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## A History of the West Nutshells

Robert M. Jarvis

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## A History of the West Nutshells\*

Robert M. Jarvis\*\*

*No single source provides a detailed history of the West Nutshell Series. This is rather surprising, given that the books are routinely relied on by both law students and lawyers and have been cited in multiple court opinions. Accordingly, this article provides the first detailed look at the series' birth, evolution, and present status.*

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### Introduction

¶1 There is no single source to which one can turn for a detailed history of the West *Nutshell Series*.<sup>1</sup> This is rather surprising, given that nutshells—the compact books on

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In the interest of full disclosure, this article was *not* prepared at the behest of either the Thomson-Reuters Corporation or West Academic Publishing. The latter’s assistance in verifying certain factual matters regarding its operations is acknowledged with appreciation. The author also wishes to thank Professor Kent C. Olson (University of Virginia School of Law).

1. The best one can come up with is the brief summary that appears in THOMAS A. WOXLAND & PATTI J. OGDEN, *LANDMARKS IN AMERICAN LEGAL PUBLISHING: AN EXHIBIT CATALOG* 81–82 (1990) (“Some eighty years after the introduction of the hornbook, West again came to the aid of law students [with the] ‘Nutshell Series,’ [which was] launched in 1964 with *Jurisdiction in a Nutshell* by Albert Ehrenzweig and David Louisell, both noted authors and professors of law at Berkeley . . . . If . . . the measure of students’ approval is sales, then the series has been a huge success, with over one hundred titles now published.”).

In contrast, a great deal has been written about the West company. See, e.g., WILLIAM W. MARVIN,

various subjects that, although marketed as law school study aids, often serve as a starting point for research by even experienced lawyers—are ubiquitous.<sup>2</sup> Accordingly, this article seeks to fill the gap.<sup>3</sup>

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WEST PUBLISHING COMPANY: ORIGIN, GROWTH, LEADERSHIP (1969); Ross E. Davies, *How West Law Was Made: The Company, Its Products, and Its Promotions*, 6 CHARLESTON L. REV. 231 (2012); Robert M. Jarvis, *John B. West: Founder of the West Publishing Company*, 50 AM. J. LEGAL HIST. 1 (2010) (hereinafter Jarvis, *West History*); Thomas A. Woxland, “Forever Associated with the Practice of Law”: *The Early Years of the West Publishing Company*, 5 LEGAL REFERENCE SERVS. Q. 115 (1985).

2. In the 2007 movie *American Gangster* (Universal Pictures), for example, a copy of *Legal Research in a Nutshell* can be seen sitting on the desk of Detective Richard M. “Richie” Roberts (Russell Crowe) as he studies for the July 1970 New Jersey bar exam. (The scene appears 23 minutes into the movie; at 58 minutes into the movie, Roberts receives a letter dated August 12, 1970, advising him that he has passed the exam.) To avoid a possible claim of copyright infringement, the filmmakers slightly altered the cover. See Email from Professor Kent C. Olson, University of Virginia School of Law, to the author, Apr. 5, 2020, 11:45 AM (copy on file with the author) (explaining that “the movie’s use of white ‘in a nutshell’ letters inside a darker nutshell inside a white square box [does not] match any of the [book’s actual] editions. . .”).

In a 2011 novel, the following dialogue appears:

“Necessity is a defense to unlawful entry,” Jaycee says with a law school professor’s assurance.

“What?”

“In New York, an action taken out of necessity to protect life is a defense to the crime of unlawful entry, including criminal trespass,” Jaycee recites confidently.

“How do you know that?”

She digs into her backpack, takes out a copy of *New York Criminal Law in a Nutshell*, and drops it onto the table between them.

I know from David’s law school days that the Nutshell books—an endless series covering virtually every law school subject—are a distillation of the so-called black letter law regarding the titled subject. Law school students use the books to prepare for finals, which cover half a year, sometimes even a full year, of material in one grueling four-hour exam.

“Page one sixty-seven,” Jaycee says.

“You can’t plan an entire defense around one sentence in a Nutshell. You have no idea what you’re talking about.”

NEIL ABRAMSON, UNSAID 192–93 (2011). (West does not have a nutshell called *New York Criminal Law*. In fact, for many years it shied away from state-specific nutshells, and its only one was WILLIAM R. SLOMANSON, CALIFORNIA CIVIL PROCEDURE IN A NUTSHELL (1992; 5th ed. 2014). This policy now is being relaxed, and just recently the company published ROBERT M. JARVIS, FLORIDA CONSTITUTIONAL LAW IN A NUTSHELL (2020)).

In a 2013 short story, a law professor is asked to prepare a new will for his aging father. Because his specialty is professional responsibility, he is uncertain how to proceed. By the end of the story, however, he has obtained a copy of *Wills and Trusts in a Nutshell* and is witnessed reading it while struggling with his ethics:

Ron sat on his couch with the *Nutshell*, and began research that, if he followed his father’s wishes, would result in his own disinheritance. Ron couldn’t help thinking, however, that his father would never read what was placed in front of him, and even if he did, Arthur wouldn’t understand it. Arthur would sign anything Ron told him to sign. That would involve active misrepresentation, however. But, the old will would remain valid until a new will was written. Ron could delay. He spent the rest of his day skimming the *Nutshell*, and involuntarily thinking through various hypotheticals to leave himself half, as well as the favorable tax treatment of a stepped-up basis in his father’s property.

John Power, *Trusts*, 62 J. LEGAL EDUC. 491, 501 (2013).

3. For an article that traces the history of legal nutshells, but *not* West’s legal nutshells, see Alan

## The Meaning of “In a Nutshell”

¶2 To put something “in a nutshell” is to state it “in the fewest possible words or ways.”<sup>4</sup> It generally is agreed that the expression comes from the Roman philosopher Gaius Plinius Secundus, better known as Pliny the Elder (AD 23–79).<sup>5</sup> In his 37-volume encyclopedia *Naturalis Historia* (*Natural History*), Pliny noted: “Instances of acuteness of sight are to be found stated, which, indeed, exceed all belief. Cicero informs us . . . that the Iliad of Homer was written on a piece of parchment so small as to be enclosed in a nut-shell.”<sup>6</sup>

¶3 In act 2, scene 2 of Shakespeare’s *Hamlet* (1601), Hamlet laments: “O God, I could be bounded in a nutshell and count myself a king of infinite space—were it not that I have bad dreams.”<sup>7</sup>

¶4 In John Fletcher’s 1640 play *The Night Walker, or The Little Thief*, a comedy about an arranged marriage, the thieving Tom Lurcher (who is teaching his trade to a boy named Snap, the title’s little thief) opines that a book about virtuous women would be a short one:

A little book, very little book,  
Of good and godly women, a very little one,  
So little you may put it in a nutshell!<sup>8</sup>

And in another reference, an 1803 review of the play *The Hero of the North*, a London theater critic reported: “The historical part of the plot every one [sic] knows. It lays in a nutshell.”<sup>9</sup>

¶5 Judicial use of the phrase dates from 1779. In *Kempe v. Spence*,<sup>10</sup> a British appellate decision, Chief Justice William de Grey summarized the parties’ positions by writing: “*Walker*, for the defendant, said, he came prepared to argue a question on the poor

Watson, *The Importance of “Nutshells,”* 42 AM. J. COMP. L. 1 (1994) (discussing, e.g., Justinian’s Institutes and Blackstone’s Commentaries).

4. RICHARD LAWSON SINGLEY, IN A NUTSHELL: A COLLECTION OF POPULAR ENGLISH PHRASES 122 (2017); see also *Nutshell*, WIKIPEDIA, <https://en.wikipedia.org/wiki/Nutshell> [<https://perma.cc/5A5P-T2ZP>] (“The expression ‘in a nutshell’ (of a story, proof, etc.) means ‘in essence,’ metaphorically alluding to the fact that the essence of the nut—its edible part—is contained inside its shell.”).

5. SINGLEY, *supra* note 4.

6. 2 THE NATURAL HISTORY OF PLINY 162 (John Bostock & H.T. Riley trans., 1855). For a biography of Pliny, see P.L. CHAMBERS, THE NATURAL HISTORIES OF PLINY THE ELDER: AN ADVANCED READER AND GRAMMAR REVIEW (2012).

7. HAMLET 51 (Roma Gill ed., rev. ed. 2002).

8. Baldwin Maxwell, *The Date of Fletcher’s The Night-Walker*, 50 MOD. LANG. NOTES 487, 489 (1935).

9. *Theatre, Drury-Lane*, MORN. POST (London), Feb. 21, 1803, at 3 (explaining that the play is about Gustav Vasa, who in 1521 led Sweden’s successful revolt against Danish rule).

10. 96 Eng. Rep. 733 (K.B. 1779).

laws, and did not expect to hear the case branched out into such variety of curious learning. That the merits lay in a nutshell.”<sup>11</sup>

¶6 In the United States, the first such reference appeared in 1835. In *Hibshman v. Dulleban*,<sup>12</sup> an action against an executor, Chief Justice John B. Gibson of the Pennsylvania Supreme Court remarked: “The law of the case, with its distinctions, has been compressed into the dimensions of a nutshell, by Chief Justice De Grey, in the Duchess of Kingston’s Case, 11 St. Tr. 261. . . .”<sup>13</sup>

¶7 Lawyers now use the term almost without thinking. In a 2019 episode of the hit sitcom *Mom*, for example, law student Christy Plunkett (Anna Faris) has the following exchange with one of the attorneys in the law firm where she is clerking:

CHRISTY: Oh. Hey, hey, hey, Russell, do you have a minute?

RUSSELL: No.

CHRISTY: I was just reading through the brief.

RUSSELL: Well, your job is to copy it, not to read it.

CHRISTY: Yes, and they are almost done. But, but I was just wondering why you didn’t cite *Washington v. Shafer*.

RUSSELL: (sighs) That’s because that case is, um . . . What’s that case?

CHRISTY: Well, in a nutshell, the judge ruled prior criminal acts could be admissible if the similarity to the current case provides the jury with a clearer understanding of the evidence before them.<sup>14</sup>

### The First West Nutshell

¶8 The first West nutshell, called *Jurisdiction in a Nutshell—State and Federal*, was written by Professors Albert A. Ehrenzweig and David W. Louisell and debuted on April

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11. *Id.* at 734 (italics in original).

12. 4 Watts 183, 1835 WL 2809 (Pa. 1835).

13. *Id.* at 190, 1835 WL 2809, at \*8.

14. “Finger Guns and a Beef Bourguignon,” *Mom* (CBS, May 2, 2019, season 6, episode 21, beginning at 15:21).

15, 1964.<sup>15</sup> True to its title, it was short—a mere 223 pages—and cost just \$2.00.<sup>16</sup> In a nod to its intended audience, the dedication read: “TO OUR STUDENTS[:] Who, to Face the Future, must Master the Present and the Past.”<sup>17</sup>

¶9 Ehrenzweig and Louisell were faculty members at the University of California–Berkeley: Ehrenzweig since 1948<sup>18</sup> and Louisell since 1956.<sup>19</sup> While Ehrenzweig was an expert in conflicts of laws and jurisprudence,<sup>20</sup> Louisell was an expert in civil procedure and evidence.<sup>21</sup> In 1962, West had published Ehrenzweig’s 824-page treatise on the law of conflicts,<sup>22</sup> which had earned excellent reviews.<sup>23</sup> As such, the company was eager to have another manuscript from him.<sup>24</sup>

¶10 By 1964, both men held named chairs at Berkeley: Ehrenzweig was the Walter Perry Johnson Professor of Law<sup>25</sup> and Louisell had succeeded Dean William L. Prosser as the Elizabeth Josselyn Boalt Professor of Law.<sup>26</sup> Nevertheless, Ehrenzweig and Louisell had not worked together as coauthors,<sup>27</sup> and it is not known how they came to

15. See 1 J. MYRON JACOBSTEIN & MEIRA G. PIMSLEUR, *LAW BOOKS IN PRINT—CONSOLIDATED EDITION 351* (1965) (hereinafter *LAW BOOKS IN PRINT* (1965)). Just prior to publication, the California bar journal ran a short notice advising readers: “Professor David W. Louisell’s and Albert A. Ehrenzweig’s pocket book, ‘Jurisdiction in a Nutshell,’ will be published during April by West.” See *Our Law Schools—Boalt Hall*, 39 J. ST. B. CAL. 271, 278 (Mar.–Apr. 1964). This schedule was remarkably quick, for the book’s preface indicates that Ehrenzweig and Louisell did not finish the manuscript until January 1964. See ALBERT A. EHRENZWEIG & DAVID W. LOUISELL, *JURISDICTION IN A NUTSHELL—STATE AND FEDERAL* vi (1964).

