

RawnJournals.com

Notice

All or parts of this file are copyrighted. Your use of this file or its contents constitutes acceptance of the Rawn Journals Website Terms and Conditions of Use Agreement. You may access this agreement at:

http://www.rawnjournals.com/about/terms_of_use

The Rawn Journals Website Terms and Conditions of Use Agreement states in part that, except where otherwise allowed or required by law:

You may not modify, copy, reproduce, republish, upload, post, transmit or distribute, by any means or in any manner, any contents of this file without the prior written consent of the author;

All conditions, representations, and warranties, either express or implied, including, but not limited to, implied warranties of merchantability and fitness for a particular purpose are disclaimed;

You may use the contents of this file only for your personal, non-commercial use.

For more information, you may contact:

The Historical Society of Dauphin County
219 South Front Street
Harrisburg, PA 17104
(717) 233-3462

The Language of Antebellum Law

By Margo Groff, Michael Barton, and Joseph Planté

To understand Rawn's everyday life, one should be familiar with the language he had to use when speaking and writing as an attorney. The terminology of the law was the key to the law's procedures, and procedure was the heart of legal practice—along with, of course, such qualities of a lawyer's character as judgment, ambition, and integrity that had to be developed rather than memorized.

Rawn's Lexicon

Rawn wrote down in the front of Book 2 of his journal the definitions of the terms and procedures he needed to know. He must have copied them out of some source or perhaps he took them by dictation. According to Margo Groff,

His fifty pages of legal notes, a kind of ready-reference section, detailed nineteen crimes, their definitions, and cited references to English law and to the U.S. Constitution. He also quoted statutes, and listed punishments. Occasionally he gave examples of a case and its outcome. His calligraphy for each heading was distinctive and varied (each new topic was lettered in a different script).

Rawn provided definitions of the following crimes, which may say something in themselves about the anxieties felt by early nineteenth century courts and legislatures.

We may provide the full transcription of the definitions at a later time.

- Treason
- Homicide of various kinds (Excusable, Felonious)
- Mayhem
- Assault
- Battery
- False Imprisonment
- Rape
- A forcible or fraudulent Procurement of Marriage
- Polygamy or Bigamy
- Sodomy
- Burglary
- Larceny and Robbery
- Piracy
- Cheats and Larcenies
- Forgery
- False Impersonating
- Arson.

The Pocket Lawyer of 1828

Another guide to understanding everyday antebellum law can be found in the following booklet which was published exactly at the time Rawn was being apprenticed as an attorney. Its cover page makes clear that this handbook of forms was for anyone wanting to act as his own attorney in elementary legal matters:

THE
Pocket Lawyer,
OR
SELF-CONVEYANCER
CONTAINING
ALL THE MOST USEFUL FORMS,
Rendered so plain, that every Man
can draw any Instrument of Writing,
without the assistance of an Attorney

IN A METHOD ENTIRELY NEW.

HARRISBURG, PA.

Printed and Published by Gustavus S. Peters.

.....

1828.

One might have thought that such do-it-yourself publications were twentieth-century innovations, but apparently some self-sufficient Americans wanted to bypass lawyers as early as the time of Jacksonian democracy.

The pocket-size booklet, with a marbled hard cover, is 107 pages and measures 3.9 by 5.14 cm. Each of its fifty-three forms, printed horizontally, takes up one to three pages. Immediately inside the book the apparent owner's name is inscribed:

David Horsts [?] Book

December the 21st

AD 1828.

Price 25 cents

No author or editor is listed on the title page; only the publisher, Gustavus Peters, is identified, who was well known for his printing work, including fraktur. The forms do not have blank spaces to be filled in but appear to be printed copies of actual documents that had been drawn up in Harrisburg, Dauphin County, Pennsylvania, where the booklet was published. Occasionally, explanatory remarks that defined terms or uses of the forms were appended by the publisher. The parties named in the documents would appear to be actual persons; some of the names, such as Lyman Gilbert, are found in the 1830 census for Harrisburg. Alexander Graydon is mentioned in Rawn's journal. Thus, besides being a do-it-yourself ("Self-Conveyancer") booklet of sample contracts and commercial papers, *The Pocket Lawyer* can also be treated as a small volume of original documents.

