

ADDENDA AND ERRATA

AUTHOR'S NOTE: The legislature and secretary of state have been active since this law review article was published, and they have addressed virtually all of the concerns that I raised. I sincerely thank the *South Texas Law Review* for publishing such an atypical article and fostering interest in these state symbols.

More information on this topic can be found in *The Texas State Seal*, a pamphlet available from the office of the secretary of state, and from the entries "Flags of Texas," "Flags of the Texas Revolution," and "Seals of Texas," which appear in the Texas State Historical Association's *The New Handbook of Texas*.

Finally, I encourage everyone interested in flags and seals to join the North American Vexillological Association (NAVA), which is dedicated to the scientific and scholarly study of flags and their history and symbolism. For more information, write to NAVA, 1977 North Olden Avenue Extension, PMB 225, Trenton, New Jersey 08618-2193 USA.

1. In the first sentence of the first paragraph on page 216, replace "Russian Republic" with "Russian Federation."
2. In the first sentence of footnote 7 on page 218, insert "*reprinted in*" between "(1838)," and "1 H.P.N. GAMMEL."
3. In the first complete sentence of the first incomplete paragraph on page 219, replace "flags on Texas" with "flags of Texas."
4. In the third sentence of footnote 16 on page 219, replace "H.P. N." with "H.P.N." and replace "(existing laws inconsistent to 1836 Texas Constitution" with "(existing laws inconsistent with 1836 Texas Constitution."
5. In the last sentence of footnote 16 on page 219, replace "Constitution" with "constitution."
6. In the first sentence of footnote 17 on pages 219 and 220, replace the existing text with:

DEVEREAUX D. CANNON, JR., FLAGS OF THE

CONFEDERACY: AN ILLUSTRATED HISTORY 41-42 (1988); WILLIAM CRAMPTON, FLAGS OF THE UNITED STATES 47 (1989); [*220] DAUGHTERS OF THE REPUBLIC OF TEXAS, TEXAS AND ITS FLAGS 1 (1981); FLAGS OF THE WORLD 82 (E.M.C. Barraclough & W.E. Crampton eds., 1978); WILLIAM R. FURLONG & BYRON McCANDLESS, SO PROUDLY WE HAIL: THE HISTORY OF THE UNITED STATES FLAG 193 (Harold D. Langley ed., 1981); CHARLES E. GILBERT, JR., FLAGS OF TEXAS 74-75, 78 (1989); CHARLES E. GILBERT, JR., A CONCISE HISTORY OF EARLY TEXAS 1519 TO 1861, at 58-59, 61 (1964); MARK LLOYD, FLAGS OF THE UNITED STATES 47 (1990); WHITNEY SMITH, THE FLAG BOOK OF THE UNITED STATES 206-08 (rev. ed. 1975); STEVE VEAZEY & JOHN D. POTTER, JR., FLAGS IN THE HISTORY OF TEXAS 13 (1991); *see also* L.W. Kemp, *Official Flags of the Republic of Texas*, 59 SW. HIST. Q. 487, 487 (1956).

7. In the first sentence of footnote 18 on page 220, insert “the” between “with” and “Gallery.”
8. In footnote 24 on page 223, replace “(original in the custody of the State Library and Archives Commission); *reprinted in*” with “(original in the custody of the State Library and Archives Commission), *reprinted in*”.
9. In the last two sentences of footnote 26 on page 225, replace the existing text with “Two sources incorrectly state that the 1836 naval ensign was originally designed in 1819. WILLIAM CRAMPTON, FLAGS OF THE WORLD 132 (1990); WILLIAM CRAMPTON, THE COMPLETE GUIDE TO FLAGS 33 (1989).”
10. In the final parenthetical phrase of footnote 28 on page 225, replace “continue” with “continued.”
11. In footnote 38 on page 230, replace ““azure”, see” with ““azure,” see”.
12. Insert the following text at the end of footnote 41 on page 230:

In 1993, the legislature renamed the salute to the Texas flag as the pledge of allegiance to the Texas flag. Act of May 14, 1993, 73d Leg., R.S., ch. 300,

§ 2, 1993 Tex. Gen. Laws 1374, 1375 (Tex. Rev. Civ. Stat. Ann. art. 6139b (West Supp. 1995)).

13. Insert the following text after the last sentence of the first incomplete paragraph on page 230:

In 1993, the legislature passed a comprehensive act that, among other things, revised the description of the flag and specified that the red and blue colors in the flag are the same colors that are used in the United States flag.^{39.5} The 1993 Act also allows the governor to adopt a flag for the governor's official use.^{39.75} As of January 1995, the governor has not adopted such a flag.

^{39.5} Act of May 14, 1993, 73d Leg., R.S., ch. 300, § 1, 1993 Tex. Gen. Laws 1374, 1375 (Tex. Rev. Civ. Stat. Ann. art. 6139a (West Supp. 1995)).

^{39.75} Act of May 14, 1993, 73d Leg., R.S., ch. 300, § 4, 1993 Tex. Gen. Laws 1374, 1378 (Tex. Rev. Civ. Stat. Ann. art. 6139d (West Supp. 1995)).

