

FROM THE JONES ROOM:
 REQUIRED LAW BOOKS FOR THE LICENSING
 OF ATTORNEYS IN TEXAS DURING THE LATE
 19TH CENTURY

By Mark W. Lambert
 Special Collections Librarian

Admission to the practice of law in the State of Texas during the nineteenth century was generally rather lax, usually consisting of an attorney being examined orally by three local attorneys appointed by the local district court.¹ These bar examinations have been recounted by applicants as having been quite easy, usually consisting of a conversation with the examiners, sometimes over drinks, and including an easy question and answer session.² No doubt the knowledge of each prospective lawyer could also differ greatly from the next one, depending on their chosen mode of legal training, skills, and aptitude.

Possibly to help remedy this situation, on March 1, 1878, the Supreme Court of Texas made effective a rule concerning the "License of Attorneys and Counselors at Law," that gave a list of required legal texts applicants were supposed to have studied. These books were:³

Blackstone's Commentaries
 Kent's Commentaries
 Stephen, Gould or Chitty on Pleading
 Story's Equity Pleading
 I Greenleaf, Starkie or Phillips on Evidence
 Parsons, Story, or Chitty on Contracts
 Story, Parsons, or Daniels on Promissory Notes
 Story or Gow on Partnership
 Story's Equity Jurisprudence or Adams's Equity

or works of like character in each department of the law and a general knowledge of the Constitution and statutes of the state and rules of the district and Supreme courts of the state.

These books thus comprise part of the legal history of the state of Texas. Complete bibliographic information on each of the books is given below. The bibliographic information is to the first edition, or if originally written in England, to the first American edition:⁴

Blackstone's Commentaries. William Blackstone, *Commentaries on the Laws of England.* Oxford: Printed at the Clarendon Press, 1765-1769. 4 volumes. First Edition.

Kent's Commentaries. James Kent, *Commentaries on American Law.* New York: O. Halsted, 1826-1830. 4 volumes. First Edition.

Stephen on Pleading. Henry John Stephen, *A Treatise on the Principles of Pleading in Civil Actions: Comprising a Summary View of the Whole Proceedings in a Suit at Law.* Philadelphia: Published by Abraham Small, 1824. First American Edition.

Chitty on Pleading. Joseph Chitty, *A Practical Treatise on Pleading and on the Parties to Actions, and the Forms of Actions. With a second volume, containing precedents of pleadings.* New York: Robert M'Dermut, 1809. First American Edition.

Story's Equity Pleading. Joseph Story, *Commentaries on Equity Pleadings, and the incidents thereto, according to the Practice of the Courts of Equity in England and America.* Boston: Charles C. Little & James Brown, 1838. First Edition.

Gould on Pleading. James Gould, *A Treatise on the Principles of Pleading in Civil Actions.* Boston: Lily and Wait, 1832. First Edition.

(Continued on page 5)

*A friendly and helpful
 staff is available to
 assist you at the
 Patron Services Desk.
 713.646.1711*

JONES ROOM CONTINUED...

Greenleaf on Evidence. Simon Greenleaf, *A Treatise on the Law of Evidence.* Boston: Charles C. Little & James Brown, 1842-53. 3 volumes. First Edition.

Starkie on Evidence. Thomas Starkie, *A Practical Treatise on the Law of Evidence and Digest of Proofs in Civil and Criminal Proceedings. With references to American Decisions, by Theron Metcalf.* Boston: Wells and Lilly, 1826. First American Edition.

Phillips on Evidence. Samuel March Phillipps, *A Treatise on the Law of Evidence.* 1st American, from the 2d. London ed. ; with notes and references to American authorities, by John A. Dunlap. To which is added, the theory of presumptive proof, &c. New York: Pub. by Gould, Banks & Gould, 1816. First American Edition.

Parsons on Contracts. Theophilus Parsons, *The Law of Contracts.* Boston: Little, Brown, and Company, 1853-55. First Edition.

Story on Contracts. William Wetmore Story, *A Treatise on the Law of Contracts not under Seal.* Boston: Charles C. Little and James Brown, 1844. First Edition.

Chitty on Contracts. Joseph D. Chitty, *A Practical Treatise on the Law of Contracts, not under seal; and upon the usual defences to actions thereon. With corrections and additional references by a member of the Massachusetts bar.* Boston: Wells and Lilly, 1827. First American Edition.

Story on Promissory Notes. Joseph Story, *Commentaries on the Law of Promissory Notes, and Guarantees of Notes, and Checks on Banks and Bankers. With occasional illustrations from the commercial laws of the nations of continental Europe.* Boston: Charles C. Little and James Brown, 1845. First Edition.

Parsons on Promissory Notes. No information was found on this book.

Daniels on Promissory Notes. No information was found in this book.