Rather than reproduce the complete text of the forms, it should be sufficient simply to list the fifty-three titles as they were presented in the booklet. The order of their presentation may be a clue to the frequency of their use, from most to least. In any case, they confirm the truism that "property is nine-tenths of the law."

- Promissory Note
- Note with Interest
- Note with Security
- Judgment Note
- Receipt—General Form
- Receipt for money received of a third person
- Receipt for Interest due on a Bond
- Bill of Exchange
- Proxy to vote for Directors of the Bank of the United States
- Notice—from a Landlord to a Tenant
- Assignment of a Bond or Bill
- Form of an Accommodation Note to be Discounted at the Bank of the United States
- Form of a Common Negotiable Note
- Indenture of an Apprentice
- Assignment of an Apprentice
- Common and Judgment Bond
- Assignment of a Bond
- Bond, Mislaid or Lost
- Lease of a Farm
- Lease of a House
- Assignment of a Lease
- Agreement for Sale of an Estate

- Agreement for Building a House
- Agreement with a Clerk or Workman
- Bill of Sale of Goods
- Another—A Bill of Sale of Goods
- Letter of Attorney—to Receive Debts
- Letter of Attorney
- Conditions of Public Vendue [for Sale of Land]
- [Conditions of Public Vendue for] Sale of Goods and Chattels
- Mortgage
- Acknowledgement of a Mortgage
- Deed—Common Form
- Acknowledgement of a Deed
- Receipt [for Consideration Money of Deed]
- Will, with the devise of a Real Estate, Leasehold, &c.
- Will, whereby the testator orders his personal estate to be appraised and
divided, &c.
- Appointment of Guardianship
- Clause concerning Disputes about any Gift or Bequest in a Will
- Common Bond of Arbitration
- Award by Arbitrators
- Petition for laying out a road
- Return [Petition for laying out a road]
- Another [Petition for laying out a road]

- Petition for Review of a Road
- Report [Petition for Review of a Road]
- Petition for Vacating a Road
- Report [Petition for Vacating a Road]
- Petition for Valuing Lands
- Report [Petition for Valuing Lands]
- Another [Petition for Valuing Lands]
- A General Release from one to one
- Release of a Legacy
- Release to a Guardian
- [Receipt for] Writings left in a person's hands
- [Receipt] For Money received on a purchase
- Agreement with a Manager

How does this list of popular legal actions compare with the list of actual events that can be compiled from Rawn's journals? See the Collected Lists of Legal Activities on this site. The two lists are not dissimilar, and we may conclude that filling out forms of these types was often the bread and butter activity of Rawn's profession. But it is also clear that his practice consisted of the application of his skills in trial work and business negotiations and not simply the execution of legal documents.

Everyday Legal Terminology

Finally, we can better understand Rawn's journals if we have definitions of the most ordinary, operational legal terms that appear throughout the text. The definitions have been culled by Joseph Planté from *Barron's Law Dictionary*. If not word for word, these definitions also closely follow the definitions given in *Black's Law Dictionary*:

- Administrator—one appointed to handle the affairs of a person who has died and who has left no executor.
- Affidavit—a written statement made or taken under oath before an officer of the court.
- Agent—one who, by mutual consent, acts for the benefit of another.
- Amicus Curiae—some matter of law which is in doubt.
- Appellate Court—a court having jurisdiction to review the law as applied to a prior determination of the same case.
- Arbitration—submission of controversies, by the agreement of the parties, to a neutral person or body for determination.
- Arraignment—an initial step in the criminal process wherein the defendant is formally charged with an offense.
- Arrest—to deprive a person of his/her liberty by legal authority.
- Attorney—one who is an agent or representative of another given authority to act in that person's place and name.
- Bail—a monetary or other form of security given to insure the appearance of the defendant at every stage of the proceedings.