16. See *LAW BOOKS IN PRINT* (1965), *supra* note 15.

17. EHRENZWEIG & LOUISELL, *supra* note 15, at iii (capitalization as per the original). Although nutshell dedications now run a wide gamut (e.g., colleagues, family, friends, mentors, and legal trailblazers), students remain a popular choice.

18. For a biography of Ehrenzweig, see Stefan A. Riesenfeld et al., *Albert Armin Ehrenzweig, Law: Berkeley*, in *UNIVERSITY OF CALIFORNIA: IN MEMORIAM* 95 (May 1977), [http://texts.cdlib.org/view?docId=hb1199n68c&cunk.id=div0037&brand=calisphere&doc.view=entire\\_text](http://texts.cdlib.org/view?docId=hb1199n68c&cunk.id=div0037&brand=calisphere&doc.view=entire_text) [<https://perma.cc/Z557-3V64>]; see also *In Memoriam: Albert A. Ehrenzweig (1906–74)*, 62 CALIF. L. REV. 1069 (1974).

19. For a biography of Louisell (1913–77), see John G. Fleming et al., *David William Louisell, Law: Berkeley*, in *UNIVERSITY OF CALIFORNIA: IN MEMORIAM* 121 (Sept. 1978), [http://texts.cdlib.org/view?docId=hb4q2nb2nd&chunk.id=div00046&brand=calisphere&doc.view=entire\\_text](http://texts.cdlib.org/view?docId=hb4q2nb2nd&chunk.id=div00046&brand=calisphere&doc.view=entire_text) [<https://perma.cc/9S4Y-GFPQ>]; see also *David W. Louisell—In Memoriam*, 66 CALIF. L. REV. 921 (1978).

20. See Riesenfeld, *supra* note 18.

21. See Fleming, *supra* note 19.

22. See ALBERT A. EHRENZWEIG, *A TREATISE ON THE CONFLICT OF LAWS* (1962).

23. Duke University law professor Brainerd Currie, for example, described the text as “the most learned and original treatise on the conflict of laws in English since Beale’s.” See Brainerd Currie, *Book Review*, 1964 DUKE L.J. 424, 424 (reviewing ALBERT A. EHRENZWEIG, *A TREATISE ON THE CONFLICT OF LAWS* (1962)).

24. While Louisell also had amassed an impressive list of publications by 1962, he had not published any books with West. See *A Bibliography: The Works of David W. Louisell*, 66 CALIF. L. REV. 1155 (1978) (hereinafter *Louisell Bibliography*).

25. See Riesenfeld, *supra* note 18.

26. See Fleming, *supra* note 19.

27. See *A Bibliography: The Published Works of Albert A. Ehrenzweig*, 54 CALIF. L. REV. 1638 (1966),

collaborate on *Jurisdiction in a Nutshell*. Clearly, however, the project was a mere trifle to them. In his heartfelt tribute to Ehrenzweig, for example, Louisell made clear how close they were—both professionally and socially—but said nothing about their only joint work.<sup>28</sup>

¶11 Although some law professors readily welcomed the book,<sup>29</sup> Ehrenzweig and Louisell worried that others would take a dimmer view. Thus, they included a defense of sorts in the book's preface:

We may then fairly be asked: Why a supplemental text? Is not any attempt at simplification akin to heresy, something like giving students shotguns with which to shoot sitting ducks—even drug-ging the ducks beforehand? For justification we plead the intricacy of the subject, the shortness of life and a possible mellowing—some would say softening—of our judgment. Many of us may now be prepared to believe that the diligent student who has ground his way through the cases in perplexity and wonder, perhaps has earned the right to know something of the perplexity and wonder of those who have gone before him—and what they have made of it all. As for the less than diligent student—neither this nor any other text will buoy him if he has not learned from the cases how to swim in the current.<sup>30</sup>

That Ehrenzweig and Louisell were breaking new ground in legal education can be seen from the book review penned by Boston College Law School Assistant Dean Francis J. Larkin of William L. Raby's *The Income Tax and Business Decisions*.<sup>31</sup> Although Raby's book was written to help undergraduate business students understand the tax code, Larkin suggested that it would “be profitable for law students to read[,] either as a supplement to, or in conjunction with, a case book.”<sup>32</sup> To buttress his argument, Larkin pointed to *Jurisdiction in a Nutshell* as “an indication that the use of this type of book in such a capacity would not be totally outside the mainstream of current academic legal thinking.”<sup>33</sup>

¶12 A different reviewer, writing in the *International and Comparative Law Quarterly*—an odd placement for a book review about a book on U.S. jurisdiction—took an entirely different tack and recommended *Jurisdiction in a Nutshell* to foreign lawyers who wanted to keep current on American law:

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supplemented by Francis R. Doyle & Cossette Sun, *A Bibliography: The Published Works of Albert A. Ehrenzweig*, 62 CALIF. L. REV. 1080 (1974); Louisell Bibliography, *supra* note 24.

28. See David W. Louisell, [No title], 62 CALIF. L. REV. 1074 (1974). (This piece was one of the five memorials published by the *California Law Review* after Ehrenzweig's death. See *supra* note 18.).

29. In November 1964, for example, Professor James W. Moore of Yale Law School, the country's leading authority on federal court practice, cited it in a lengthy article about diversity jurisdiction. See James William Moore & Donald T. Weckstein, *Diversity Jurisdiction: Past, Present, and Future*, 43 TEX. L. REV. 1, 30 n.164 (1964).

30. EHRENZWEIG & LOUISELL, *supra* note 15, at v–vi. It has been said that this “statement serves as a justification for the whole concept of the Nutshell series.” See WOXLAND & OGDEN, *supra* note 1, at 81.

31. See Francis J. Larkin, *Book Review*, 6 B.C. INDUS. & COMM. L. REV. 143 (1964) (reviewing WILLIAM L. RABY, *THE INCOME TAX AND BUSINESS DECISIONS* (1964)).

32. *Id.* at 143.

33. *Id.* at 143 n.2.



The authors of this little volume—whose title may be somewhat misleading as to the content and authority of their work—are well known. It has long been recognised that jurisdiction—in the broadest sense of that term—is at the heart of the problems of conflicts of law. Consequently, the English lawyer in particular will find this work of great value to provide him with a carefully chosen selection of authority and a guide to the trends in the American state and federal courts on the rules of conflicts of laws. It provides brief but sure-footed insights into the role of the United States Constitution (full faith and credit and inter-state commerce clause machinery for harmonisation), federal jurisdiction (the particular problems of diversity jurisdiction), and on such current developments as the new expanding reach of the principle of “presence,” “consent” and “doing business” for jurisdictional purposes as applied by American courts to corporations or other forms of business enterprise. The lawyer who is willing to read the cases referred to in this book along with the commentary which the book provides will be richly rewarded with a minimum of wasted effort in securing his bearings in the American system of conflicts of laws, and in achieving a good awareness of its possibilities and limitations.<sup>34</sup>

¶13 In advertising the book, it is obvious that West had little idea what to do with it. A large display ad on the outside back cover of the October 1964 issue of the *Student Lawyer Journal*, for example, proclaimed, “West’s Famous Hornbook Series,” and then listed 28 titles, which were described as “Indispensable For—Class review; Collateral reading; Reference; Bar examination review; Quick orientation in practice.”<sup>35</sup> Below these entries, under the bland headline, “Other West Law School Publications,” and with no accompanying explanation of any sort, was a hodgepodge of 11 titles, including “Black’s Law Dictionary,” “Corbin on Contracts, One Vol. Stud. Ed.,” and “Ehrenzweig and Louisell’s Jurisdiction in a Nutshell.”<sup>36</sup>

### The Second West Nutshell

¶14 It is not known how the word “nutshell” came to be included in the title of Ehrenzweig and Louisell’s book.<sup>37</sup> Two possibilities, however, hint at the answer.

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34. Harry H. Almond, Jr., *Book Review*, 14 INT’L & COMP. L.Q. 1060, 1060 (1965) (reviewing ALBERT A. EHRENZWEIG & DAVID W. LOUISELL, *JURISDICTION IN A NUTSHELL—STATE AND FEDERAL* (1964)).

35. 10 STUD. LAW. J. (Oct. 1964) (outside back cover display ad) (capitalization as per the original).

36. *Id.*

37. Conversely, it is obvious that the title’s awkward phrasing was Louisell’s doing. Rather than being called *State and Federal Jurisdiction in a Nutshell*, as one would expect, the book was called *Jurisdiction in a Nutshell—State and Federal*. See *supra* text accompanying note 15. In 1962, Foundation Press (West’s sister company) had published the first edition of Louisell’s civil procedure casebook, which had the same awkward phrasing. See DAVID W. LOUISELL & GEOFFREY C. HAZARD, JR., *PLEADING AND PROCEDURE—STATE AND FEDERAL* (1962).

¶15 In 1921, the venerable British publisher Sweet & Maxwell<sup>38</sup> released *Roman Law in a Nutshell: With a Selection of Questions Set at Bar Examinations*,<sup>39</sup> a 48-page book written by a London barrister named Marston de la Paz Garsia.<sup>40</sup> Costing four shillings—the equivalent today of about \$7<sup>41</sup>—the book immediately proved popular.<sup>42</sup> As a result, Garsia began to churn out nutshells on a host of subjects.<sup>43</sup> By the time he died

38. Sweet & Maxwell (<https://www.sweetandmaxwell.co.uk/> [<https://perma.cc/N7EA-56EJ>]) was founded in 1799. For a history of the company, see SWEET & MAXWELL, THEN AND NOW, 1799–1974: COMMEMORATING 175 YEARS OF LAW BOOKSELLING AND PUBLISHING (1974). In 1987, the company became part of the Thomson Corporation, now known as Thomson-Reuters (<https://www.thomsonreuters.com/en.html> [<https://perma.cc/W5X2-KCN9>]). See *Company Overview*, SWEET & MAXWELL, <https://www.sweetandmaxwell.co.uk/about-us/company-overview.aspx> [<https://perma.cc/ZAP8-EFUN>]. As explained *infra* text accompanying note 119, in 1996 West also became part of Thomson.

39. See MARSTON GARSIA, ROMAN LAW IN A NUTSHELL: WITH A SELECTION OF QUESTIONS SET AT BAR EXAMINATIONS (1921). In announcing the book, the *Law Times* advised its readers:

Mr. Marston Garsia, who has had much tutorial experience, has prepared a selection of questions set at Bar examinations and published them at the end of his capital résumé Roman Law in a Nutshell (Sweet and Maxwell Limited). It gives the student a substantial basis upon which he can subsequently build a more detailed knowledge with the help of the standard works[.]

*Law Library*, 151 LAW TIMES (London) 419 (June 18, 1921).