14. In the text of the second and third sentences of footnote 42 on page 230, replace the existing text with “This erroneous information apparently came from Charles Gilbert's *A Concise History of Early Texas 1519 to 1861* and *Flags of Texas*. GILBERT, *A CONCISE HISTORY OF EARLY TEXAS*, *supra* note 17, at 69; GILBERT, *FLAGS OF TEXAS*, *supra* note 17, at 80.”

15. In the last sentence of footnote 44 on page 231, delete the existing comma between “R.S.” and “(1838).”

16. Insert the following text after the last sentence of the first complete paragraph on page 230:

In December 1992, the legislature passed a concurrent resolution to correct these errors.^{44.5}

^{44.5} The resolution is as follows:
WHEREAS, House
Concurrent Resolution 9 of the 71st
Legislature, Regular Session,
recognized Dr. Charles B. Stewart as
the designer of the Lone Star Flag;

and

WHEREAS, That same concurrent resolution acknowledged Lorenzo de Zavala, William B. Scates, Thomas Barnett, Sterling C. Robertson, Thomas J. Gazley, and Richard Ellis as the members of the committee that approved the Lone Star Flag design; and

WHEREAS, Subsequent historical research has revealed that the actual designer of the Lone Star Flag is unknown; and

WHEREAS, That same research has revealed that the six listed committee members were appointed in March 1836 by the General Convention at Washington-on-the-Brazos to design a national flag for the newly independent Republic of Texas, but that the General Convention apparently never adopted a national flag; and

WHEREAS, Senator William H. Wharton, who had originated Texas' first national flag, known as David G. Burnet's Flag, introduced a bill in the Texas Senate on December 28, 1838, containing the design for the Lone Star Flag; and

WHEREAS, Senator Wharton's bill was referred to a committee consisting of Senator Oliver Jones and two other senators whose identities are unknown, and that committee reported a substitute bill containing Senator Wharton's design; the legislation was passed by the Congress of the Republic of Texas on January 21, 1839, and approved by President Mirabeau B. Lamar on January 25, 1839; and

WHEREAS, The design for the Lone Star Flag enacted in 1839

remains unchanged to this day; and

WHEREAS, The legislature desires to honor the Texans instrumental in adopting the Lone Star Flag and to correct the unintentional historical errors in House Concurrent Resolution 9 of the 71st Legislature, Regular Session; now, therefore, be it

RESOLVED, That the 72nd Legislature of the State of Texas, Fourth Called Session, recognize Senator William H. Wharton and Senator Oliver Jones for their efforts in adopting this abiding symbol of our state's unity.

Tex. H.R. Con. Res. 9, 72d Leg., 4th C.S., 1992
Tex. Gen. Laws 24.

17. In the text of footnote 45 on page 231, insert “; VEAZEY & POTTER, *supra* note 17, at 15” after “SMITH, *supra* note 17, at 207”.
18. In footnote 51 on page 234, delete “CRAMPTON, *supra* note 17, at 47;”.
19. In the third complete sentence of the first complete paragraph on page 236, replace “1923” with “1923 and 1924.” In the first two sentences of footnote 59 on page 236, replace the existing text with “NATIONAL FLAG CONFERENCE, THE FLAG CODE (1923), *reprinted in* SCOT M. GUENTER, THE AMERICAN FLAG, 1777-1924, at 207-12 (1990); *see* FURLONG & MCCANDLESS, *supra* note 17, at 215; SMITH, *supra* note 17, at 80. The 1923-1924 flag code was the basis for the United States flag code.”
20. In the text at the end of footnote 62 on page 237, replace “(to be codified at Tex. Dep't of Educ., 19 TEX. ADMIN. CODE § 75.32(c)(3)) (social studies curriculum for second grade).” with the following:

(codified at Tex. Dep't of Educ., 19 TEX. ADMIN. CODE § 75.32(c)(3) (1994)), *amended by* Tex. Dep't of Educ., 17 Tex. Reg. 5197, 5199 (1992) (effective Aug. 6, 1992) (codified at Tex. Dep't of Educ., 19 TEX. ADMIN. CODE § 75.32(i)(4) (1994); supersedes

Tex. Dep't of Educ., 19 TEX. ADMIN. CODE § 75.32(c)(3) (1994) effective Sept. 1996) (social studies curriculum for second grade).

21. Insert the following text after the last sentence of the first complete paragraph on page 237:

In 1993, the legislature revised the laws about flag usage.^{65.5}

^{65.5} Act of May 14, 1993, 73d Leg., R.S., ch. 300, § 3, 1993 Tex. Gen. Laws 1374, 1375 (Texas Flag Code, Tex. Rev. Civ. Stat. Ann. art. 6139c (West Supp. 1995)).

