

A stylized graphic of the American flag, featuring a blue field with white stars and red and white stripes, set against a dark red background.

**AMERICAN
LAW
PUBLISHING
1860-1900**

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1860-1900
Historical Readings**

1

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Glanville Publishing Company
WITH THE SUPPORT OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES

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Library of Congress Cataloging in Publication Data

Taylor, Betty W.

American law publishing, 1860-1900.

Bibliography: p.

1. Law—United States—Bibliography. 2. Legal literature—United States—Publishing—History. I. Munro, Robert J. II. Title.

KF1.T36 1982 016.34973 83-9049

ISBN 0-87802-058-6 (set) 016.3473

ISBN 0-87802-059-4 (Vol. 1, Historical Reading)

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Manufactured in the United States of America

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SERIES
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BIBLIOGRAPHIC INDEX

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PREFACE

The need for a history and analysis of law book publishing for the period 1860-1900 requires elucidation. American legal history, to the shame of the well-paid and luxuriously-equipped American legal profession, remains one of the worst-chronicled of important American institutions. Much of a legal historian's work consists of the culling of the research materials that he needs in his work from local histories, dictionaries of biography, company histories, and sources other than full-length specialized monographs on the rules of lawyers.¹ This is not to say that several excellent histories do not exist. A valuable work on the earliest age of the American legal profession is Anton-Hermann Chroust's, The Rise of the Legal Profession in America, 2 volumes, 1965, a massive compilation of facts about the profession and its practitioners until 1820. A valuable modern survey of the vague and diverse activities of American lawyers in the mid-twentieth century is Martin Mayer's, The Lawyers, 1967, an anecdotal, statistical account all the more valuable because it is by an experienced reporter, who is not a lawyer. Lawrence M. Friedman's A History of American Law, 1974, is a more recent, comprehensive treatment of the subject. The state of legal bibliography parallels the problem of legal history: poor and incomplete records, superficial research, and general lack of interest. In the past, a student of legal bibliography of the 1860-1900 period has been forced to work his way through various book catalogs of the larger libraries to determine bibliographic information on any one item and any subject searching was impossible and still is today though the growth computer-based search system such as OCLC and RLIN will no doubt make such searching more feasible. This exists-

¹Daniel Boorstin, The Americans: The Democratic Experience (New York: Random House, 1973), p. 623.

tence of the book catalogs was complemented by very few good treatises. Charles Warren's History of the American Bar, 1911, contains among many fine chapters, two chapters on "Early American Law Books" and "American Law Books, 1815-1910." These chapters provide the beginning student an invaluable starting point in research. However, the errors and omissions in Warren's classic work are serious.

"Warren's book, it goes without saying, is still a basic, indispensable, and perhaps, unsurpassed text that must be consulted by anyone interested in our subject. Unfortunately, it is so replete with misprints, inaccuracies of detail, errors of citations, and even errors of fact, that it would be extremely unwise to accept any of Warren's statements without further verification."²

In addition to library book catalogs such as the Catalogue of the Library of the Law School of Harvard University, 1909, book catalogues such as Charles C. Soule's The Lawyer's Reference Manual of Law Books and Citations (1883) are of value to the research.³

The absence of a comprehensive bibliography of law books published in the latter half of the nineteenth century led to an interest in the legal literature of the period and ultimately promoted the undertaking of a bibliographical project to fill the void and compliment the bibliography being compiled by Professor Morris Cohen, Director of the Yale University Law Library, from the beginning of American legal publishing to 1860.

²A.H. Chroust, The Rise of the Legal Profession in America, xix (1965).

³See Eldon Revare James, "A List of Legal Treatises Printed in the British Colonies and the American States Before 1801," in Harvard Legal Essays Written in Honor of and Presented to Joseph Henry Beale and Samuel Williston (Cambridge, Mass.: Harvard University Press, 1934); Kate Wallach, "The Publication of Legal Treatises in America from 1800 to 1830," 45 Law Library Journal 136-148 (1952); Jenni Parrish, "Law Books and Legal Publishing in America, 1760-1840," 72 Law Library Journal 355-452 (1979).