40. Garsia (often incorrectly identified as “Garcia” in news reports) was born on July 17, 1891, in Weston-super-Mare (a seaside town in southwest England) and died on July 18, 1972, in London, one day after his 81st birthday. Garsia’s father was a wealthy doctor named Willoughby Marston de la Paz Garsia (1834–1909), who was from Kingston, Jamaica, while his mother was the much younger Minna Frances (née Williams) Garsia (1860–1935), who was born in Ahmadabad, India, where her father was serving as a lieutenant colonel in the British army. The pair married on May 24, 1884, and had two sons and two daughters: Marston (the oldest), Willoughby (1893–1968), Christina (1894–1964), and Freda (1900–1960). For a detailed history of the family, see Gavin John McWhirter, *Willoughby Marston Garsia, THE GENEALOGY OF THE MCWHIRTER FAMILY, ORIGINALLY OF SOUTH AYRSHIRE, SCOTLAND, UNITED KINGDOM, AND ASSOCIATED BRANCHES INCLUDING THE WILLIS-FLEMING FAMILY*, [http://www.mcwhirterfamily.co.uk/?page\\_id=137](http://www.mcwhirterfamily.co.uk/?page_id=137) [<https://perma.cc/ZL9H-TZ4C>].

This same website advises that Garsia graduated from Oxford with a B.A. in 1912 and, after passing the bar exam, became a member of the Middle Temple in 1915. It also explains that as a child, Garsia had hoped to become an actor due to his ability to memorize scripts. In 1920, Garsia did manage to land the part of Fellows (the butler) in John Galsworthy’s play *The Skin Game*, which in 1921 was turned into a movie (with Garsia again playing Fellows). See *The Skin Game*, IMDB, [https://www.imdb.com/title/tt0188202?ref\\_=nm\\_ov\\_bio\\_lk1](https://www.imdb.com/title/tt0188202?ref_=nm_ov_bio_lk1) [<https://perma.cc/8LM8-CJ3N>] (explaining that the story is about a “rich woman [who] thwarts a pottery manufacturer’s plans by exposing his daughter-in-law’s past”).

41. This figure is derived by using the calculators at <https://www.nationalarchives.gov.uk/currency-converter/#currency-result> [<https://perma.cc/L2AZ-EPHQ>] (converting shillings to pounds) and <https://www.xe.com/currencyconverter/convert/?Amount=1&From=GBP&To=USD> [<https://perma.cc/8GH8-YXPU>] (converting pounds to dollars).

42. Many observers, however, viewed Garsia’s nutshells with a certain amount of suspicion: “The value to students of Mr. Marston Garsia’s ‘In a Nutshell’ series is not to be gainsaid. The ‘cram-book’ is always regarded with disfavour. It is, nevertheless, a very present aid in times of examination. And at such times what student, after all, is scrupulous over methods?” *Books and Publications Received*, 60 L.J. 843 (Oct. 10, 1925).

43. In all, Garsia produced 10 more nutshells: constitutional law (1922), criminal law (1922), admiralty (1923), real property (1923), employment law (1925), civil procedure (1927), wills (1927), bankruptcy

in 1972, Garsia's nutshells had become so famous that the *Times of London* began his obituary by saying: "The name of Marston Garsia . . . will recall to some members of the Bar their student days and their recourse to his succession of 'Nutshells' which helped them to success in Bar Final examinations."<sup>44</sup>

¶16 Ehrenzweig, who originally was from Vienna, Austria, had briefly been a law professor at the University of Bristol before immigrating to the United States.<sup>45</sup> As such, it is possible that while he lived in England, he had become acquainted with Garsia's books and remembered them when the time came to name *Jurisdiction in a Nutshell*.

(1928), equity (1928), and evidence (1929).

In 1922, the *Law Times* heralded Garsia's second and third nutshells:

Two excellent little books *Criminal Law in a Nutshell* and *Constitutional Law in a Nutshell* (Sweet and Maxwell Limited) by Mr. Marston Garsia are intended as aids to students for the Bar Examination, and as preliminaries to the fuller text-books on both subjects. Compiled on the same lines as *Roman Law in a Nutshell*, we have no doubt that they will meet with a similar success.

*Law Library*, 154 *LAW TIMES* (London) 255 (Oct. 7, 1922).

In 1923, the *Law Times* trumpeted Garsia's fourth nutshell:

Mr. Marston Garsia has published another of his Nutshell series, entitled *Law Relating to Carriage of Goods by Sea* (Sweet and Maxwell Limited). This little book is a concise statement of the law on the subject and is written in response to demands of students who are reading for the Bar final examination.

*Law Library*, 156 *LAW TIMES* (London) 272 (Oct. 20, 1923).

A short time later, the *Law Times* praised Garsia's fifth nutshell:

Another of Mr. Marston Garsia's "Nutshell" series is *Real Property Law and Conveyancing* (Sweet and Maxwell Limited), which is written in response to many requests and is intended to assist students in the reading of larger works, to which reference is made, and also as an essential aid to examinations. The changes introduced by the Law of Property Act 1922 are incorporated in this useful little book.

*Law Library*, 156 *LAW TIMES* (London) 442 (Dec. 15, 1923).

In a May 1924 display ad titled "Books for Students," Sweet & Maxwell referred to Garsia's growing output as "The Nutshell Series" and promised buyers that they would find each entry in the series to be a "useful cram book[.]" See 4 *LAW COACH* 185 (1924).

By 1925, Garsia was both coming out with new nutshells and updating his previous ones:

Mr. Garsia is not only a law reporter of "mettle and renown," but he is also the author of a very remarkable series of students' revision books, known as the "Nutshell Series." These compress most successfully into the minimum of space the essentials of whole spheres of law. The present book [*Criminal Law in a Nutshell*], which has reached a second edition, is an admirable example of Mr. Garsia's methods, and is extremely well done.

*The Solicitors' Bookshelf*, 69 *SOLIC. J. & WKLY.* 235, 236 (Jan. 3, 1925).

By 1929, Garsia had published so many nutshells that when he released *Evidence in a Nutshell*, the *Law Times* met its appearance with obvious exhaustion:

From Messrs. Sweet and Maxwell Limited comes yet another of the Nutshell Series of Mr. Marston Garsia—a handbook on *Evidence*. This is purely a summary for revisional purposes before the ordeal of examination, and if it is to be of service must presumably presuppose an intelligent grasp of the science of the subject. Of its kind it is good.

*Law Library*, 167 *LAW TIMES* (London) 524, 525 (June 22, 1929).

44. *Mr. Marston Garsia*, *TIMES* (London), July 31, 1972, at 14. Although Sweet & Maxwell continues to publish nutshells, it currently has only seven titles. See <https://www.sweetandmaxwell.co.uk/Catalogue/Results.aspx?pagesize=20&type=KEYWORD-SEARCH&keyword=nutshell> [https://perma.cc/A2SJ-N8NN].

45. See Riesenfeld, *supra* note 18.

That, at least, is what West believes. In a letter dated September 18, 1986, Roger F. Noreen, the vice president of West's law school division, responded to an inquiry from Arthur Austin, a law professor at Case Western Reserve University, by saying: "We believe that he [Ehrenzweig] came up with the suggested title through his familiarity with succinct legal texts that were published in England and possibly other European countries as 'Nutshells.'"<sup>46</sup>

¶17 A second possibility is that Ehrenzweig and Louisell were influenced by Professor W. Barton Leach's 1938 *Harvard Law Review* article "Perpetuities in a Nutshell."<sup>47</sup> Leach had joined the Harvard Law School faculty in 1931,<sup>48</sup> and the first paragraph of his 1938 article describes Ehrenzweig and Louisell's book to a T:

We school teachers have delighted to make a mystery of the Rule against Perpetuities. We love to tell the old, old story of its tangled history; we love to trace its development through English cases which deal with settlements of incredible complexity; we love to point the finger of scorn at the mistakes of courts on both sides of the Atlantic; and most of all we love to spin out our webs of theory on relatively obscure points. The result is a very highly elaborated field of the law—a great advantage to those who know their way around in it, but precious little help to the ordinary practitioner who has had no particular occasion to explore this terrain but who finds himself with a perpetuities problem to handle. Such a one needs a guide book to the law of perpetuities which will enable him to analyze his case and acquire a sound background without unreasonable expenditure of time and effort. This paper seeks to supply that need.<sup>49</sup>

In the years following its publication, Leach's article spawned a host of imitators,<sup>50</sup> and

46. See Arthur Austin, *Book Review*, 56 U. CIN. L. REV. 193, 194 (1987) (reviewing ERNEST GELLHORN, *ANTITRUST LAW AND ECONOMICS IN A NUTSHELL* (3d ed. 1986)).

Noreen (1922–97) joined West in 1948 and worked for it for two years. In 1961, he returned to the company and remained with it until he retired in 1992. In 1967, he was appointed vice president of the law school division, and in 1976 he joined the company's board of directors. See *Remembrances of Roger F. Noreen 1922–1997*, 89 LAW LIBR. J. 591, 591 (1997).

47. See W. Barton Leach, *Perpetuities in a Nutshell*, 51 HARV. L. REV. 638 (1938).

One month before Leach published his article, John Willis, a law professor at Dalhousie Law School in Halifax, Nova Scotia, published an article titled "Statute Interpretation in a Nutshell." See John Willis, *Statute Interpretation in a Nutshell*, 16 CAN. B. REV. 1 (1938). Willis (1907–97) did not explain in his article how he came by his title, and he did not call any of his many subsequent writings a nutshell. See R.C.B. Risk & Michael Taggart, *The Published Work of John Willis*, 55 U. TOR. L.J. 887 (2005). For a further look at Willis's life, see *In Memoriam: John Willis*, 47 U. TOR. L.J. 301 (1997).

48. For a review of Leach's life (1900–71), see W. Barton Leach, *a Law Professor*, N.Y. TIMES, Dec. 17, 1971, at 44 (explaining that Leach became the Story Professor of Law in 1950). See also *In Memoriam: W. Barton Leach*, 85 HARV. L. REV. 717 (1972).

49. Leach, *supra* note 47, at 638 (footnote omitted).

50. See Howard L. Oleck, *Nuisance in a Nutshell*, 5 CLEV.-MARSHALL L. REV. 148 (1956); John J. Slavin, *Proper Subject in a Nutshell*, 34 U. DET. L.J. 615 (1957); Cornelius W. Gillam, *Products Liability in a Nutshell*, 37 OR. L. REV. 119 (1958); Orville J. Weaver, *FTCA in a Nutshell*, 7 CLEV.-MARSHALL L. REV. 106 (1958); Malcolm J. Montague, *Urban Renewal: An Outline for the Practical Lawyer—"A Bomb in a Nutshell,"* 2 WILLAMETTE L.J. 359 (1963); see also Louis S. Goldberg, *Accounting in a Nutshell: A Guide for Lawyers*, 39 A.B.A. J. 467 (1953).

in 1965 Leach himself published a sequel in the *Harvard Law Review* titled “Perpetuities: The Nutshell Revisited.”<sup>51</sup>

¶18 Regardless of how Ehrenzweig and Louisell came up with the name, in 1965 Ehrenzweig, this time working alone, produced West’s second nutshell: *Conflicts in a Nutshell*,<sup>52</sup> which he dedicated to Chief Justice Roger J. Traynor of the California Supreme Court.<sup>53</sup> This was a much more ambitious work, nearly twice as long (396 pages) and almost twice the price (\$3.50).<sup>54</sup> Like its predecessor, however, it still was a one-off. Whereas *Jurisdiction in a Nutshell* had a beige cover,<sup>55</sup> for example, *Conflicts in a Nutshell* had a light blue cover.<sup>56</sup> And as before, it was consigned in West’s advertising to the category of “Other West Law School Publications,” with no explanation of its contents or purpose.<sup>57</sup>

¶19 *Conflicts in a Nutshell* quickly garnered a glowing book review in the *California Law Review* authored by Judge Raymond R. Roberts of the Los Angeles County Superior Court.<sup>58</sup> In it, Roberts marveled at how “Professor Ehrenzweig, in this compact companion to *Jurisdiction in a Nutshell*,” has taken “[a]ll of the[] major theories [of the law of conflicts and] not only condensed [them] into a nutshell, but also into a twelve page summary in the back of the book, condensing the ‘Nutshell in a Nutshell.’”<sup>59</sup>

¶20 At the end of his review, Roberts summed up the book in words remarkably like the ones that would be used by nearly all future reviewers describing later West nutshells:

The handbook is a happy compilation of theory and rules divided into traditional sections on “Persons,” “Contracts,” “Torts,” and “Property and Succession,” with an introductory discussion of “General Problems.” Leading text writers are cited by easily identifiable abbreviations, and the book has minimal but sufficient citation to other authority. Admittedly designed for students, it is nonetheless an education for everyone less knowledgeable than a professor, for it not only is easy to use, but quickly pinpoints problems that might arise and quite often are ignored by losing practitioners. The only apparent omission is reference to leading law review articles which may

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51. See W. Barton Leach, *Perpetuities: The Nutshell Revisited*, 78 HARV. L. REV. 973 (1965).