22. Replace the text of footnote 73 on page 238 with the following:

TEX. BUS. & COM. CODE ANN. § 17.07 (West 1987). The Texas Department of Agriculture comes close to violating at least the spirit of this law with its "Taste of Texas emblem" (figure 8), defined as "[a] flag-shaped emblem bearing the words 'Taste of Texas' so colored as to closely model the flag of the state of Texas." Tex. Dep't of Agric., 9 Tex. Reg. 536, 562 (emerg. rule), *proposed* 9 Tex. Reg. 563, *adopted* 9 Tex. Reg. 1881 (1984) (effective Apr. 16, 1984), *amended by* Tex. Dep't of Agric., 14 Tex. Reg. 5301, *adopted* 14 Tex. Reg. 6251 (1989) (effective Dec. 11, 1989), *amended by* Tex. Dep't of Agric., 18 Tex. Reg. 277, *adopted* 18 Tex. Reg. 2623 (1993) (effective May 6, 1993) (codified at Tex. Dep't of Agric., 4 TEX. ADMIN. CODE § 17.51 (1994)). This concern was raised when the rule was proposed but was eventually rejected. Tex. Dep't of Agric., 9 Tex. Reg. 1881 (1984). In June 1992 the Texas State Lottery also ran afoul of the spirit of the law by printing the flag on the scratch-off portion of "instant winner" lottery tickets. See Todd J. Gillman, *Lottery Scratches Flag Design*, DALLAS MORNING NEWS, June 26, 1992, at A1; Dennis Baggett, *Mind Your Whites and Blues: Flag-wavers Get Red-Faced Only When Etiquette Falters*, DALLAS MORNING NEWS, July 5, 1992, at A44.

23. Insert the following text before the last sentence of the first incomplete paragraph on page 238:

A design cannot be registered as a trademark if it depicts or simulates the flag, coat of arms, or other insignia of the United States, a state, a municipality, or a foreign nation.^{73.5} Flags and state emblems are also protected by a multilateral treaty.^{73.75}

^{73.5} Act of Jan. 26, 1962, 57th Leg., 3d C.S., ch. 24, § 2, 1962 Tex. Gen. Laws 62, 63, *repealed and codified* by Business and Commerce Code, 60th Leg., R.S., ch. 785, sec. 1, § 16.08, sec. 4(c), 1967 Tex. Gen. Laws 2343, 2571 (codification), 2620 (repealer) (current version at TEX. BUS. & COM. CODE ANN. § 16.08(a) (West 1987)). The Texas statute is based on a similar provision in the federal trademark act. Act approved Feb. 20, 1905, ch. 592, § 5, 33 Stat. 724, 725, *amended* by Act approved Mar. 2, 1907, ch. 2573, § 1, 34 Stat. 1251, 1251, *amended* by Act approved Feb. 18, 1911, ch. 113, 36 Stat. 918, *amended* by Act approved Jan. 8, 1913, ch. 7, 37 Stat. 649, *amended* by Act approved Mar. 19, 1920, ch. 104, § 9, 41 Stat. 533, 535, *amended* by Act approved June 7, 1924, ch. 341, 43 Stat. 647, *repealed and codified* by Trademark Act of 1946, ch. 540, §§ 2, 46(a), 60 Stat. 427, 428 (codification), 444 (repealer), *amended* by Act approved Oct. 9, 1962, Pub. L. 87-772, § 2, 76 Stat. 769, 769, *amended* by Act approved Jan. 2, 1975, Pub. L. 93-596, § 1, 88 Stat. 1949, 1949, *amended* by Trademark Law Revision Act of 1988, Pub. L. 100-667, § 104, 102 Stat. 3935, 3938 (codified at 15 U.S.C. § 1052 (1988)). *See generally* *In re* United States Dep't of the Interior, 142 U.S.P.Q. 506 (BNA) (Pat. Office Trademark Trial & App. Bd. 1964) (defining what constitutes an insignia of the United States). The 1905 trademark statute was the earliest federal flag-protection law. It was enacted to prevent desecration of the flag, coat of arms, and related symbols by halting the registration of commercial trademarks that contained representations of those marks. *See* GUENTER, *supra* note 59 at 138-39 (1990).

^{73.75} Union Convention of Paris, March 20, 1883, for the Protection of Industrial Property, Nov. 6, 1925, art. 6^{ter}, 47 Stat. 1789, 1804, 74 L.N.T.S. 289, 304, *revised by* Union Convention of Paris, March 20, 1883, for the Protection of Industrial Property, June 2, 1934, art. 6^{ter}, 53 Stat. 1748, 1758, 192 L.N.T.S. 17, 34, *revised by* Convention of Paris for the Protection of Industrial Property of 20th March, 1883, *done* Oct. 31, 1958, art. 6^{ter}, 13 U.S.T. 1, 9, 828 U.N.T.S. 107, 128, *revised by* Paris Convention for the Protection of Industrial Property of March 20, 1883, *done* July 14, 1967, art. 6^{ter}, 21 U.S.T. 1583, 1593 (United States did not ratify articles 1-12), 24 U.S.T. 2140 (United States ratification of articles 1-12), 828 U.N.T.S. 305, 326.

24. Insert the following text after the last sentence of the first complete paragraph on page 238:

In 1993, the legislature repealed the 1913 flag protection act.^{75.5}

^{75.5} Act of May 14, 1993, 73d Leg., R.S., ch. 300, § 43, 1993 Tex. Gen. Laws 1374, 1386.

