | In re Bristol's Estate | II, 245, 4 |
| 88 A. 408 (1913) | Dame v. Skillin | II, 247, 2 |
| 26 N.E. 415 (1891) | Pierce v. Cunard | I, 249, 1 |
| 26 N.E. 1103 (1891) | Crystal v. Troy & B.R. Co. | I, 207, 3 |
| 29 N.E. 1106 (1892) | Chicago Anderson Pressed-Brick Co. v. Reinneiger | I, 238, 3 |
| 30 N.E. 904 (1892) | Rush v. Coal Bluff Min. Co. | I, 254, 2 |
| 31 N.E. 871 (1892) | City of Rochester v. Simpson | I, 261, XVII |
| 31 N.E. 969 (1892) | Gabrielson v. Waydell | I, 250, 2 |
| 33 N.E. 1 (1893) | Coughlin v. People | I, 258, XIV |
| 41 N.E. 265 (1895) | Bjbjian v. Woonsocket Rubber Co. | I, 241, 7 |
| 42 N.E. 1066 (1896) | People v. Corey | I, 180, 7 |
| 43 N.E. 78 (1896) | People v. Feigenbaum | I, 230, 8 |
| 44 N.E. 876 (1896) | Illinois Steel Co. v. Schymanowski | I, 243, 9 |
| 46 N.E. 1028 (1897) | People v. Scott | I, 189, 5 |

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| 47 N.E. 544 (1897) | United States Mut. Acc. Ass'n v. Hubbe | I, 162, VIII |
| 51 N.E. 777 (1898) | McCoy v. People | I, 173, 2 |
| 52 N.E. 576 (1899) | People v. Place | I, 194, 9 |
| 52 N.E. 589 (1899) | Williams v. Hays | I, 251, 4 |
| 52 N.E. 679 (1899) | Laidlaw v. Sage | I, 233, 10 |
| 53 N.E. 1119 (1899) | People v. Pullerson | I, 191, 7 |
| 56 N.E. 245 (1900) | Romine v. Evansville & T.H.R. Co. | I, 248, 3 |
| 58 N.E. 592 (1900) | Butler v. New York N.H. & H.R.R. Co. | I, 208, 4 |
| 68 N.E. 630 (1903) | People v. White | II, 192, 1 |
| 70 N.E. 1 (1904) | People v. Rodawald | II, 179, 2 |
| 73 N.E. 601 (1905) | Osburn v. State | II, 165, 16 |
| 75 N.E.. 188 (1905) | Everett v. People | II, 188, 175 |
| 75 N.E. 419 (1905) | Alton Light & Traction Co. v. Oliver | II, 138, 1 |
| 95 N.E. 553 (1911) | People v. Serimarco | II, 237, IV |
| 95 N.E. 1036 (1911) | People v. White | II, 234, II |
| 96 N.E. 136 (1911) | Leary v. William G. Webber Co. | II, 249, 4 |
| 98 N.W. 214 (1912) | Smith v. Keller | II, 246, 5 |
| 99 N.E. 557 (1912) | People v. Razezicz | II, 242, 2 |
| 101 N.E. 551 (1913) | People v. Curtwright | II, 239, 1 |

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| 57 N.W. 72 (1893) | Bates v. Fremont, E. & M. V.R. Co. | I, 170, 3 |
| 61 N.W. 1072 (1895) | Bever v. Spangler | I, 236, 13 |
| 67 N.W. 358 (1896) | Smith v. E.W. Backus Lumber Co. | I, 241, 6 |
| 69 N.W. 501 (1896) | People v. Holmes | I, 178, 6 |
| 72 N.W. 279 (1897) | State v. Smith | I, 193, 8 |
| 75 N.W. 141 (1898) | Smith v. Walker Township | I, 169. 1 |
| 75 N.W. 156 (1898) | Knutson v. Bostrak | I, 201, 13 |
| 78 N.W. 145 (1899) | Emery v. State | I, 203, 14 |
| 79 N.W. 465 (1899) | State v. Novak | I, 231, 9 |
| 83 N.W. 665 (1900) | Cardwell v. State | I, 175, 4 |
| 85 N.W. 1025 (1901) | Dunlavey v. Racine Malleable & Wrought Iron Co. | II, 135, 9 |
| 90 N.W. 733 (1902) | State v. Kuhn | II, 145, 2 |
| 131 N.W. 710 (1911) | Tietz v. Grand Truck Ry. of Canada | II, 248, 3 |
| 132 N.W. 832 (1911) | State v. Johns | II, 244, 3 |
| 133 N.W. 123 (1911) | Murray v. Chicago R.I. & P. Ry. | II, 247, 1 |
| 26 P. 866 (1891) | Northern Pac. Ry. v. Hess | II, 48, 4 |
| 33 P. 185 (1893) | Atchinson, T. & S.F R. Co. v. Headland | II, 47, 3 |