52. See ALBERT A. EHRENZWEIG, *CONFLICTS IN A NUTSHELL* (1965).

53. See *id.* at vii (explaining that the book was being dedicated to Traynor “on the occasion of the twenty-fifth anniversary of his tenure [on the court] . . . not only as a token of personal respect and affection, but as a tribute to one who has had a decisive share in the creation of the new conflicts law of this country”).

54. See 2 J. MYRON JACOBSTEIN & MEIRA G. PIMSLEUR, *LAW BOOKS IN PRINT—CONSOLIDATED EDITION* 24 (1968).

55. See Kent C. Olson, *Birth of a Nutshell: Morris Cohen in the 1960s*, 104 LAW. LIBR. J. 53, 66, 2012 LAW. LIBR. J. 9, ¶ 54.

56. *Id.* A copy of the cover can be viewed at *Books by Albert Armin Ehrenzweig*, AMAZON, <https://www.amazon.com/Albert-Armin-Ehrenzweig/e/B001HPE34G> [<https://perma.cc/4REP-AZ4K>].

57. See, e.g., 11 STUD. LAW. J. (Apr. 1966) (outside back cover display ad).

58. See Raymond R. Roberts, *Book Review*, 53 CALIF. L. REV. 1108 (1965) (reviewing ALBERT A. EHRENZWEIG, *CONFLICTS IN A NUTSHELL* (1965)).

59. *Id.* at 1109–10.

be helpful and are often more readily available in a small library than some of the text books.

Brevity in size and, to a certain extent, in treatment has necessitated some culling, especially of examples of the multitudinous problems the imaginative author could have suggested. . . .<sup>60</sup>

¶21 Brinsley D. Inglis, a law professor at Victoria University in Wellington, New Zealand, who was friends with Ehrenzweig and Louisell, used the appearance of *Conflicts in a Nutshell* to write a joint review of it and *Jurisdiction in a Nutshell*:

Both of these “Nutshells” are in fact miniature texts, and both are masterpieces of condensation. The best tribute one can pay to works of this sort is to say that nothing of any importance has been lost in the distillation process: indeed the process has given the whole subject a greatly enhanced clarity and perspective. . . . There are, in the first place, no footnotes at all, and what references there are are limited to those which are essential. Yet, in spite of this, as I have indicated, the texts lack nothing in thoroughness, precision, and the scholarly approach one would have expected of these two writers.

I know that both Professor Ehrenzweig and Professor Louisell far too modestly regard these two books as an entirely minor feature of their output. I do not think this is in any way a correct assessment of their value. The two “Nutshells” set a standard of scholarship which it would be difficult to equal, and represent an important new departure in American legal writing. They are much more than merely a handy aid to study for American students. In the context of American law publishing, the production of these books was imaginative and courageous. That they have been very successful is only one reason why everyone concerned should be congratulated on a significant contribution to scholarship in a far from easy field.<sup>61</sup>

### The West *Nutshell Series* Begins

¶22 While 1964 marks the appearance of the first West nutshell, 1968 marks the beginning of West’s *Nutshell Series*.<sup>62</sup> In that year, the first nutshells not written or cowritten by Ehrenzweig were released: Morris L. Cohen’s *Legal Research in a Nutshell*<sup>63</sup> and Oval A. Phipps’s *Titles—The Calculus of Interests in a Nutshell*.<sup>64</sup> Cohen was the director of the law library at the University of Pennsylvania,<sup>65</sup> while Phipps was a law

60. *Id.* at 1111.

61. B.D. Inglis, *Book Review*, 2 N.Z.U. L. REV. 100, 101–02 (1966) (reviewing ALBERT A. EHRENZWEIG & DAVID W. LOUISELL, *JURISDICTION IN A NUTSHELL—STATE AND FEDERAL* (1964), and ALBERT A. EHRENZWEIG, *CONFLICTS IN A NUTSHELL* (1965)).

62. By 1981, the phrase “Nutshell Series” had become so closely associated with West that the company trademarked it. See *Typed Drawing—Word Mark—Nutshell Series*, USPTO, <http://tmsearch.uspto.gov> [<https://perma.cc/PJK3-K4QX>] (using the search term “Nutshell Series”) (describing the mark as covering a “series of books and pamphlets providing succinct explanations of a variety of legal subjects,” noting that it was “first use[d in] 1968,” explaining that the “applicant disclaims the word ‘series’ apart from the mark as a whole without forgoing any common law rights,” and indicating that the mark has been registered since November 9, 1982, under registration number 1215788).

63. See MORRIS L. COHEN, *LEGAL RESEARCH IN A NUTSHELL* (1968).

64. See OVAL A. PHIPPS, *TITLES—THE CALCULUS OF INTERESTS IN A NUTSHELL* (1968).

65. For a review of Cohen’s life, see Dennis Hevesi, *Morris L. Cohen, 83, Leader Among Legal Librarians*, N.Y. TIMES, Dec. 26, 2010, at A32. For a lengthy article that describes how Cohen (1927–2010)

professor at Saint Louis University.<sup>66</sup> Cohen's nutshell was 233 pages and cost \$3.50;<sup>67</sup> Phipps's nutshell was 277 pages and likewise cost \$3.50.<sup>68</sup>

¶23 In addition to Cohen's and Phipps's nutshells, 1968 saw the release of the second edition of Ehrenzweig and Louisell's *Jurisdiction in a Nutshell*,<sup>69</sup> which now ran 315 pages (a 41 percent increase in size) and also cost \$3.50.<sup>70</sup> With four nutshells, West now had a "series." Thus, rather than being merely "Other West Law School Publications," West's advertising now described "West's Nutshell Series" as being:

- Designed for Law School course review.
- Unequaled for Bar Review purposes.
- All titles by outstanding authorities and recognized experts.<sup>71</sup>

¶24 Enhanced advertising was not the only change, for the four books now also had a uniform look:

West's Nutshell Series was launched in 1964 with *Jurisdiction in a Nutshell: State and Federal* by Albert A. Ehrenzweig and David W. Louisell, both professors at the University of California, Berkeley. Ehrenzweig also published *Conflicts in a Nutshell* the following year. These early *Nutshells* were the same size as later volumes, but it took a few years for West to standardize the format. The cover of the first volume was beige, and the second a pale blue. Only with the 1968 appearance of [Morris L. Cohen's] *Legal Research in a Nutshell* and Oval A. Phipps's *Titles*

came to write his nutshell, see Olson, *supra* note 55. As Olson explains, Cohen dedicated his nutshell "to the long-suffering law students who may be introduced to legal research through these pages." *Id.* at 66. In a 2007 interview, Cohen mixed up his dates and cited 1964 as the book's publication date: "My other project was writing *Legal Research in a Nutshell*, this little teaching text on legal research, which was first published in 1964[.]" See Bonnie Collier, *Reflections: An Interview with Morris L. Cohen*, 104 LAW LIBR. J. 149, 155, 2012 LAW LIBR. J. 15, ¶ 66.

66. For the details of Phipps's life (1909–75), see *Oval A. Phipps Dies at 64*, ST. LOUIS POST-DISPATCH, June 30, 1975, at 9B. In a tribute to Phipps, Missouri Court of Appeals Judge Joseph J. Simeone, who had been a longtime faculty colleague of Phipps, listed all of Phipps's writings in his piece's sole footnote but mentioned only Phipps' nutshell in the text:

His books and articles will be read, digested, and studied for years to come. His *Titles in a Nutshell* has been and will be the "bible" for students[,] not only at St. Louis University but throughout the country. Those who ponder that little book will not have the benefit of his personal touch explaining the doctrines embodied therein. But he will be there leaning over the shoulder of each one saying, "Don't you understand? . . . Hands of those who see that."

*Oval A. Phipps: Friend and Scholar*, 19 ST. LOUIS U. L.J. 463, 464 (1975) (ellipses in original).

67. See *Books Received*, 55 A.B.A. J. 270 (1969).

68. See PUBLISHERS' WKLY., Mar. 24, 1969, at 119.

69. See ALBERT A. EHRENZWEIG & DAVID W. LOUISELL, JURISDICTION IN A NUTSHELL—STATE AND FEDERAL (2d ed. 1968). The second edition of *Conflicts in a Nutshell* appeared in 1969. See ALBERT A. EHRENZWEIG, CONFLICTS IN A NUTSHELL (2d ed. 1969).

70. See 2 BPR: BOOK PUBLISHING RECORD—CUMULATIVE, 1965–1969, at 1884 (1970).

71. This language was featured prominently on the outside back cover of each nutshell. See, e.g., "MPTrading17," EBAY, <https://perma.cc/G5WH-5W3K> (eBay webpage displaying photographs of the spine and outside front and back covers of the second edition of *Jurisdiction in a Nutshell*) (hereinafter "E & L 1968 eBay").

*in a Nutshell* was the series given a standard green cover with a line drawing of half of a walnut shell[.]<sup>72</sup>

Also on the outside front cover, in the lower right-hand corner, was the familiar West Key Number System key.<sup>73</sup>

### Growth of the West *Nutshell Series*

¶25 West could not have picked a more auspicious time to launch the *Nutshell Series*, for law school enrollment was about to skyrocket due to the civil rights movement, the Vietnam War, and the women's liberation movement. In 1967, there were 136 law schools and 61,084 law students.<sup>74</sup> By 1977, there were 163 law schools and 113,080 law students (an 85 percent increase).<sup>75</sup> As one commentator noted:

Interest in going to law school had grown dramatically in the late 1960s, as students decided, probably using as a role model a handful of civil rights lawyers, that law was where the action was. Between 1968–69 and 1971–72 the number of persons taking the LSAT doubled from 60,000 to 120,000. The law school industry grew. It has been estimated that the income of law schools rose from \$17 million in 1948 to \$275 million in 1976.<sup>76</sup>

Just as the number of law students rose, so, too, did the number of law professors.<sup>77</sup> The result was that the market for law school products suddenly was enormous, and the skilled labor needed to supply it was in place.

¶26 At first, however, West moved slowly. Just how slowly can be seen from a 1969 parody in the *Journal of Legal Education* about a bewildered first-year law student named Blackie Stone III.<sup>78</sup> In “Torts in a Devil’s Nutshell,” the author (John K. “Ken” Vinson, a law professor at the University of Mississippi) made no mention of the fact—if he even knew it—that there now existed actual nutshells.<sup>79</sup> Perhaps, however, Vinson

72. Olson, *supra* note 55, at 66.

73. See “E & L 1968 eBay,” *supra* note 71. As has been explained elsewhere, see Davies, *supra* note 1, at 241–44, the West key has long been one of the company’s best-known logos.