25. Insert the following text after the last sentence of the first incomplete paragraph on page 241:

In 1993, the legislature repealed the 1917 flag-desecration act.^{79.5}

^{79.5} Act of May 14, 1993, 73d Leg., R.S., ch. 300, § 43, 1993 Tex. Gen. Laws 1374, 1386.

26. Insert the following text after the last sentence of footnote 80 on page 241:

This Act was passed more than two months before a similar act was passed by Congress. *See* Act approved May 16, 1918, ch. 75, sec. 1, § 3, 40 Stat. 553, 553, *repealed by* Act approved Mar. 3, 1921, ch. 136, 41 Stat. 1359. The federal act required the existence of a state of war as a prerequisite for an offense.

27. In footnote 91 on page 244, replace “110 S. Ct. 2404” with “496 U.S. 310.”

28. Insert the following text after the last sentence of the first incomplete paragraph on page 244:

In March 1992 the El Paso Court of Appeals held the revised flag-desecration law to be unconstitutional, but the court invited the State to appeal to the United States Supreme Court in the hope that the retirement of Justices Brennan and Marshall would allow the Supreme Court the opportunity to overrule its opinions in *Texas v. Johnson* and *United States v. Eichman*.^{91.5} The court of criminal appeals refused to grant the State's petition for discretionary review, thus clearing the way for an appeal to the Supreme Court. In October 1992 the Supreme Court denied the State's petition for writ of certiorari, allowing the judgment of the El Paso Court of Appeals to stand.^{91.75} The Supreme Court's refusal to consider the *Jimenez* case appears to settle the flag-desecration issue once and for all.

^{91.5} *Johnson*, 491 U.S. 397 (1989); *Eichman*, 496 U.S. 310 (1990); *State v. Jimenez*, 828 S.W.2d 455 (Tex. App.—El Paso, pet. ref'd), *cert. denied*, 506 U.S. 917 (1992).

^{91.75} *Jimenez*, 828 S.W.2d 455 (Tex. App.—El Paso, pet. ref'd), *cert. denied*, 506 U.S. 917 (1992). The legislature in 1995 registered its continuing opposition to flag desecration petitioning the Congress to propose an amendment to the Constitution to protect “the American flag and 50 state flags from wilful desecration and exempting such desecration from constitutional construction as a First Amendment right.” Tex. S. Con. Res. 24, 74th Leg., R.S., 1995 Tex. Gen. Laws 6166, 6167.

29. In footnote 92 on page 244, replace “(J.P. Kimball trans. 1839)” with “(J.P. Kimball trans., Houston 1839).”

30. Insert the following footnote after the second sentence of the first complete paragraph on page 247:

^{99.5} Secretary of State Zollie Steakley accepted what appears to be the Martinez art as the true and correct state seal. 1960 TEX. ADJUTANT GEN. REP. 54. The original Martinez watercolor has apparently been lost, but reproductions of what may be the Martinez art appear on the cover of the *Texas Adjutant General's Department Annual Report* and in two 1960s magazines. 1961 TEX. ADJUTANT GEN. REP.; 1960 TEX. ADJUTANT GEN. REP.; *Texas One and Indivisible Has Spent More Than 100 Years Evolving Design for State Seal*, TEX. PUBLIC EMPLOYEE, Mar. 1964, at 28 (color art); John H. Jenkins, III, *The Seal of Texas*, 22 TEX. LIBRARIES 5, 8 (1960) (black-and-white art; attributed to Colonel M.H. Wilson). The *Texas Public Employee* article discusses the Schlattner art and does not mention Martinez's work, but the art depicted contains noticeable differences from the known Schlattner art, suggesting that it was painted by Martinez. The *Texas Public Employee* article was reprinted by some secretaries of state, e.g., John L. Hill, and distributed to the public in response to questions about the state seal.

31. Insert the following text after the first sentence of footnote 100 on page 247:

But see 1961 TEX. ADJUTANT GEN. REP. 62 (describing presentation of five Schlattner art watercolors to Governor Daniel, both houses of Texas Legislature, Texas Memorial Museum, and Mr. Travis Bryan of Bryan, Texas).

32. Insert the following text after the last sentence of the first incomplete paragraph on page 248:

The secretary of state officially adopted the committee's proposed design for the state seal and state arms in June 1992.^{102.25} In 1993, the legislature readopted the design of the state arms as law.^{102.5} The official art for the state seal and state arms was later published in the *Texas Register*.^{102.75} The official design for the state seal differs in minor respects from the proposed design shown in figure 11.

^{102.25} Letters from John Hannah, Jr., Secretary of State, to state agency heads (Mar. 12, 1993); *see* Lynn Ashby, *Texas Has One Seal, at Long Last*, HOUSTON POST, June 16, 1992, at A11.

^{102.5} Act of May 14, 1993, 73d Leg., R.S., ch. 300, § 6, 1993 Tex. Gen. Laws 1374, 1379 (Tex. Rev. Civ. Stat. Ann. art. 6139f (West Supp. 1995)).