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| 34 P. 84 (1893) | Smith v. Occidental & Oriental S.S. Co. | II, 50, VI |
| 37 P. 614 (1894) | Williams v. Williams | II, 23, 6 |
| 39 P. 1080 (1895) | State v. Barr | II, 37, 3 |
| 41 P. 717 (1895) | Krantz v. Rio Grande W. Ry. | II, 56, IX |
| 51 P. 488 (1897) | Germania Life Ins. Co. v. Ross-Lewin | II, 43, 7 |
| 52 P. 553 (1898) | Morrison v. Bennett | II, 42, 6 |
| 55 P. 919 (1899) | State v. Geddes | II, 28, 1 |
| 55 P. 1026 (1899) | State v. Spotted Hawk | II, 59, XI |
| 56 P. 251 (1899) | People v. Owens | II, 15, 1 |
| 57 P. 674 (1899) | Hutchinson v. Hutchinson | II, 22, 5 |
| 62P. 1083 (1900) | Hall v. Territory | II, 13, 1 |
| 71 P. 668 (1903) | State v. Felker | II, 210, 2 |
| 72 P. 213 (1903) | State v. Buffington | II, 189, 2 |
| 74 P. 607 (1903) | Spangler v. St. Joseph & G.I. Ry. | II, 139, 2 |
| 79 P. 137 (1905) | State v. McAnarney | II, 163, 14 |
| 79 P. 156 (1905) | State v. McCoy | II, 143, 1 |
| 81 P. 792 (1905) | Delaney v. State | II, 213, 2 |
| 116 P. 4 (1911) | Young v. Aloha Lumber Co. | II, 265, 3 |

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| 118 P. 36 (1911) | Waterman v. Skokomish Timber Co. | II, 266, V |
| 121 P. 7 (1912) | Beggs v. Clayton | II, 264, 1 |
| 121 P. 922 (1912) | People v. Sainz | II, 259, I |
| 130 P. 717 (1913) | People v. Bauweraerts | II, 260, II |
| 145 P. 63 (1914) | Kroeger v. Grays Harbor Const. Co. | II, 264, 2 |
| 9 S. 236 (1891) | Whatley v. State | I, 113, 1 |
| 12 S. 271 (1891) | Louisville, N.O. & T. Ry. v. Crayton | I, 134, 1 |
| 15 S. 722 (1894) | State ex. rel. Martin, Atty. Gen. v. Tally, Judge | I, 121, 3 |
| 21 S. 658 (1897) | Funderburk v. State | I, 136, 4 |
| 23 S. 604 (1898) | Rombach v. Crescent City R.R. | I, 132, 9 |
| 25 S. 431 (1899) | Kernan v. Humble | I, 137, 6 |
| 26 S. 737 (1899) | Gantling v. State | I, 149, 16 |
| 30 S. 39 (1901) | Johnson v. State | II, 102, 7 |
| 30 S. 285 (1901) | Sundmaker v. Yazoo & M.V. R.R. | II, 93, 2 |
| 30 S. 728 (1901) | Nelson v. State | II, 104, 10 |
| 34 S. 39 (1903) | Kimbell v. Homer Compress & Mfg. | II, 89, 1 |
| 35 S. 122 (1903) | Stevens v. State | II, 103, 8 |
| 35 S. 826 (1904) | Rowland v. State | II, 77, 2 |