74. See Dan Filler, *Historical Data: Total Number of Law Schools and Students, 1964–2012*, FACULTY LOUNGE, Feb. 2, 2013, <https://www.thefacultylounge.org/2013/02/historical-data-total-number-of-law-students-1964-2012.html> [<https://perma.cc/H3QZ-Y9NC>].

75. *Id.*

76. ROBERT STEVENS, *LAW SCHOOL: LEGAL EDUCATION IN AMERICA FROM THE 1850S TO THE 1980S*, at 235 (1983).

77. In 1967, there were 2,264 full-time law professors in the country. By 1977, this number had grown to 3,875 (a 71 percent increase). See Donna Fossum, *Law Professors: A Profile of the Teaching Branch of the Legal Profession*, 5 AM. B. FOUND. RES. J. 501, 505 (1980).

78. See Ken Vinson, *Torts in a Devil’s Nutshell*, 21 J. LEGAL EDUC. 430 (1969).

79. Instead, Vinson had Stone consult West’s well-known torts hornbook. See *id.* at 432 (“He looks to *Prosser on Torts* for a safe, sure path to The Law, but the Hornbook’s blacklettering contains no key to the lawyer’s magic.”).



was keeping up with the latest news from West and knew that it did not have a torts nutshell.<sup>80</sup>

¶27 In 1970, West published its fifth nutshell: *Evidence in a Nutshell* by Professor Paul F. Rothstein of Georgetown University.<sup>81</sup> At 406 pages and costing \$4.50,<sup>82</sup> it represented West's biggest and costliest nutshell to date. In describing it, the company advised:

This pocket-sized, paperbound book deals mainly with trial evidence and discusses the problems encountered by the litigating attorney at various stages of the trial. Areas considered are basic principles of evidence, burdens of proof and presumptions, hearsay, admissions and confessions, impeachment of witnesses and selected evidentiary privileges. Effective use is made of examples which aid the reader in understanding and remembering the principles discussed.<sup>83</sup>

¶28 Following the release of *Evidence in a Nutshell*, West aggressively began to look for nutshell authors.<sup>84</sup> As a result, the dam soon burst, and by 1975 there were nutshells on numerous topics, including contracts,<sup>85</sup> commercial paper,<sup>86</sup> criminal law,<sup>87</sup> estate

80. The wait for a West torts nutshell would go on for another eight years. See EDWARD J. KIONKA, *TORTS—INJURIES TO PERSONS AND PROPERTY IN A NUTSHELL* (1977). As if to make amends, West soon released a second torts nutshell. See WEX S. MALONE, *TORTS IN A NUTSHELL—INJURIES TO FAMILY, SOCIAL AND TRADE RELATIONS* (1979).

81. See PAUL F. ROTHSTEIN, *EVIDENCE IN A NUTSHELL* (1970); see also 15 *STUD. LAW J.* (Dec. 1969) (inside front cover display ad indicating that the *Nutshell Series* now consisted of five books: “Conflicts in a Nutshell—Ehrenzweig,” “Evidence in a Nutshell—Rothstein,” “Jurisdiction in a Nutshell—Ehrenzweig and Louisell,” “Legal Research in a Nutshell—Cohen,” and “Titles in a Nutshell—The Calculus of Interest—Phipps”).

82. See *Books Received*, 4 *LOY. L.A. L. REV.* 229, 230 (1971).

83. *Id.*

84. This task fell largely to West's traveling sales force:

Western State University College of Law of Orange County Assistant Dean of Students and Associate Professor John O'Connell . . . has written a textbook, “Remedies in a Nutshell,” scheduled for publication in March 1977, by West Publishing Co., St. Paul, Minnesota.

Approximately three dozen areas of law are covered in the publisher's “Nutshell” series, which is designed primarily for law students.

In discussing the new book, O'Connell mentioned that he was approached by the publishing company's representative, who was intrigued with O'Connell's lecture notes.

*People in the News*, *LA VERNE LEADER* (Cal.), Dec. 2, 1976, at 25.

85. See GORDON D. SCHABER & CLAUDE D. ROHWER, *CONTRACTS IN A NUTSHELL* (1975).

86. See CHARLES M. WEBER, *COMMERCIAL PAPER IN A NUTSHELL* (2d ed. 1975). The first edition of Weber's book had been published by Prentice-Hall in 1965 under the title *Commercial Paper*. See *Notes on Recent Publications*, 43 *U. DET. L.J.* 154, 155 (1965).

87. See ARNOLD H. LOEWY, *CRIMINAL LAW IN A NUTSHELL* (1975).

and gift taxation,<sup>88</sup> local government law,<sup>89</sup> real property,<sup>90</sup> and the Uniform Commercial Code.<sup>91</sup> There also were updated editions of *Jurisdiction in a Nutshell*<sup>92</sup> and *Conflicts in a Nutshell*.<sup>93</sup>

¶29 Each of these nutshells bore the series' new cover design, which had been adopted in 1973. Gone was the former uniform green cover with its simple line drawing of half a walnut shell and the West key logo. From now on, nutshell covers, with the word “nutshell” misspelled “nut shell,” would be “multicolor with an abstract pentagonal nutshell.”<sup>94</sup>

¶30 In addition to a new cover, 1973 saw the release of *20's Inc. v. Nebraska Liquor Control Commission*.<sup>95</sup> In a case challenging the suspension of a bar's liquor license for selling alcohol to a minor, the Nebraska Supreme Court wrote: “The interpretation which we here place upon the statute conforms to the most generally accepted standards of judicial review of administrative decisions. See, Administrative Law and

88. See JOHN K. McNULTY, FEDERAL ESTATE AND GIFT TAXATION IN A NUTSHELL (1973).

During this period, the *Baltimore Sun* newspaper ran a weekly column listing useful business books available at the city's main library. McNulty's nutshell soon was featured along with the following description: “Written for non-lawyers and law students, this introduction to federal gift and estate taxation presents clear, concise summaries of the law and succinct explanations of the estate and gift tax consequences of different kinds of transactions, dispositions, and situations.” *Business Book Check List*, BALTIMORE SUN, Jan. 15, 1975, at D15.

89. See DAVID J. MCCARTHY, LOCAL GOVERNMENT LAW IN A NUTSHELL (1975).

90. See ROGER BERNHARDT, REAL PROPERTY IN A NUTSHELL (1975).

91. See BRADFORD STONE, UNIFORM COMMERCIAL CODE IN A NUTSHELL (1975).

92. See ALBERT A. EHRENZWEIG & DAVID W. LOUISELL, JURISDICTION IN A NUTSHELL—STATE AND FEDERAL (3d ed. 1973).

93. See ALBERT A. EHRENZWEIG, CONFLICTS IN A NUTSHELL (3d ed. 1974).

94. Olson, *supra* note 55, at 66. The design can be viewed at *Word Mark—In a Nut Shell*, USPTO, <http://tmsearch.uspto.gov> [<https://perma.cc/PJK3-K4QX>] (under “In a Nut Shell”—Registration Number 1056044—first used 1973—filed Feb. 13, 1976—registered Jan. 11, 1977—canceled Mar. 16, 2020).

The color of each book was chosen at random, except that successive editions of the same book could not have the same color. Although authors could request a specific color, almost none did. The same remains true today. See Telephone Interview with Austin M. “Mac” Soto, Senior Strategic Operations Editor—West Academic Publishing (Apr. 6, 2020) (hereinafter Soto Interview) (explaining that authors writing on health-related topics occasionally have asked for red covers).

When the company proposed a blue cover for *Florida Constitutional Law in a Nutshell*, see *supra* note 2, the author rejected the suggestion and instead asked for an orange cover:

In the meantime, however, I was wondering if we could change the color of the cover from Blue to Orange. Orange is the color most traditionally associated with Florida, so it would be a great choice for the cover.

If this change is possible, I'd like to request Pantone PMS 1655 C – it's the same Orange that the [NFL's] Miami Dolphins use.

Email from Professor Robert M. Jarvis to Laura A. Holle, Lead Publication Specialist—West Academic Publishing, Feb. 21, 2020, 4:16 PM (copy on file with the author).

95. 212 N.W.2d 344 (Neb. 1973).

Process in a Nutshell, Gellhorn, C. XII, p. 262.<sup>96</sup> This marked the first judicial citing of a West nutshell.<sup>97</sup>

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96. *Id.* at 347. Had the court provided a full cite, it would have read: “ERNEST GELLHORN, ADMINISTRATIVE LAW AND PROCESS IN A NUTSHELL 262 (1972).”

During his long career, Gellhorn (1935–2005) was associated with six law schools, including three as dean: Arizona State University, Case Western Reserve University, and the University of Washington. See D. Daniel Sokol, *Ernest Gellhorn Passes Away May 7*, ANTITRUST & COMPETITION POLICY BLOG, May 10, 2005, [https://lawprofessors.typepad.com/antitrustprof\\_blog/2005/05/ernest\\_gellhorn.html](https://lawprofessors.typepad.com/antitrustprof_blog/2005/05/ernest_gellhorn.html) [<https://perma.cc/S5MQ-DCXD>]. In 1972, however, when he wrote the first edition of his nutshell, he still was unfamiliar enough to most readers that one book reviewer found it necessary to explain who he was:

The author is not the eminent Walter Gellhorn of Columbia who is one of the two or three leading authorities in the field of administrative law. The author is Ernest Gellhorn of the University of Virginia.

Mention of this is made not to draw invidious comparisons but merely to dispel inevitable confusion.

Jon P. McConnell, *Book Review*, 12 AM. BUS. L.J. 102, 103 (1974) (reviewing ERNEST GELLHORN, ADMINISTRATIVE LAW AND PROCESS IN A NUTSHELL (1972)).

Users of Gellhorn’s book, however, did not care about Gellhorn’s identity. The only thing that mattered to them was that the book was good:

Before this last year I had taught administrative law [at the University of Georgia law school] twice and hated it both times. In my encounters with the subject, I used a conventional case book and case method. The result was a federal disaster area. . . .

I therefore decided to adopt precisely the opposite extreme and to explore a single—and hopefully representative—administrative agency in detail. . . .

Despite these somewhat radical plans, I began the course in a fairly conservative manner by requiring students to read Ernest Gellhorn’s *Administrative Law in a Nutshell* during the first two weeks of class. Though any nutshell is inherently suspicious, this turned out to be a fine teaching tool. Unlike so many other overviews, it does not sacrifice accuracy for brevity.

Michael Botein, *Simulation and Roleplaying in Administrative Law*, 26 J. LEGAL EDUC. 234, 234–35 (1974).

Botein’s decision to use a nutshell as an assigned text now occurs with some frequency. See, e.g., Steve Sheppard, *Casebooks, Commentaries, and Curmudgeons: An Introductory History of Law in the Lecture Hall*, 82 IOWA L. REV. 547, 641 (1997) (“West Publishing produces a line of miniature treatises, known as ‘Nutshells,’ in so many courses, that they occasionally act as primary texts when few other materials are available.”).

97. To date, more than 125 reported cases have cited a West nutshell. (This figure is based on a Westlaw search conducted by the author on May 1, 2020.) The most-frequently cited nutshell is WILLIAM C. CANBY, JR., *AMERICAN INDIAN LAW IN A NUTSHELL* (1981; 7th ed. 2020). Canby was a law professor at Arizona State University when he agreed to write the first edition. While doing so, he was appointed to the U.S. Court of Appeals for the Ninth Circuit. In 1996, he took senior status. See *Canby*, William Cameron, Jr., FEDERAL JUDICIAL CENTER, <https://www.fjc.gov/node/1378816> [<https://perma.cc/43AB-5RZY>].