^{102.75} Tex. Sec'y of State, 19 Tex. Reg. 711 (1994) (effective Feb. 14, 1994), *amended by* Tex. Sec'y of State, 19 Tex. Reg. 2343, *adopted* 19 Tex. Reg. 4251 (1994) (effective June 13, 1994) (codified at Tex. Sec'y of State, 1 TEX. ADMIN. CODE § 71.50 (1996)); *see* Act of May 14, 1993, 73d Leg., R.S., ch. 300, § 6, 1993 Tex. Gen. Laws 1374, 1379 (requiring secretary of state to adopt standard designs for state seal and state arms by rule).

33. In the text accompanying figure 11 on page 249, delete “©State of Texas. Used by permission.” The Office of the Secretary of State has decided not to pursue copyright registration of the state seal. Letter from John Hannah, Jr., Secretary of State, to Charles Spain (Mar. 17, 1992) (on file with the *South Texas Law Review*).

34. In the first incomplete sentence of the first incomplete paragraph on page 249, replace ““great seal”.” with ““great seal.””

35. Insert the following text after the last sentence of the first incomplete paragraph on page 249:

In 1993, the legislature changed all references in law to the “Great Seal of Texas” (or some similar description) to “state seal.”^{104.25} The secretary of state's office later changed all references in its rules to the “Great Seal of Texas” to “state seal of Texas”; the office refused to use merely “state seal” because “[t]his Office believes that including Texas in the definition adds clarification to the rules.”^{104.5} The author remains unclear what other states' seals the Office of the Secretary of State of Texas has jurisdiction over such that it is necessary to clarify that “state seal” means the Texas state seal.

^{104.25} Act of May 14, 1993, 73d Leg., R.S., ch. 300, §§ 8-42, 1993 Tex. Gen. Laws 1374, 1379-86.

^{104.5} Tex. Sec'y of State, 19 Tex. Reg. 711 (1994).

36. In the text accompanying figure 12 on page 250, delete “© 1992 State of Texas. Used by permission.” The Office of the Secretary of State has decided not to pursue copyright registration of the state arms. Letter from John Hannah, Jr., Secretary of State, to Charles Spain (Mar. 17, 1992) (on file with the *South Texas Law Review*).

37. Insert the following footnote after the first incomplete sentence on page 250:

^{104.75} Two sources erroneously state that the Daughters of the American Revolution proposed the design for the reverse of the state seal. CRAMPTON, *supra* note 17, at 47; LLOYD, *supra* note 17, at 47.

38. In footnote 105 on page 251, replace the existing text with:

Tex. H.R. Con. Res. 2, 57th Leg., 2d C.S., 1961 Tex. Gen. Laws 521; *see* Tex. Sec'y of State, 11 Tex. Reg. 2408 (emerg. rule), *proposed* 11 Tex. Reg. 2412, *adopted* 11 Tex. Reg. 3258 (1986) (effective July 29, 1986), *amended by* Tex. Sec'y of State, 12 Tex. Reg. 1807 (emerg. rule), *proposed* 12 Tex. Reg. 1809, *adopted* 12 Tex. Reg. 2566 (1987) (effective Aug. 24, 1987), *amended by* Tex. Sec'y of State, 15 Tex. Reg. 4427 (emerg. rule), *proposed* 15 Tex. Reg. 4429, *adopted* 15 Tex. Reg. 6187 (1990) (effective Nov. 7, 1990), *amended by* Tex. Sec'y of State, 19 Tex. Reg. 2343, *adopted* 19 Tex. Reg. 4251 (1994) (effective June 13, 1994) (codified at Tex. Sec'y of State, 1 TEX. ADMIN. CODE § 71.40 (1996)) (definition of reverse of seal). The art was designed in 1931 by architect Henry C. Wedemeyer, who worked on a commission from the Daughters of the Republic of Texas. A color photograph of the art appears in TEXAS LEGISLATIVE COUNCIL, *supra* note 100.

39. In the last two sentences of footnote 108 on page 252, replace the existing text with “The current fifty-star flag became official on

July 4, 1960. Exec. Order No. 10,834, § 31, 3 C.F.R. 367, 369 (1959-1963), reprinted in 4 U.S.C. § 1 (1988).”

40. Insert the following text after the last sentence of the first incomplete paragraph on page 253:

The secretary of state officially adopted the committee's proposed design for the reverse of the state seal in June 1992.^{112.5} The official art was later published in the *Texas Register*.^{112.75}

^{112.5} Letters from John Hannah, Jr., *supra* note 102.25; *see* Ashby, *supra* note 102.25.

^{112.75} Tex. Sec'y of State, 19 Tex. Reg. 2343, adopted 19 Tex. Reg. 4251 (1994) (effective June 13, 1994) (codified at Tex. Sec'y of State, 1 TEX. ADMIN. CODE § 71.50 (1996)); *see* Act of May 14, 1993, 73d Leg., R.S., ch. 300, § 6, 1993 Tex. Gen. Laws 1374, 1379 (requiring secretary of state to adopt standard design for reverse of state seal). In 1996, the Texas Historical Commission adopted standard designs for the historical six flags over Texas which largely follow the flag art used in the reverse of state seal. Tex. Hist. Comm'n, 22 Tex. Reg. 5959 (1997).