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| 36 S. 897 (1911) | Grant v. New Orleans Ry. & Light Co. | II, 252, III |
| 70 S. 925 (1916) | State v. McLaughlin | II, 254, V |
| 15 S.E. 389 (1892) | Thomas' Adm'r v. Lewis | I, 153, V |
| 18 S.E. 940 (1894) | State v. Trammell | I, 135, 3 |
| 19 S.E. 41 (1894) | Salisbury v. State | I, 154, 1 |
| 21 S.E. 402 | Shields v. Town of Durham | I, 165, X |
| 24 S.E. 495 (1896) | State v. Finley | I, 114, 3 |
| 25 S.E. 681 (1896) | Williams v. State | I, 140, 7 |
| 29 S.E. 491 (1897) | Battle v. State | I, 158, 4 |
| 33 S.E. 128 (1899) | State v. Rhyne | I, 144, 11 |
| 33 S.E. 548 (1899) | Southern Ry. v Bruce's Adm'r | I, 161, 4 |
| 34 S.E. 235 (1899) | State v. Smith | I, 141, 9 |
| 34 S.E. 247 (1899) | State v. Hicks | I, 127, 2 |
| 35 S.E. 97 (1900) | Green v. State | I, 145, 12 |
| 36 S.E. 194 (1900) | Ward v. Odell Mfg. | I, 130, 6 |
| 40 S.E. 6 (1901) | State v. Garner | II, 108, 15 |
| 73 S.E. 737 (1912) | Stevens v. State | II, 251, I |
| 74 S.E. 137 (1912) | Settlemyer v. Southern Ry. | II, 254, 2 |
| 85 S.E. 792 (1915) | Morgan v. Lamb | II, 253, 1 |
| 19 S.W. 222 (1892) | State v. Baker | I, 210, 6 |

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| 23 S.W. 7 (1893) | Johnson v. State | I, 155, 2 |
| 25 S.W. 359 (1894) | Bell v. Campbell | I, 200, 13 |
| 30 S.W. 555 (1895) | Winnard v. State | I, 171, 4 |
| 33 S.W. 127 (1895) | International & G.N. R. Co. v. Hall | I, 159, 1 |
| 33 S.W. 563 (1895) | Rogers v. State | I, 157, 3 |
| 34 S.W. 286 (1895) | Conde v. State | I, 164, IX |
| 40 S.W. 768 (1897) | State v. Dyer | I, 174, 3 |
| 43 S.W. 973 (1898) | Green v. State | I, 146, 13 |
| 47 S.W. 344 (1898) | Ohio Val. Ry.'s Receiver v. Lander | I, 134, 2 |
| 48 S.W. 452 (1898) | State v. Sexton | I, 225, 5 |
| 54 S.W. 1094 (1900) | Hockaday v. Wortham | I, 166, 1 |
| 55 S.W. 444 (1900) | State v. Callaway | I, 184, 3 |
| 58 S.W. 75 (1900) | Stell v. State | I, 137, 5 |
| 58 S.W. 122 (1900) | State v. Davis | I, 131, 8 |
| 59 S.W. 3 (1900) | Louisville & C. Packet Co. v. Samuels' Adm'x | I, 250, 3 |
| 66 S.W. 429 (1902) | State v. Flutcher | II, 193, 2 |
| 68 S.W. 989 (1902) | Nobles v. State | II, 122, X |
| 69 S.W. 26 (1902) | Fisher v. Badger | II, 188, 5 |
| 72 S.W. 525 (1903) | State v. John | II, 195, 1 |
| 76 S.W. 409 (1903) | Rowsey v. Commonwealth | II, 208, 2 |

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| 78 S.W. 1112 (1904) | Dean v. Commonwealth | II, 66, 2 |
| 84 S.W. 505 (1905) | Quinn v. State | II, 109, 16 |
| 84 S.W. 924 (1905) | State v. Williams | II, 155, 9 |
| 87 S.W. 519 (1905) | State v. Brown | II, 194, 3 |
| 87 S.W. 829 (1905) | Charba v. State | II, 73, 5 |
| 134 S.W. 732 (1911) | Ridge v. State | II, 262, III |
| 136 S.W. 608 (1911) | Moore v. Commonwealth | II, 251, II |
| 165 S.W. 669 (1914) | Sizemore v. Commonwealth | II, 255, VI |