The U.S. Supreme Court has cited nutshells in three of its opinions. See *Montana v. Wyoming*, 563 U.S. 368, 379 (2011) (citing DAVID H. GETCHES, *WATER LAW IN A NUTSHELL* (4th ed. 2009)); *United States v. Winstar Corp.*, 518 U.S. 839, 852 (1996) (citing E. McGRUDER FARIS, *ACCOUNTING AND LAW IN A NUTSHELL* (1984)); *Merrell Dow Pharmaceuticals Inc. v. Thompson*, 478 U.S. 804, 821 n.1 (1986) (Brennan, J., dissenting) (citing DAVID P. CURRIE, *FEDERAL JURISDICTION IN A NUTSHELL* (2d ed. 1981)).

Olson argues that Cohen’s legal research nutshell should be included and listed as the first nutshell cited by the Court. See Olson, *supra* note 55, at 66 (discussing *Bounds v. Smith*, 430 U.S. 817, 819 n.4 (1977)). In *Bounds*, a prisoner class action lawsuit claiming that North Carolina’s prison law libraries were constitutionally inadequate, the Court reproduced the list of the 20 books the state was willing to provide prisoners. As Olson mentions, Cohen’s nutshell appeared on the list as “Cohen: Legal Research.”

¶31 The most significant new title during this period was *Historical Introduction to Anglo-American Law in a Nutshell*, which appeared in 1973.<sup>98</sup> Written by Frederick G. Kempin, Jr., a professor of legal studies at the University of Pennsylvania's Wharton business school, it covered a subject (legal history) that few law schools taught. This point was noted by Harvey H. Chamberlin, a precocious law student at the University of Washington, in the opening paragraph of his review of Kempin's book:

Legal history is a course which law schools like to include in their catalogues in order to sustain their claim to a place in the academic sun. In truth, however, legal history is only irregularly offered, and, is usually taught by a faculty member who regards it as secondary on his [list of] research priorities. There are simply not enough history questions on bar examinations to warrant most law schools in hiring a full-time legal historian. In short, the subject of legal history lives as a neglected stepchild of legal education.<sup>99</sup>

A little later in his review, Chamberlin further mused:

Therefore, one must wonder if the inclusion of a book “about the history of Anglo-American law” in West's “Nutshell” series—primarily designed for course and bar examination review purposes [and] cover[ing] subjects that make up part of any law school's core curriculum—fore-shadows a change in law school curricula.<sup>100</sup>

¶32 That West was willing to publish a nutshell about legal history, despite what must have been considerable doubts about its commercial viability, can be attributed to its corporate DNA. In contrast to his competitors, John B. West, the company's founder, strongly believed that legal publishers should cover every field of law, leaving it to their customers to separate the wheat from the chaff:

In defending his approach (which critics labeled the “blanket” or “waste basket” system due to its lack of discernment), John managed to capture in one sentence his entire publishing philosophy: “No policy of insurance is so satisfactory to the insured as the blanket policy; and that is the sort of policy we issue for the lawyer. . . .”<sup>101</sup>

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98. See FREDERICK G. KEMPIN, JR., *HISTORICAL INTRODUCTION TO ANGLO-AMERICAN LAW IN A NUTSHELL* (2d ed. 1973). As explained *id.* at xvii, the first edition had been published by Prentice-Hall in 1963 as *Legal History: Law and Social Change*.

99. Harvey H. Chamberlin, *Book Review*, 20 N.Y. L.F. 432, 432 (1974) (footnotes omitted) (reviewing FREDERICK G. KEMPIN, JR., *HISTORICAL INTRODUCTION TO ANGLO-AMERICAN LAW IN A NUTSHELL* (2d ed. 1973)).

100. *Id.* at 432 & n.5 (paragraphing and footnoting rearranged for improved readability). As matters turned out, change was in the air. See Joan Sidney Howland, *A History of Legal History Courses Offered in American Law Schools*, 53 AM. J. LEGAL HIST. 363, 378 (2013) (explaining that by the late 1970s, legal history was enjoying newfound popularity as law schools, eager to stand out from the crowd, sought to “develop[] innovative and intellectually stimulating curriculums that appealed to the needs and curiosities of both faculty and students”).

101. Jarvis, *West History*, *supra* note 1, at 9 n.61.

¶33 Soon, West was rolling out nutshells in areas far removed from the mainstream law school curriculum, including art law,<sup>102</sup> environmental law,<sup>103</sup> military law,<sup>104</sup> and welfare law.<sup>105</sup> It also published its first nutshells written by women.<sup>106</sup>

¶34 A 1985 book review of *The Law of the Sea in a Nutshell*<sup>107</sup> began by noting: “[T]he Nutshell series by West Publishing Company . . . now includ[es] some 90-plus titles by recognized scholars in their fields[.]”<sup>108</sup> That the series had grown from two books in 1965 to more than 90 in the space of just 20 years indicates how committed West had become to the series and how eager law professors were to have a nutshell on their resumes.<sup>109</sup> Moreover, West’s editors constantly were on the lookout for emerging fields of law, resulting in the publication of nutshells on such subjects as AIDS law,<sup>110</sup> elder law,<sup>111</sup> and sports law.<sup>112</sup>

102. See LEONARD D. DuBOFF, *ART LAW IN A NUTSHELL* (1984).

103. See ROGER W. FINLEY & DANIEL A. FARBER, *ENVIRONMENTAL LAW IN A NUTSHELL* (1983).

West had given a contract for this nutshell years earlier to Professor Georgina B. Landman (University of Tulsa). See *Seminar Will Focus on Riverfront Uses*, QUAD-CITY TIMES (Davenport, Iowa), May 2, 1976, at 18A (reporting that Landman, “a specialist in urban law, environmental law and land use planning . . . is under contract with West Publishing Co. to write ‘Environmental Law in a Nutshell’ for the company’s Nutshell series.”). Shortly after this article appeared, Landman decided to return to private practice. See *Georgina Landman Dies*, TULSA WORLD, May 1, 1994, [https://www.tulsaworld.com/archive/georgina-landman-dies-rites-scheduled-monday/article\\_6bf41467-288a-5ade-9ca3-7e33f37bcec4.html](https://www.tulsaworld.com/archive/georgina-landman-dies-rites-scheduled-monday/article_6bf41467-288a-5ade-9ca3-7e33f37bcec4.html) [<https://perma.cc/4PAX-V9A3>] (explaining that Landman left the law school in 1976). As a result, Landman gave back the book’s contract (a rare, but not unprecedented, occurrence).

104. See CHARLES A. SHANOR & TIMOTHY P. TERRELL, *MILITARY LAW IN A NUTSHELL* (1980).

105. See ARTHUR B. LaFRANCE, *WELFARE LAW: STRUCTURE AND ENTITLEMENT IN A NUTSHELL* (1979).

106. In 1978, Robert R. Wright and Susan Webber, both law professors at the University of Arkansas–Little Rock, coauthored *Land Use in a Nutshell*. In 1979, Professor Mary Kay Kane (University of California–Hastings) published *Civil Procedure in a Nutshell*. As explained *supra* note 103, Georgina B. Landman would have been the first woman nutshell author had she not given back her contract in 1976.

107. See LOUIS B. SOHN & KRISTEN GUSTAFSON, *THE LAW OF THE SEA IN A NUTSHELL* (1984).

108. Carey N. Gordon, *Book Review*, 79 AM. J. INT’L L. 485, 485 (1985) (reviewing LOUIS B. SOHN & KRISTEN GUSTAFSON, *THE LAW OF THE SEA IN A NUTSHELL* (1984)).

109. Even law professors who detested them typically found it impossible to say “no” when West came calling with a nutshell contract. While speaking at the 1980 annual meeting of the American Association of Law Libraries in St. Louis, for example, Professor David G. Owen (University of South Carolina) told the audience: “[R]eading *A Nutshell* from cover to cover, as you know, can do terrible things to a normal mind. It turns to mush.” *Products Liability Law*, 73 LAW LIBR. J. 958, 968 (1980). But when Professor Jerry J. Phillips (University of Tennessee) died in 2004, Owen agreed to take over Phillips’s *Products Liability in a Nutshell*; see DAVID G. OWEN & JERRY J. PHILLIPS, *PRODUCTS LIABILITY IN A NUTSHELL* (7th ed. 2005). Per West’s usual practice, Phillips’s name was dropped from subsequent editions of the book. See DAVID G. OWEN, *PRODUCTS LIABILITY IN A NUTSHELL* (8th ed. 2008; 9th ed. 2015).

110. See ROBERT M. JARVIS ET AL., *AIDS LAW IN A NUTSHELL* (1991).

111. See LAWRENCE A. FROLIK & RICHARD L. KAPLAN, *ELDER LAW IN A NUTSHELL* (1995).

112. See WALTER T. CHAMPION, *SPORTS LAW IN A NUTSHELL* (1993).

¶35 As intended, the main market for nutshells was law students. But because of their low cost, libraries across the country also snapped up copies. In the tiny town of Schuyler, Nebraska,<sup>113</sup> for example, a 1987 newspaper article advised residents:

The Schuyler Public Library has received requests for information on various legal aspects of living. The West Publishing Company of St. Paul, Minn., has a “Nutshell Series” that covers subjects in a layman’s language. Titles which have been purchased include: “Wills and Trusts,” “Civil Rights,” “Consumer Law,” “Environmental Law,” “Federal Law of Employment Discrimination,” “Federal Estate and Gift Taxation,” “Juvenile Courts,” “Labor Law,” “The Law of Medical Malpractice,” “Local Government Law,” “Real Estate Finance,” and “Sex Discrimination.”<sup>114</sup>

¶36 In 1992, West left St. Paul, Minnesota, where it had been headquartered since its founding in 1876, and moved to a new, larger facility located 12 miles away in Eagan, Minnesota.<sup>115</sup> The following year, West took out a full-page ad on the inside front cover of the October 1993 issue of *Student Lawyer* magazine. The ad’s headline recommended: “When it seems like ‘Legal Impossibility’ refers more to your career than to a criminal defense . . . Rely on West’s Nutshell Series.”<sup>116</sup> Then, under a photograph of the company’s criminal law nutshell (flanked by four more nutshells: civil procedure, contracts, corporations, and legal research), the ad continued:

Success in law school can seem unattainable when you get bogged down in details. But West’s Nutshell Series can help you achieve better results.

Nutshells carefully explain the legal principles so you’ll gain a solid understanding of the basics. Then you can add details at a more comfortable, organized paced. Written by eminent legal scholars, Nutshells will help you succeed.

Stop by the bookstore today and pick out the Nutshells you need.<sup>117</sup>

Below this copy appeared the full list of West’s nutshells—a total of 105 titles, beginning with “Accounting & Law” and ending with “Workers’ Compensation & Employee Protection.”<sup>118</sup>

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113. For a further look at Schuyler, see, e.g., James Potter et al., *A Case Study of the Impact of Population Influx on a Small Community in Nebraska*, 14 GREAT PLAINS RSCH. 219, 221 (2004) (explaining that “the city of Schuyler . . . [is an] east-central Nebraska city [that] is home to a little more than 4,000 residents. Of these, several hundred (estimates vary from a few hundred to as many as 800, or a 20% increase) were new residents in the second half of the 1990s”).

114. Dona Kaminski, *Your Library*, SCHUYLER SUN (Neb.), Oct. 22, 1987, at 3A. At \$10.95 each (the average price of nutshells in 1987—see AMERICAN ASSOCIATION OF LAW LIBRARIES, CURRENT PUBLICATIONS IN LEGAL AND RELATED FIELDS: VOLUME 35/1987 (1988)), the 12 titles mentioned by Kaminski set the Schuyler public library back a mere \$131.40, the equivalent today of \$299.25. See S. Morgan Friedman, *Inflation Calculator*, WEST EGG, <https://westegg.com/inflation/> [<https://perma.cc/4NPA-AP8T>].