The authors initiated the compilation, surveying the completeness of the existing resources, and extracting entries from extant bibliographies. The authors, assisted by members of the research staff and aided by NEH funding, culled entries from the following sources:

- 1) United States, Library of Congress, A Catalog of Books Represented by Library of Congress Printed Cards. (Paterson, N.J.: Rowman and Littlefield, Inc. 1963).
- 2) Soule, Charles C. The Lawyers Reference Manual of Law Books and Citations. (Boston: Soule and Bugbee, 1883).
- 3) Griswold, H.E. Catalogue of Law Books: Banks & Brothers.¹ (Buffalo: Hein, 1977). (Reprint of 1894 ed.).
- 4) Warren, Charles. "American Law Books, 1815-1910," History of the American Bar (1911).
- 5) Catalogue of the Library of the Law School of Harvard University. Volume 1 and 11. Cambridge: Harvard Law School Press, 1909.
- 6) Catalogue of Law Books, 1902, St. Paul, Minn.: West Pub. Co., 1902.
- 7) Catalogue of Law Books Published or for Sale by William Gould and Son. Albany, New York: William Gould Publishing Co., 1881.
- 8) Catalogue of Law Books Published or for Sale by F.W. Thomas and Co. St. Louis, Mo.: F.H. Thomas and Co., 1884.
- 9) Schwartz, Mortimer and Henke, Dan. Combined Catalog Anglo-American Law Collections: University of California Law Libraries, Berkeley and Davis with Library of Congress Class K added. Littleton, Col.: Fred B. Rothman & Co., 1970. 10 v. Supplement, 1979. 9v.

Each author entry garnered from these sources was searched on the OCLC system to locate more entries by the same author. Consequently, we tapped the resources of law and general libraries throughout the U.S. The student of bibliography will note with great interest that the Library of Congress catalog data constituted only one of several significant sources for bibliographic data. Consequently, it would be very wrong to assume that LC catalogs are comprehensive in their coverage.

While compiling the titles, guidelines for inclusion and exclusion of entries were refined for uniformity in identifying appropriate books. Bibliographies do exist for official publications, statutes, court reports, and

serials; therefore, they are excluded from the bibliography unless they have been enhanced by an author's contributions to the work. The guidelines, refined as the project progressed, describe the monographs and subject matter that were included:

1. A legal monograph with an American imprint from the period 1860 to 1900.
2. Only a limited selection of government documents of a substantial nature and relating to major legal issues.
3. Digests or collections of statutes only when compiled by an individual and containing commentary or annotations.
4. Legal dictionaries, bibliographies, directories, and similar works of the period.
5. Pamphlets, similar short monographs, published trials and briefs (with notes, commentary, or other additional text) of a legal and valuable nature.
6. Law-related monographs, including these with a mixture of other subject areas and law.

Exclusions:

1. Session laws, reporters, digests, attorney general reports, official codes and statutes and works of a serial nature.
2. Single speeches in Congress.
3. Reprints of articles previously published in journals.
4. Official trial records and briefs filed in litigation.

The bibliographic data was then input via computer terminals at the Legal Information Center onto discs and then tapes at the University of Florida's Northeast Regional Data Center. The computer magnetic tapes were then transmitted to the publishing company's data processing affiliate where the data was manipulated to produce the author, title, and subject indexes.

The inclusion of background readings on the culture and socio-economic environment of this publishing period was designed to acquaint the reader with the developments and institutional factors that created the markets, readers, and interest in the many areas of law publications of the 1860-1900

period. The historical background information and the readings that constitute Volume I of this project were organized around the following topics:

- I. Introduction
- II. History of Education 1860-1900
- III. Libraries 1860-1900
- IV. The Legal Profession
- V. Printers, Booksellers, and Publishers
- VI. American Law Books 1860-1900

Within each chapter, there is a discussion of critical developments and the literature on the topic with readings from or concerning the period.