41. Insert the following text after the last sentence of the first complete paragraph on page 253:

In 1993, the legislature adopted the design of the reverse of the state seal as law.^{114.5}

^{114.5} Act of May 14, 1993, 73d Leg., R.S., ch. 300, § 6, 1993 Tex. Gen. Laws 1374, 1379 (Tex. Rev. Civ. Stat. Ann. art. 6139f (West Supp. 1995)).

42. In the text accompanying figure 14 on page 254, delete “© 1992 State of Texas. Used by permission.” The Office of the Secretary of State has decided not to pursue copyright registration of the reverse of the state seal. Letter from John Hannah, Jr., Secretary of State, to Charles Spain (Mar. 17, 1992) (on file with the *South Texas Law Review*).

43. In footnote 115 on page 254, replace the existing text with:

Act approved May 12, 1846, 1st Leg., R.S., § 7, 1846 Tex. Gen. Laws 232, 234, *reprinted in* 2 H.P.N. GAMMEL, THE LAWS OF TEXAS 1822-1897, at 1538, 1540 (Austin, Gammel Book Co. 1898), *repealed and codified by Revised Statutes*, 16th Leg., R.S., § 1, art. 3952, § 4, 1879 Tex. Rev. Civ. Stat. 2, 565 (codification), 718 (repealer), *repealed and recodified by Revised Statutes*, 24th Leg., R.S., § 1, art. 4175, § 4, 1895 Tex. Rev. Civ. Stat. 1, 821 (codification), 1103 (repealer), *repealed and recodified by Revised Statutes*, 32d Leg., R.S., § 1, art. 5361, § 4, 1911 Tex. Rev. Civ. Stat. 2, 1118 (codification), 1719 (repealer), *repealed and recodified by Revised Statutes*, 39th Leg., R.S., § 1, art. 5404, § 2, 1925 Tex. Rev. Civ. Stat. 2, 1523 (codification), 2419 (repealer), *repealed and recodified by Natural Resources Code*, 65th Leg., R.S., ch. 871, sec. 1, § 51.243(a), sec. 2(a)(1), 1977 Tex. Gen. Laws 2345, 2436 (codification), 2689 (repealer) (current version at TEX. NAT. RES. CODE ANN. § 51.243(a) (West 1978)); *see* Act of Apr. 29, 1943, 48th Leg., R.S., ch. 247, § 1, 1943 Tex. Gen. Laws 368, 369 (current version at TEX. REV. CIV. STAT. ANN. art. 5421c-6 (West 1962)) (ratifying and validating certain patents).

44. On line one of footnote 120 on page 256, replace “(see State Secs. Bd., 7 TEX. ADMIN. CODE § 127.3 (1988) (effective Jan. 1, 1976) (“state seal” as used in section 30 of The Securities Act includes seal of State Securities Board))” with “(see State Secs. Bd., 7 TEX. ADMIN. CODE § 127.3 (1988) (effective Jan. 1, 1976), *amended by* State Secs. Bd., 18 Tex. Reg. 9039 (1993), *error corrected* 19 Tex. Reg. 128, *adopted* 19 Tex. Reg. 1543 (1994) (effective Mar. 17, 1994) (“state seal” as used in section 30 of The Securities Act includes seal of State Securities Board)).”

45. On line thirteen of footnote 121 on page 256, replace “see Tex. Sec’y of State, 1 TEX. ADMIN. CODE § 71.8(b) (1988) (effective Jan. 1, 1976) (certification under state seal of document on file in office of secretary of state)” with “see Tex. Sec’y of State, 1 TEX. ADMIN. CODE § 71.8(b) (1988) (effective Jan. 1, 1976) (certification under state seal of document on file in office of secretary of state), *amended by* Tex. Sec’y of State, 19 Tex. Reg. 6761 (1994) (effective Oct. 1, 1994).”

46. In footnote 124 on page 257, replace “Act of May 31, 1987, 70th Leg., R.S., ch. 899, sec. 1, § 255.006, 1987 Tex. Gen. Laws 2995, 3027 (current version at TEX. ELEC. CODE ANN. § 255.006 (West Supp. 1992)).” with “Act of May 31, 1987, 70th Leg., R.S., ch. 899, sec. 1, § 255.006, 1987 Tex. Gen. Laws 2995, 3027 (current version at TEX. ELEC. CODE ANN. § 255.006 (West Supp. 1992)); *see* Tex. Ethics Comm'n, 18 Tex. Reg. 9746 (1993) (effective Dec. 31, 1993) (codified at Tex. Ethics Comm'n, 1 TEX. ADMIN. CODE § 26.13(c) (1996).”