- Circuit Court—one of several courts in a given jurisdiction, which extend over one or more counties or districts.
- Complaint—in a civil action, the first pleading of the plaintiff setting out the facts on which the claim for relief is based.
- Consent—a voluntary agreement.
- Convict—one who has been determined by the court to be guilty of the crime charged.
- Court—the branch of government which is responsible for the resolution of disputes arising under the laws of the government.
- *Court of Common Pleas—Civil court; not a criminal court.
- Deliberate—to consider all of the evidence and arguments presented in regard to a particular matter.
- Deposition—a method of pre-trial discovery, which consists of a statement of a witness under oath, taken in question and answer form as it would be in court.
- *District Attorney—one who acts on behalf of the state in court.
- Docket—a list of cases on a court's calendar.
- Fiduciary—a person having a legal duty, created by his undertaking, to act primarily for the benefit of another in matters connected with his undertaking.
- Forbearance—act of declining, usually for a period of time, to enforce a legal right.
- Habeas Corpus—a procedure for obtaining a judicial determination of the legality of an individual's custody.

- Heirs—those whom statutory law would appoint to inherit an estate should the ancestor die without a will.
- Hung Jury—one whose members cannot reconcile their differences of opinions and therefore cannot reach a verdict by whatever degree of agreement is required.
- Insolvency—a financial condition in which one is unable to meet his obligations as they mature in the ordinary course of business or in which one's liabilities exceed his assets at any given time.
- Interrogation—informal term used to describe the process by which suspects are rigorously questioned by police.
- Judgement—the determination of a court of competent jurisdiction upon matters submitted to it.
- Jurisdiction—the power to hear and determine a case.
- Jurisprudence—the science of law and the study of the structure of legal systems.
- Jury—a group of people summoned and sworn to decide on the facts in issue at a trial.
- Justice—synonymous with judge. However, a judge of an appellate court is commonly given a formal title of “Justice.”
- Larceny—the taking of another's property unlawfully, with the intention of depriving the owner of its use.
- Letter of Credit—in commercial law, a promise by a bank or other issuer that it will honor on behalf of one of its customer's demands for payment, upon compliance with specified conditions.
- Litigants—the parties involved in a lawsuit.

- Motion—an application to the court requesting an order or rule in favor of the applicant.
- Naturalized Citizen—on whom, having been born in another country or otherwise reared as a foreigner, has been granted U. S. citizenship and the rights and privileges of that status.
- Oath—swearing to the truth of a statement.
- Opinion-- the reason given for a court's judgment, finding or conclusion, as opposed to the decision, which is the judgment itself.
- *Orphans Court—a court of law which acts on behalf of, and seeks to place, orphans.
- Pardon—an exercise of the sovereign prerogative of mercy, relieving the person on whom it is bestowed from further punishment and from legal disabilities because of the crime named.
- Plaintiff—the one who initially brings the suit and who seeks the actions of the court.
- Plea—a special answer indicating why a suit should be dismissed, delayed or barred.
- Procedure (civil procedure)—the legal method/ body of rules of practice to be adhered to in adjudicating a controversy before a court of civil, as opposed to criminal, jurisdiction.
- Prosecution—the act of pursuing a lawsuit or criminal trial.
- Prosecutor—a person who prepares and conducts the prosecution of persons accused of a crime.

- *Prothonotary—the senior clerk in a court.
- Sentence—the punishment ordered by a court to be inflicted upon a person convicted of a crime.
- Sequester—to separate from or to hold aside. Often imposed on juries.
- Subpoena—a writ issued under authority of a court to compel the appearance of a witness at a judicial proceeding.
- Suit—applies to any proceeding in a court of justice by which an individual pursues remedy, which the law affords.
- Summons—a mandate requiring the appearance of said defendant in said action under penalty of having judgment entered against him.
- Supreme Court—the United States Supreme Court is the highest court in the federal court system. Each state also has a Supreme Court, which acts as the last stop in the appeals process.
- Testify—to make a statement under oath.
- Tort—a wrong; a private or civil wrong or injury resulting from a breach of a legal duty that exists by virtue of society's expectations regarding interpersonal conduct, rather than by contract or other private relationship.
- Witness—one who gives evidence in a cause before a court and who attests or swears to facts or gives or bears testimony.
- Writ—a mandatory precept issued by the authority and in the name of the sovereign or the state for the purpose of compelling a person to do something therein mentioned.

* As defined by inference from Rawn's journals.