The authors are indebted to numerous individuals and organizations for their help in sponsoring this research effort. The authors thank Mr. Phillip Cohen and Mr. David Cohen of Oceana Publishing Company, Dobbs Ferry, N.Y., for their support and encouragement and the National Endowment for the Humanities for its financial support. The research project was ably assisted by Barbara Pactor in preparing the bibliographic data and Carole Grooms and Carol Feltz of the Cataloging Department. Numerous law student assistants and computer programmers, Charles White and Bruce Klein, were involved in the garnering and organizing of the bibliographic entries. Claire Moynihan and Lauren Frazier provided valuable assistance in the editorial preparation of the historical readings.

The author index consists of the bibliographic entries arranged alphabetically by personal author; where a personal author does not exist, the entry is listed by title alphabetically. The author entries also include the "note" information commonly found on catalog cards in addition to the full bibliographic information.

The subject index consists of the entries arranged alphabetically

by Library of Congress Subject Headings. Under each subject entry, the full title is listed in addition to full bibliographic information; the entries in the subject index do not include the "note" information.

CHRONOLOGICAL TABLE OF EVENTS

- 1800 Library of Congress was established.
- 1810 Only 18 American law reports had been published.
- 1814 LC (in Capitol building) was burned by the British.
- 1817 David Hoffman's Course of Legal Study, which for many years was the standard manual for law students, appeared.
- 1820 The New York Mercantile Library was founded.
- 1821 Caleb Cushing edited the first American translation of Pothier's Maritime Contracts.
- 1822 The second edition of the first book on patent law, Fessenden's Law of Patents for New Inventions was published.
In Philadelphia, the publication of Thomas Sergeants, Constitutional Law occurred.
Daniel Chipman's Essay on the Law of Contracts for Payment of Specific Articles appeared.
William Griffith's valuable Annual Law Register (1822-1823) appeared.
United States Law Journal (1822-1826), edited by members of the Connecticut and New York Bars, appeared.
- 1823 Nathan Dane published the first volume of his Abridgement of American Law, the profits from which were to be the means of the recreation of the Harvard Law School.
The first American book on insurance by Willard Phillips was published.
John Taylor published in Philadelphia his New View of the Constitution of the United States.
- 1824 The first American Case Book, Angell on Watercourses, the book contained 96 pages of text and 246 pages of cases.
Asahel Stearn published his Summary of the Laws and Practice of Real Actions.
- 1825 William Rawle's A View of the Constitution of the United States was published.
Gulian C. Verplanck's Essay on Doctrine of Contract; being an Inquiry how Contracts are affected in Law and Morals by Concealment, Error or Inadequate Price was published.
- 1826 Chancellor Kent published volume one of the landmark work, Commentaries.
- 1828 Charles Jackson published his much-used Treatise on the Pleadings and Practice in Real Action.
- 1829 United States Law Intelligencer and Review started in Providence.
American Jurist started.
- 1830 Fourth volume of Kent's Commentaries was published.

- 1832 Judge James Gould of the Litchfield Law School published his famous book on Pleadings. Second edition of Kent's Commentaries was published.
Judge Joseph Story published Bailments.
Joseph K. Angell and Samuel Ames published their Law of Private Corporations, the first book on the subject.
A separate Law department was established in LC.
- 1833 Judge Story published Constitutional Law.
Peterboro (N.Y.) Public Library was founded.
U.S. law students numbered 150.
- 1834 Judge Story published his Conflict of Laws.
- 1835 The New York school district library law passed; the first recognition of the principle of taxation for support of public libraries.
- 1836 The revolver patented by Samuel Colt in 1836 proved very effective in driving the Indians from the Great Plains.
Judge Story published Equity Jurisprudence.
Henry Whiston's Elements of International Law was published.
452 American Law Reports had been published.
- 1837 The Panic of 1837 occurred.
Sir Anthony Panizzi became "Keeper of printed books" at the British Museum.
Jacob D. Wheeler's A Practical Treatise on the Law of Slavery appeared.
Timothy Walker published his Introduction to American Law which for many years was used as a textbook for American law students.
- 1838 Judge Story published Equity Pleading.
Francis Williard published his Real Property.
Law Reporter was published at Boston from 1838 to 1866.
- 1839 Judge Story published his Agency.
John Bouvier's noted Law Dictionary was published.
- 1841 Judge Story published his Partnership.
British Museum cataloging rules were printed.
- 1842 First volume of Greenleaf on Evidence was published.
Labor unions were legalized.