Story on Partnership. Joseph Story, *Commentaries on the Law of Partnership, as a branch of Commercial and Maritime Jurisprudence, with Occasional Illustrations from the Civil and Foreign Law.* Boston: Charles C. Little & James Brown, 1841. First Edition.

Gow on Partnership. Niel Gow, *A Practical Treatise on the Law of Partnership.* 1st American from the last London ed. With notes, and references to American decisions, by Edward D. Ingraham. Philadelphia: Abraham Small, 1825. First American Edition.

Story's Equity Jurisprudence. Joseph Story, *Commentaries on Equity Jurisprudence, as administered in England and America.* In Two Volumes. Boston: Hilliard, Gray & Company, 1836. First Edition.

Adams's Equity. John Adams, *The Doctrine of Equity; Being a Commentary on the Law as Administered by the Court of Chancery.* Philadelphia: T. & J. W. Johnson, 1850. First American Edition.

General Knowledge of the Constitution and Statutes of the State and the Rules of the District and Supreme Courts of the State. The then current Constitution of the State of Texas was enacted in 1876,⁵ and thus would have been the one referred to by the Supreme Court of Texas in 1878:

Texas Constitution. Texas. *Constitution of the State of Texas: Adopted by the Constitutional Convention Convened at Austin, Begun and Held at the City of Austin on the Sixth Day of September, 1875.*

(Continued on page 6)

You can submit purchase suggestions for the library to consider via our online public access catalog, STELLA, <http://stexl.stcl.edu/acquire>

JONES ROOM CONTINUED...

Galveston; Printed at the "News" Steam Book and Job Establishment. [1875].

By 1878, the only officially codified laws in the state of Texas consisted of the Penal Code and Code of Criminal Procedure of 1856, and for locating the rest of the state's statutes, the legal profession had to make do with an unofficial digest of the laws of the state, the most current being *Paschal's Digest* (the fifth, and last edition from 1875), and/or the state's session laws. The first complete general codification of all of Texas' laws did not appear until a year later, in 1879, entitled the *Revised Statutes of Texas*.⁶

Texas Penal Code and Code of Criminal Procedure. Texas. *The Penal Code of the State of Texas. The Code of Criminal Procedure of the State of Texas.* Adopted by the Sixth Legislature. Galveston; Printed at the News Office, 1857.

Paschal's Digest. George W. Paschal, *A Digest of the Laws of Texas: Containing the Laws in Force, and the Repealed Laws on Which Rights Rest, from 1754 to 1873, Carefully Annotated.* Fifth Edition. Houston, Tex.: E. H. Cushing, 1875-1878.

Texas Session Laws. Texas. *General and Special Laws of the Republic of Texas.* Austin: Secretary of State, 1836-1845.

Texas Session Laws. Texas. *General and Special Laws of the State of Texas.* Austin: Secretary of State, 1846-Present.

Rules of the District and Supreme Courts of the State. Texas. Supreme Court. *Rules for the Courts of Texas.* Adopted by Order of the Supreme Court, at Tyler, On the 1st of December, 1877. Part of: *Cases Argued and Decided in the Supreme Court of the State of Texas, during the Latter Part of the Galveston Term, 1877, and Embracing the Cases Decided During the Austin Term, 1877.* Reported by Terrell & Walker. Vol. XLVII. Houston, Tex.: R. H. Cushing, Publisher, 1883. [47 TEX. 597-643 (1883)].

* * *

¹ Stephen K. Huber and James E. Myers, *Admission to the Practice of Law in Texas: An Analytical History*, 15 HOU. L. REV. 485, 493 (1978).

² *Ibid.*, 495-496.

³ *Rules for the Courts of Texas, Adopted by order of the Supreme Court, at Tyler, on the 1st of December, 1877*, 47 Tex. 597, 614 (1883).

⁴ Bibliographic information for each book was obtained from the Fred Parks Law Library's online catalog if the library owned the first edition of the named book, or: J. G. MARVIN, *LEGAL BIBLIOGRAPHY*. PHILADELPHIA: T. & J. W. JOHNSON, 1847. REPRINT: BUFFALO, N.Y.: DENNIS & CO., 1953, and/or MORRIS L. COHEN, *BIBLIOGRAPHY OF EARLY AMERICAN LAW*. 6 VOLUMES PLUS 2003 SUPPLEMENT. BUFFALO, N.Y.: WILLIAM S. HEIN & CO., 1998.

⁵ KARL T. GRUBEN AND JAMES E. HAMILTON, *A REFERENCE GUIDE TO TEXAS LAW AND LEGAL HISTORY: SOURCES AND DOCUMENTATION*. 2ND EDITION. (AUSTIN, TEX: BUTTERWORTH LEGAL PUBLISHERS, 1987): 10.

⁶ *Ibid.*, 13-19.

If you need help with a legal research issue, you can always call the Reference Desk at 713-646-1712