115. See Bill McAuliffe, *West Becomes Past in St. Paul, Present and Future in Eagan*, STAR TRIB. (Minneapolis), Mar. 25, 1992, at 1B (explaining that a lack of land in St. Paul forced the company to relocate).

116. 22 STUD. LAW. (Oct. 1993) (inside front cover display ad) (ellipses in original).

117. *Id.*

118. *Id.*

## West Nutshells in the Early 21st Century

¶37 In 1996, West's 200 shareholders sold the company to Toronto's Thomson Corporation for \$3.4 billion,<sup>119</sup> and in 1997 West became known as the West Group.<sup>120</sup> In the meantime, the number of nutshells continued to grow.

¶38 An April 1999 display ad on the inside front cover of *Student Lawyer* magazine, for example, depicted a man's hand reaching into a knapsack and pulling out a copy of *Criminal Law in a Nutshell*. The copy above the photograph read:

Get a grip on the law.

A compact, softbound Nutshell offers you an easy, economical way to get a grip on a complex legal topic.

Each Nutshell is written by a legal expert in the field—and explains the law to you in plain English.

Nutshells are brought to you by West Group, the same publisher who brings you the Hornbook Series®, casebooks, Westlaw® and *Black's Law Dictionary*®.

We're proud of the role Nutshells have played in helping a generation of law students and attorneys understand the law.

Look for Nutshells in your campus bookstore. Call **1-800-876-4457**. Or visit the West Group Store at [lawschool.westgroup.com](http://lawschool.westgroup.com).<sup>121</sup>

Below the photograph was a list of the company's 119 nutshells, together with two taglines. The first read: "There are more than 100 nutshells—to help you get a grip on more than 70 legal topics."<sup>122</sup> The second read: "*Nutshells: The little books that give you the big picture.*"<sup>123</sup>

¶39 The ad's inclusion of a website made it clear that West had moved into cyberspace, right along with the rest of legal education. Two years earlier, at the 1997 annual meeting of the American Association of Law Libraries in Baltimore, a heavily attended panel had been titled, "From Nutshells to Netscape: Covering the Basics Through Research Instruction Programs."<sup>124</sup>

¶40 In 2003, West published *The Legal System of the People's Republic of China in a Nutshell* by Professor Daniel C.K. Chow of Ohio State University.<sup>125</sup> Although all

119. See Iver Peterson, *West Publishing Purchase by Thomson is Approved*, N.Y. TIMES, June 20, 1996, at D6.

120. See *West Group History*, FUNDINGUNIVERSE, <http://www.fundinguniverse.com/company-histories/west-group-history/> [<https://perma.cc/P3N4-P67R>].

121. 27 STUD. LAW. (Apr. 1999) (inside front cover display ad) (bold in original).

122. *Id.*

123. *Id.* (italics in original).

124. See Pauline M. Aranas, *Baltimore! Teaching Legal Research Redux*, AALL SPECTRUM, Sept. 1997, at 20.

125. See DANIEL C.K. CHOW, *THE LEGAL SYSTEM OF THE PEOPLE'S REPUBLIC OF CHINA IN A NUTSHELL* (2003).

nutshells are shaped by the personalities and experiences of their authors, Chow's was particularly personal:

This book is based upon several years that I lived in the People's Republic of China in the late 1990s when I took a leave of absence from my academic duties at the Ohio State University College of Law to serve as in-house counsel for a multi-national enterprise with substantial China operations and ambitious plans for expanding its China business. . . .

As a busy lawyer in an understaffed legal department, I had many different responsibilities and opportunities to meet with high-level officials of China's many different governmental organs. . . . I also had many opportunities to learn about China's illegal underground economy with its many dangerous and nefarious characters. My work in protecting the company's intellectual property led me on investigations and raids of underground factories, markets, and warehouses dealing in pirated, counterfeit, and smuggled products. . . .

Outside of work, I benefited from many opportunities to learn about the life of China's people and to interact with many associates, colleagues, and friends in social settings. . . . During my years in China, I had many frank discussions with Chinese from all walks of life about China's problems and prospects and the complex relations between the United States and China. Not all of these discussions were amicable nor were all of my relationships harmonious, but I learned and benefited from them all. . . . These experiences form the basis for this volume.<sup>126</sup>

¶41 In a display ad in the November 2005 issue of *Student Lawyer* magazine touting its various product lines, next to a picture of *Toxic Torts in a Nutshell*, West reminded students that:

With over 130 titles, the **Nutshell Series**<sup>®</sup> is the most complete line of study aids available—chances are there is a Nutshell for whatever subject you are studying. Nutshells offer succinct summations of the law by the subject matter experts. Find the essential information that you need to excel on the final exam. Compact, portable, and easy to read, Nutshells are a must for every law student.<sup>127</sup>

¶42 In 2007, Thomson purchased England's Reuters Group for \$17.2 billion, resulting in the creation of the Thomson-Reuters Corporation. In describing the breathtaking deal, one reporter wrote:

In the information age, content may be king. But the real power lies in what you can do with it.

That would seem to be the underlying message in the announcement Tuesday of the Thomson Corporation's approximately \$17.2 billion acquisition of the Reuters Group, the global news and financial data service. The new company, which will be called Thomson-Reuters, will own 34 percent of the market for financial data, putting Thomson in direct competition with Bloomberg L.P., especially in selling data services, analytical and trading tools to Wall Street.

The deal also comes in the middle of an information revolution as easy distribution over the Internet has turned news and data into a commodity. Media companies, including newspapers, cable companies and financial publishers, are all struggling to turn their content into new services that their customers are willing to pay for.

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126. *Id.* at v–vii.

127. *Ace Your Final Exams—Prepare with Study Aids from West Law School*, *STUD. LAW.*, Nov. 2005, at 3 (bold in original).



Few companies have been as successful at that proposition as Thomson, which has transformed itself from a prosperous newspaper chain started in sleepy Timmins, Ontario, into a financial information powerhouse that[,] once the proposed deal is completed[, will] have combined revenue of almost \$12 billion. . . .<sup>128</sup>

¶43 One year later, the Great Recession of 2008 began, bringing with it major changes to law schools:

Between 1976 and 2000, law schools steadily enrolled between ~40,000 and ~44,000 new students each year. From 1976 to 1987, the average was 40,973. From 1988 to 2000, the average was 43,497—a little over 6% higher. But between 2000 and 2002, law schools increased first-year enrollment 11.2%. In subsequent years, enrollment steadily [crept] up, with minor ebbs and flows, until peaking in 2010 at 52,404. As law schools were pressured to become more transparent about job outcomes beginning in 2010, the media and prospective law students took notice of inflated enrollment, inadequate job prospects, and high prices—and enrollment dropped. After 1L enrollment peaked in 2010 at 52,404 new students, enrollment fell dramatically in each of the next three years. . . .<sup>129</sup>

¶44 Even as the recession took its toll on law schools, new nutshells continued to appear including, for example, ones on animal law,<sup>130</sup> bioethics law,<sup>131</sup> and legal malpractice law.<sup>132</sup> Moreover, in 2009 the series was given a face-lift when a new front cover design was introduced, the first since 1973.<sup>133</sup> The geometric nutshell, which had dominated the cover for decades, now was reduced to a mere speck and superimposed on the words “West Nutshell Series,” which appeared, in a near-microscopic font, as an identifier running along the cover’s top left edge. The author’s name was moved from the center bottom to the upper right-hand corner. Most dramatically, the cover’s main feature now was three lines of lowercase type spread against a light-colored background that read: “in a nut shell.”<sup>134</sup>

¶45 In 2012, the ambiguously named *Gaming Law in a Nutshell* debuted.<sup>135</sup> The book’s advertising blurb<sup>136</sup> made it clear that it was about gambling and not, as some

128. Ian Austen, *Thomson Adds Reuters in \$17 Billion Bid to Be Giant*, N.Y. TIMES, May 16, 2007, at C1.

129. *Law School Enrollment*, LAW SCHOOL TRANSPARENCY, <https://data.lawschooltransparency.com/enrollment/all/> [<https://perma.cc/D4MH-EGSX>]. For a further discussion, see BRIAN Z. TAMANAHA, *FAILING LAW SCHOOLS* (2012). For later developments, see BENJAMIN H. BARTON, *FIXING LAW SCHOOLS: FROM COLLAPSE TO THE TRUMP BUMP AND BEYOND* (2020).

130. See PAMELA D. FRASCH ET AL., *ANIMAL LAW IN A NUTSHELL* (2011).

131. See SANDRA H. JOHNSON & ROBERT L. SCHWARTZ, *BIOETHICS AND LAW IN A NUTSHELL* (2009).

132. See VINCENT R. JOHNSON, *LEGAL MALPRACTICE LAW IN A NUTSHELL* (2010).

133. See Olson, *supra* note 55, at 66.

134. The cover’s misspelling of the word “nutshell” was a carryover from the 1973 redesign, which had introduced the mistake. See *supra* text accompanying note 94.

135. See WALTER T. CHAMPION, JR. & I. NELSON ROSE, *GAMING LAW IN A NUTSHELL* (2012).

136. See [https://books.google.com/books/about/Gaming\\_Law\\_in\\_a\\_Nutshell.html?id=YFg5LgEA CAAJ](https://books.google.com/books/about/Gaming_Law_in_a_Nutshell.html?id=YFg5LgEA CAAJ) [<https://perma.cc/942C-R82F>].

buyers presumably thought, video gaming, a subject that received its own nutshell in 2018.<sup>137</sup>

¶46 In the meantime, law school enrollments continued to plummet, and in 2013 Thomson-Reuters decided it was time to sell:

Thomson Reuters has officially gotten out of print publishing for law schools. On Friday, February 2nd, the publishing wing of the legal research giant was sold to Eureka Growth Capital, a private equity firm located in Philadelphia. It seems that paper publishing is not something that Thomson Reuters will be involved with in the future, at least for legal research. According to spokesman John Shaughnessy, “It’s a segment of the market that, longer-term, we didn’t see as within the core of our legal research offerings,” suggesting that Thomson Reuters will be focusing solely on electronic content in the near future.

Westlaw Next and other e-resources that Thomson Reuters provides will continue to be available to legal researchers. The publishing wing, which was sold for an undisclosed sum, will continue to publish various textbooks and study guides, but will now go under the name “West Academic Publishing.” Thomson’s legal business, of which the publishing [end] was only a small part, will continue with sales of software and online databases.<sup>138</sup>

### West Academic Publishing

¶47 The switch from Thomson-Reuters to Eureka proved seamless for the *Nutshell Series*, and during the latter’s stewardship the number of nutshell titles continued to expand.<sup>139</sup> In 2007, for example, West had 140 nutshells.<sup>140</sup> Today, West Academic has 159 nutshells (a nearly 14 percent increase).<sup>141</sup> To maintain this pace, it now prints between 20 and 40 nutshells a year.<sup>142</sup>

137. See DAN D. NABEL & BILL CHANG, VIDEO GAME LAW IN A NUTSHELL (2018).

138. Kris Turner, *Thomson Reuters Sells Law School Publishing Division*, WISBLAWG, Feb. 13, 2013, <https://wisblawg.law.wisc.edu/2013/02/13/thomson-reuters-sells-law-school-publishing-division/> [<https://perma.cc/F52T-QYQ5>].

Because Eureka did not buy the West name, West Academic’s website (<https://home.westacademic.com/> [<https://perma.cc/JAS3-Z2VQ>]) contains the following notice: “© 2020 LEG, Inc. d/b/a West Academic[.] West, West Academic Publishing, and West Academic are trademarks of West Publishing Corporation, used under license.” For a further discussion, see <https://home.westacademic.com/legal-publisher> [<https://perma.cc/FXB5-MQJC>]. (LEG, Inc. is the company Eureka set up to do the acquisition.)