- 1843 Judge Story published his Bills of Exchange.
The Western Law Journal, at Cincinnati, from 1843 to 1853, was published.
The American Law Magazine, at Philadelphia, from 1843 to 1845 was published.
- 1845 The U.S. annexed the Republic of Texas.
- 1846 New law entitled LC to one copy of all U.S. copyrighted materials.
- 1847 Theodore Ledgwick, Jr. published his Elements of Damage - the first book on the subject then written, excepting only a "slender and shadowy book of Sayers (London, 1770)."
- 1848 First edition of Poole's "Index" was published.
Massachusetts passed a library law allowing Boston to tax itself for support of the public library.
800 American Law Reports had been published.
- 1849 Angell on Carriers, the first book to treat of the subject of railroads, was published.
New Hampshire passed a library law allowing towns to tax themselves for support of libraries.
Astor library was founded; a great endowed reference library open to the public.
Bradstreet Company was founded.
- 1850 First free library act for Great Britain passes through the instrumentality of William Ewart
- 1852 Boston Public Library was founded.
The American Law Register at Philadelphia was published from 1852 to 1861.
Elisha Otis invented the elevator which made possible the construction of the skyscraper.
1853. Second edition of Poole's "Index" was published.
First conference of librarians held in New York City; 53 delegates were present.
The company founded in 1853 by a penniless Bavarian immigrant named Levi Strauss had made a modest success in its first century selling its model 501 Double X denim jeans to farmers and cowboys.
Professor Theophilus Parsons of the Harvard Law School issued his famous work on Contracts.
- 1854 A young lawyer in Springfield, Illinois, Abraham Lincoln, helped the Michigan Central Railroad negotiate with the Illinois Central to extend its tracks westward.
- 1855 Charles Coffin Jewett was appointed librarian of the Boston Public Library.

- 1856 Parsons' Elements of Mercantile Law was published.
Joel P. Bishop's Criminal Law was published.
- 1857 Panic of 1857 occurred.
Edward L. Pierce's American Railway Law, the first book devoted to railway law, was published.
Causten Browne's Statute of Frauds was published, the first book on the subject since Roberts' in England, fifty years before.
- 1858 Law of Freedom and Bondage in the United States by John C. Hurd and Law of Negro Slavery in the United States by T.R.R. Cobb, were published, the two books appearing in 1858, only four years before, by the emancipation of the slaves, all books of law on the subject became unnecessary.
- 1859 R.G. Dun & Company was founded.
Theophilus Parsons issued his Maritime Law.
The first chain store began.
Darwin's Origin of Species was published.
- 1860 The Age of Capital for the U.S. and the British Empire surged forward.
Abraham Lincoln was elected President.
21 law schools existed in the U.S. of which 12 still required only one years work.
Emory Washburn's American Law of Real Property, the first comprehensive native book on the subject, was published.
American exports rose from \$20 million in value in 1790 to \$400 million in 1860 and \$2.5 billion in 1914.
- 1861 Fort Sumter, S.C. was fired upon. The Civil War.
Federal Act passed providing for appeal in all copyright cases to the U.S. Supreme Court.
Yale University awarded the first Ph.D. from an American University.
- 1862 Congress passed the Morrill Land Grant Act.
Congress passed the Homestead Act.
The Emancipation Proclamation was issued.
The first department store began.
- 1863 John D. Rockefeller bought his first refinery.
Washburn's work on Easements was published.
- 1864 General Sherman marched to the sea.
Ainsworth R. Spofford appointed Librarian of Congress.
- 1865 President Lincoln assassinated; Johnson succeeded.
General Lee surrendered at Appomatox, Va.
MIT was founded.
Theophilus Parsons' Promissory Notes and Bills of Exchange appeared.