47. Insert the following text after the last sentence of the first incomplete paragraph on page 257:

The symbolism of state and national symbols, which presumably includes the state seal, must be taught to Texas children in elementary school.^{124.5}

^{124.5} Tex. Dep't of Educ., 9 Tex. Reg. 3321, 3337 (1984) (effective June 21, 1984) (codified at Tex. Dep't of Educ., 19 TEX. ADMIN. CODE § 75.28(b)(3)), *repealed by* Tex. Dep't of Educ., 16 Tex. Reg. 5957, *adopted* 16 Tex. Reg. 7011 (1991) (effective Dec. 23, 1991); Tex. Dep't of Educ., 16 Tex. Reg. 5957, 6020, *adopted* 16 Tex. Reg. 7089 (1991) (effective Dec. 23, 1991) (codified at Tex. Dep't of Educ., 19 TEX. ADMIN. CODE § 75.32(b)(3) (1994)), *amended by* Tex. Dep't of Educ., 17 Tex. Reg. 5197, 5198 (1992) (effective Aug. 6, 1992) (codified as Tex. Dep't Educ., 19 TEX. ADMIN. CODE § 75.32(h)(4) (1994)); supersedes Tex. Dep't of Educ., 19 TEX. ADMIN. CODE § 75.32(b)(3) (1994) effective Sept. 1996) (social studies curriculum for first grade).

48. In the second paragraph of footnote 125 on pages 257 and 258, replace the existing text with:

Three attorney general opinions exist interpreting the 1955 law. Op. Tex. Att'y Gen. Nos. WW-91 (1957) (1955 law prohibits use of the state seal as a lounge car decoration on a Texas Zephyr passenger train), WW-1355 (1962) (1955 law does not prohibit use of the state seal on stationery mailed by a [*258] state official for the purpose of campaigning), H-694 (1975) (sheriff or constable

may not send an eviction notice on stationary containing the state seal); *see also* Op. Tex. Att'y Gen. No. O-3597, *supra* note 71.

49. Insert the following text after the first incomplete sentence of the first incomplete paragraph on page 258:

In 1993, the legislature broadened the list of exceptions to what constitutes a commercial use of the state seal.^{126.25} A design cannot be registered as a trademark if it depicts or simulates the flag, coat of arms, or other insignia of the United States, a state, a municipality, or a foreign nation.^{126.5} Flags and state emblems are also protected by a multilateral treaty.^{126.75}

^{126.25} Act of May 14, 1993, 73d Leg., R.S., ch. 300, § 8, 1993 Tex. Gen. Laws 1374, 1380 (Tex. Bus. & Com. Code Ann. § 17.08 (West Supp. 1995)); Tex. Sec'y of State, 18 Tex. Reg. 7897 (1993), *adopted* 19 Tex. Reg. 711 (1994) (effective Feb. 14, 1994) (codified at Tex. Sec'y of State, 1 TEX. ADMIN. CODE §§ 71.40-.42, .45, .46, .48 (1996)).

^{126.5} Act of Jan. 26, 1962, 57th Leg., 3d C.S., ch. 24, § 2, 1962 Tex. Gen. Laws 62, 63, *repealed and codified by* Business and Commerce Code, 60th Leg., R.S., ch. 785, sec. 1, § 16.08, sec. 4(c), 1967 Tex. Gen. Laws 2343, 2571 (codification), 2620 (repealer) (current version at TEX. BUS. & COM. CODE ANN. § 16.08(a) (West 1987)); *see supra* note 73.5.

^{126.75} *Supra* note 73.75; International Protection of Government Emblems and Seals, 41 Fed. Reg. 35,741 (1976) (intent of Patent and Trademark Office to forward state seals listed in *Seals and Other Devices in Use at the Government Printing Office* to World Intellectual Property Organization (WIPO) for protection under Paris Convention); *see* SEALS AND OTHER DEVICES IN USE AT THE GOVERNMENT PRINTING OFFICE 75 (1975) (illustrating Texas state seal).

50. Insert the following text after the last sentence of the first

incomplete paragraph on page 259:

In 1993, the legislature changed the references to the secretary of state's seal to the state seal.^{133.5}

^{133.5} Act of May 14, 1993, 73d Leg., R.S., ch. 300, §§ 17, 18, 19, 20, 23, 29, 38, 1993 Tex. Gen. Laws 1374, 1382-85.

ABBREVIATIONS

AUTHOR'S NOTE: Most of the materials in this list are available at larger law libraries, i.e., law school libraries. A few items may only be available from the Legislative Reference Library or the Texas State Library in Austin, Texas, e.g., Republic of Texas Senate Committee Report, Texas Adjutant General's Department Annual Report, *Texas Heritage*, *Texas Libraries*, *Texas National Dispatch*, and *Texas Public Employee*.