139. In 2019, Eureka sold LEG, Inc./West Academic to Levine Leichtman Capital Partners (<https://www.llcp.com/> [<https://perma.cc/9384-94FY>]), a Los Angeles investment firm, for an undisclosed amount. See *Eureka Sells West Academic*, PRIVATE EQUITY PROFESSIONAL, Jan. 28, 2019, <https://peprofesional.com/2019/01/eureka-sells-west-academic/> [<https://perma.cc/8U6A-NWHM>]. In 2022, after the research for this article closed, Levine Leichtman sold LEG, Inc./West Academic to BarBri Global. See *BARBRI Acquires West Academic*, NAT’L JURIST, Jan. 12, 2022, <https://nationaljurist.com/barbri-acquires-west-academic/> [<https://perma.cc/4AXG-FX87>].

140. See THOMSON-WEST, WEST LAW SCHOOL PUBLICATIONS 2007–2008, at 212 (n.d.) (copy on file with the author).

141. See Soto Interview, *supra* note 94.

142. See Email from Austin M. “Mac” Soto, Senior Strategic Operations Editor—West Academic Publishing, to the author, Apr. 2, 2020, 12:06 PM (copy on file with the author). For a current listing of West

¶48 In addition to growing the series, West Academic has made two other changes. First, it has pushed further into e-book formats<sup>143</sup> and has touted this fact in its advertising.<sup>144</sup> Second, it has reworked the front cover. In particular, it has fixed the title so that “nutshell” again is one word; dropped the word “West” from the top left-hand corner’s identifier; moved the author’s name back to the bottom half; made the color background brighter and given it a feeling of motion by adding white “swooshes”; and placed West Academic’s name and logo (three book pages fluttering in the air) in the lower right-hand corner.<sup>145</sup>

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Academic’s nutshells, see <http://store.westacademic.com/> [<https://perma.cc/XHM3-Z5BG>] (hereinafter Store).

143. In 2007, Amazon introduced Kindle. See Piotr Kowalczyk, *A Fascinating History of Kindle Devices and Services*, EBOOKFRIENDLY, Nov. 21, 2021, <https://ebookfriendly.com/timeline-kindle-history/> [<https://perma.cc/M2A3-2UK2>]. By 2010, five nutshells were on it:

DONALD L. BOERNBERG, *INTERNATIONAL TAXATION IN A NUTSHELL* (8th ed. 2009)

DAVID G. EPSTEIN, *BANKRUPTCY AND RELATED LAW IN A NUTSHELL* (7th ed. 2005)

JOHN S. LOWE, *OIL AND GAS IN A NUTSHELL* (5th ed. 2009)

CLAUDE D. ROHWER & ANTHONY M. SKROCKI, *CONTRACTS IN A NUTSHELL* (6th ed. 2006)

DAVID WEISSBRODT & LAURA DANIELSON, *IMMIGRATION LAW AND PROCEDURE IN A NUTSHELL* (5th ed. 2005)

See West Academic Publishing, LAW SCHOOL PUBLICATIONS 2010–2011 CATALOG iv, <https://www.yumpu.com/en/document/read/5255364/law-school-publications-sweet-maxwell> [<https://perma.cc/ZH7R-RC3G>]. Today, all nutshells are available as e-books. In addition, they are included in the West Study Aids Subscription package (<https://subscription.westacademic.com/> [<https://perma.cc/URZ3-45GP>]) (launched 2013), which allows students at participating law schools to read West Academic’s books online for free. (Students at nonparticipating schools can purchase their own subscriptions at a cost of \$15–\$25 a month.)

144. A display ad on the outside back cover of the Winter 2020 issue of *The National Jurist: The Magazine for Law Students*, for example, was headlined, “West Academic Study Aids Collection.” Under this headline was a computer screen, an iPad screen, and a cell phone screen. On the computer screen was an image of *Criminal Law in a Nutshell*, while on the cell phone screen was an image of *Accounting and Finance for Lawyers in a Nutshell*. Underneath the three screens the copy read:

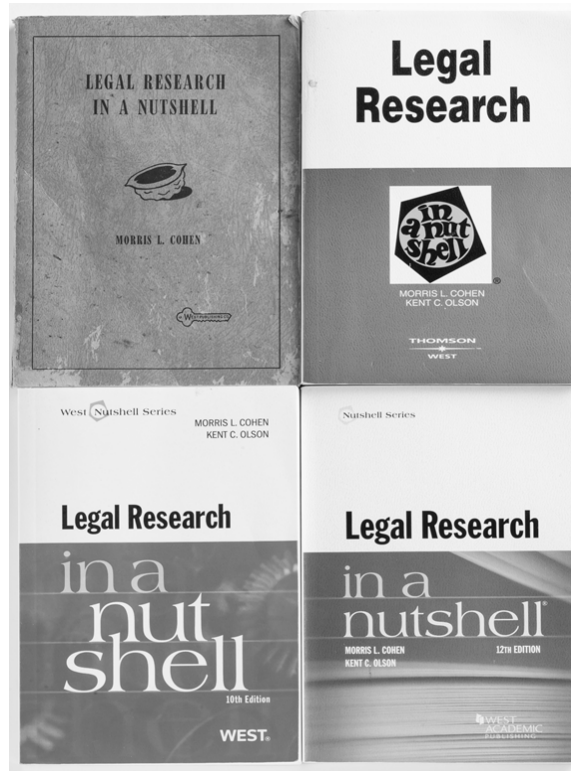
**Trusted study materials for all your classes are waiting for you ONLINE, ANYTIME.**

The West Academic Study Aids Collection is a comprehensive digital collection of over 500 titles that includes study aids, treatises, audio lectures, video courses, and newly added audiobooks. You will have 24/7 digital access to expertly authored content in over a dozen different series so you can find what works best for you, and you can study on the go with the West Academic Library App.

**Learn more or take a FREE trial at [store.westacademic.com/studyaids](http://store.westacademic.com/studyaids).**

See 29 NAT’L JURIST (Winter 2020) (outside back cover display ad) (bold in original).

145. See *Typed Drawing—In a Nutshell*, USPTO, <http://tmsearch.uspto.gov> [<https://perma.cc/PJK3-K4QX>] (Registration Number 1445132), under “Specimen—Aug. 1, 2016,” <http://tsdr.uspto.gov/documentviewer?caseId=sn73630753&docId=SPE20160802150910#docIndex=3&page=1> [<https://perma.cc/5Q4X-J62D>].



A look at the Nutshell Series' four cover designs—the earliest version is in the upper left-hand corner, while the current version is in the lower right-hand corner (photograph by Michael Hopkins of Gerlinde Photography ([www.gerlinde.com](http://www.gerlinde.com)))

¶49 Like everything else, the price of a nutshell has increased over time. When the *Nutshell Series* debuted in 1968, nutshells were priced at \$3.50,<sup>146</sup> the equivalent today of \$26.08.<sup>147</sup> In 2020, all nutshells carry a price tag of \$49.00.<sup>148</sup> Of course, most current nutshells are twice the size of the 1968 nutshells,<sup>149</sup> and the longest title in the series is nearly four times as long.<sup>150</sup>

146. See *supra* text accompanying notes 67–70.

147. See Friedman, *supra* note 114.

148. See Store, *supra* note 142.

149. See *id.* (indicating that most current nutshells are between 400 and 600 pages).

150. See KAREN C. BURKE, FEDERAL INCOME TAXATION OF CORPORATIONS AND STOCKHOLDERS IN A NUTSHELL (8th ed. 2018), which clocks in at 988 pages.

¶50 In March 2020, COVID-19 forced many businesses across the United States, including many book publishers, to shut down.<sup>151</sup> Although the pandemic also affected West Academic,<sup>152</sup> not a single nutshell already in production was delayed.<sup>153</sup>

## Conclusion

¶51 The back cover of every nutshell now carries the following legend:

- A succinct exposition of the law to which a student or lawyer can turn for reliable guidance.
- All titles written by outstanding authorities and recognized experts.
- A compact format for convenient reference.<sup>154</sup>

These statements, of course, are not much different from the ones that appeared on the back covers of the series' first four nutshells in 1968.<sup>155</sup>

¶52 What is most striking about the *Nutshell Series*—in addition to its breadth,<sup>156</sup> longevity,<sup>157</sup> and continued success<sup>158</sup>—is how it unwittingly has served as a chronicle of the changes that have taken place in society over the past half century. In 1968, climate change, gay rights, and legal marijuana did not exist. Nor did Brexit. Nor did the

151. See Alexandra Alter, *A Plot Twist Confounds Publishers*, N.Y. TIMES, Mar. 30, 2020, at C1.

152. See Soto Interview, *supra* note 94.

153. *Id.*

154. In a 2004 law review article, Professor Thomas E. Baker (Florida International University) used this verbiage to introduce his piece:

The ubiquitous and popular West Nutshell Series promises to deliver in each and every volume “a succinct exposition of the law to which a student or lawyer can turn for reliable guidance” published in “a compact format for convenient reference.” That is the purpose and function of this article: to provide the intelligent novice a beginner’s guide to the considerable body of scholarly writings about the theory of American constitutional law.

Thomas E. Baker, *Constitutional Theory in a Nutshell*, 13 WM. & MARY BILL RIGHTS J. 57, 57 (2004) (footnote omitted).

155. See *supra* text accompanying note 71.

156. It is *not* true, however, that every possible topic is covered. For example, there never has been an aviation law nutshell, even though the subject has been taught in U.S. law schools since 1930. See Robert M. Jarvis, *Carl Zollmann: Aviation Law Casebook Pioneer*, 73 J. AIR L. & COM. 319, 338 (2008).

157. The use of the word “longevity” here is not limited to the series itself. Many individual titles also have demonstrated great staying power. Morris L. Cohen’s *Legal Research in a Nutshell*, for example, which first appeared in 1968, see *supra* note 63, has outlived him. See KENT C. OLSON, LEGAL RESEARCH IN A NUTSHELL (13th ed. 2018); see also *Interview with a Nutshell Author*, MOREUS, May 2, 2016, <http://library.law.virginia.edu/ajm-blog/2016/05/02/interview-with-a-nutshell-author/> [<https://perma.cc/TVR3-Q4HL>] (interview with Olson focusing on his role as Cohen’s successor).

Although no nutshell has gone through as many editions as Cohen’s nutshell, two come very close. See MINDY HERZFELD, INTERNATIONAL TAXATION IN A NUTSHELL (12th ed. 2020); THOMAS LEE HAZEN, SECURITIES REGULATION IN A NUTSHELL (11th ed. 2016).

158. In a recent poll, law students voted nutshells one of their top 10 favorite study aids. See Mike Stetz, *Best Study Aids*, “Back-to-School” 2018, NAT’L JURIST, at 20, 22.

internet, cybersecurity, or social media. Today, all do, and nutshells are available to help law students and lawyers master each one of them.<sup>159</sup>

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159. See JAY P. KESAN & CAROL M. HAYES, *CYBERSECURITY AND PRIVACY LAW IN A NUTSHELL* (2019); MICHAEL L. RUSTAD, *GLOBAL INTERNET LAW IN A NUTSHELL* (4th ed. 2019); RUTH COLKER, *SEXUAL ORIENTATION, GENDER IDENTITY, AND THE LAW IN A NUTSHELL* (2017); RALPH H. FOLSOM, *EUROPEAN UNION LAW—INCLUDING BREXIT IN A NUTSHELL* (9th ed. 2017); RYAN GARCIA & THADDEUS HOFFMEISTER, *SOCIAL MEDIAL LAW IN A NUTSHELL* (2017); MARK K. OSBECK & HOWARD BROMBERG, *MARIJUANA LAW IN A NUTSHELL* (2017); JOHN R. NOLON & PATRICIA E. SALKIN, *CLIMATE CHANGE AND SUSTAINABLE DEVELOPMENT LAW IN A NUTSHELL* (2011).