Copyright deposit law, revoked in 1859; reinstated; LC to again receive one copy of all deposits.

- 1866 Vanderbilt consolidated the N.Y. Central Railway.
National Labor Unions.
Appropriation for the purchase of books by LC reached \$8,000 a year.
- 1867 Grange organized.
American Law Review began.
Theophilus Parsons' Partnership was published.
Gregory Yale's Legal Titles to Mining Claims, one of the earliest books on a new branch of the law which had developed within fifteen years, appeared.
The great development of railroad and street railway law within ten years was marked by a third edition of Redfield on Railways.
The U.S. bought Alaska from Russia.
LC became the largest library in U.S.
- 1868 Municipal corruption - Boss Tweed.
Justice Winsor was appointed Superintendent of Boston Public Library.
Ratification of the Fourteenth Amendment.
John Norton Pomeroy published the first substantial book on Constitutional Law since Judge Story's in 1833.
Thomas M. Cooley's Constitutional Limitations was published.
The first treatise on the Law of Telegraphs by William L. Scott and Milton P. Jarnagin appeared.
- 1869 First transcontinental railroad was completed. (Pacific Railway)
C.A. Cutter was appointed librarian at the Boston Athenaeum.
The first law book on negligence, Treatise on the Law of Negligence, by Thomas G. Shearman and Amasa A. Redfield, was published.
Knights of Labor.
- 1870 The Gilded Age of the post-Civil War 1870's, which the historians so aptly dubbed the "Great Barbeque."
Rise of John D. Rockefeller.
Librarian of Congress made the U.S. copyright official.
Langdell was selected as Dean of the Harvard Law School.
The appearance of Langdell's A Selection of Cases on the Law of Contracts.
Farm acreage doubled in the years 1870 - 1900 as thousands of pioneers moved into the trans-Mississippi West.
U.S. copyright activities were centralized at LC.
- 1871 Introduction of Langdell's case method instruction.
Cincinnati Public Library opened on Sunday.
Separate building for LC first was suggested by the librarian.
- 1872 Illinois free library law was passed; copied substantially by several states.

- 1872 Under Charles William Eliot, Harvard University was introduced to the "elective principle."
 Mail order business began.
 R.G. Dun & Company performed credit analysis of Indian Territory (later Oklahoma).
 The legal classic by Judge John F. Dillon, Municipal Corporations, the first American book entirely devoted to this branch of law, appeared.
 Jairus W. Perry published his Law of Trusts and Trustees.
 Francis Wharton's Conflict of Laws (the first on this subject since Story's in 1834) was published.
 Melville M. Bigelow's Law of Estoppel was published.
 Orlando F. Bump's Conveyances made by Debtors to Defraud Creditors was published.
 First mail-order house began.
- 1873 Great Baltimore and Ohio strike.
 Shepard's Publishing Company was established.
 Dr. William Frederick Poole was appointed Librarian of Chicago Public Library.
 Financial Panic.
 R.G. Dun & Company performed credit analysis of southern and central California.
 James Schouler's Personal Property was published.
 A.C. Freeman's Judgments was published.
- 1874 The invention of barbed wire by Joseph F. Glidden solved the farmers problem of fencing large treeless areas.
 James L. High's Injunctions was published.
- 1876 "What a year for the nation's libraries!"
 The Library Journal was established.
 The American Library Association was established, the first meeting was held in Philadelphia.
 The Johns Hopkins University was founded.
 Trains from 8 cities formed NL of PBC.
 West Publishing Company's Syllabi.
 "Public Libraries in the U.S." was issued by the Bureau of Education; included Cutter's "Rules for a Dictionary Catalogue."
 Library Bureau established for manufacture of library supplies.
 First edition of Dewey's "Decimal Classification" was published.
 Harvard lengthened its law course to three years, and required for admission either a college degree or three years in Harvard college.
 John W. Daniels' Negotiable Instruments was published.
 Cooley's Taxation was published.
 High's Receivers was published. The great fires in Boston and Chicago, and the financial troubles of the country, of that period, made its appearance extremely timely.
- 1877 Dawes Indian Act.