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| app. | Appendix |
| art. | Article |
| cert. denied by the | Petition for writ of certiorari denied United States Supreme Court |
| ch. | Chapter |
| C.F.R. Regulations | United States Code of Federal Regulations |
| C.S. Comm. | Called Session Committee |
| Cong. Exec. Order | Congress Executive Order of the President of the United States |
| Fed. Reg. | <i>Federal Register</i> |
| H.J. OF REPUB. OF TEX. | House of Representatives Journal of the Republic of Texas |
| H.J. OF TEX. | Texas House of Representatives Journal |
| L.N.T.S. Leg. | League of Nations Treaty Series Legislature |
| Op. Tex. Att'y Gen. General | Opinion of the Texas Attorney General |
| Pat. Office Trademark Trademark | United States Patent Office Trademark |
| Trial & App. Bd. | Trial and Appeals Board |
| pet. ref'd refused by Appeals of Texas | Petition for discretionary review the Court of Criminal Appeals of Texas |
| pts. R.S. | Parts Regular Session |
| REPUB. TEX. CONST. | Republic of Texas Constitution |
| Repub. Tex. Laws | Republic of Texas Laws |
| Repub. Tex. S.B. | Republic of Texas Senate Bill |

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| REPUB. TEX. SENATE Report | Republic of Texas Senate Committee |
| COMM. REPORT | |
| res. | Resolution |
| S. Ct. | <i>Supreme Court Reporter</i> [unofficial reporter for the United States Supreme Court] |
| S.J. OF REPUB. OF TEX. | Senate Journal of the Republic of Texas |
| S.W.2d | <i>South Western Reporter, Second Series</i> [unofficial reporter for Texas state appellate courts] |
| Stat. Supp. | United States Statutes at Large Supplement |
| SW. HIST. Q. | <i>Southwestern Historical Quarterly</i> [published by the Texas State Historical Association] |
| tbl. | Table |
| Tex. | Texas Supreme Court; <i>Texas Reports</i> [former official reporter for the Texas Supreme Court] |
| TEX. ADJUTANT GEN. REP. | Texas Adjutant General's Department Annual Report |
| TEX. ADMIN. CODE | Texas Administrative Code |
| TEX. AGRIC. CODE ANN. | Texas Agriculture Code Annotated |
| Tex. Alco. Bev. Comm'n Commission | Texas Alcoholic Beverage |
| TEX. B.J. | <i>Texas Bar Journal</i> [published by the State Bar of Texas] |
| Tex. Bd. of Barber Exam. | Texas Board of Barber Examiners |
| Tex. Bd. of Private Invest. and & Private Sec. Agencies | Texas Board of Private Investigators Private Security Agencies |
| TEX. BUS. & COM. CODE ANN. Commerce Code | Texas Business and Annotated |
| TEX. BUS. CORP. ACT ANN. Annotated | Texas Business Corporation Act Annotated |
| TEX. CODE CRIM. PROC. ANN. Procedure Annotated | Texas Code of Criminal Procedure Annotated |
| TEX. CONST. | Texas Constitution |
| Tex. Crim. | <i>Texas Criminal Reports</i> [former official reporter of the Court of Criminal Appeals of Texas] |

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| Tex. Crim. App. | Court of Criminal Appeals of Texas |
| 1879 Tex. Crim. Stat. | 1879 Texas Criminal Statutes |
| 1895 Tex. Crim. Stat. | 1895 Texas Criminal Statutes |
| 1911 Tex. Crim. Stat. | 1911 Texas Criminal Statutes |
| 1925 Tex. Crim. Stat. | 1925 Texas Criminal Statutes |
| Tex. Dep't of Agric. | Texas Department of Agriculture |
| Tex. Dep't of Educ. | Texas Department of Education |
| TEX. ELEC. CODE ANN. Annotated | Texas Election Code |
| TEX. EDUC. CODE ANN. Annotated | Texas Education Code |
| Tex. Gen. Laws | Texas General Laws (before 1941); Texas General and Special Laws (after 1940) |
| Tex. Gen. & Spec. Laws (before | Texas General and Special Laws 1941) |
| TEX. GOV'T CODE ANN. Annotated | Texas Government Code |
| TEX. H.J. Journal | Texas House of Representatives |
| Tex. H.R. Con. Res. Concurrent | Texas House of Representatives Resolution |
| TEX. HEALTH & SAFETY Code | Texas Health and Safety Code |
| CODE ANN. | Annotated |
| TEX. HERITAGE | <i>Texas Heritage</i> [formerly published by the Texas Heritage Foundation] |
| TEX. LIBRARIES | <i>Texas Libraries</i> [published by the Texas State Library] |
| TEX. NAT. RES. CODE ANN. Annotated | Texas Natural Resources Code |
| TEX. NAT'L DISPATCH | <i>Texas National Dispatch</i> [formerly published by the Texas 1986 Sesquicentennial Commission] |
| TEX. PARKS & WILD. CODE ANN. | Texas Parks and Wildlife Code Annotated |
| TEX. PENAL CODE ANN. | Texas Penal Code Annotated |
| Tex. Provisional Gov't Government Ordinances Ordinances & Decrees | Texas Provisional and Decrees |
| TEX. PROVISIONAL GOV'T PLAN Government Plan | Texas Provisional Government Plan |

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| & POWERS | and Powers |
| TEX. PUBLIC EMPLOYEE | <i>Texas Public Employee</i> [published by the Texas State Employees Association] |
| Tex. Reg. | <i>Texas Register</i> |
| 1879 Tex. Rev. Civ. Stat. | 1879 Texas Revised Civil Statutes |
| 1895 Tex. Rev. Civ. Stat. | 1895 Texas Revised Civil Statutes |
| 1911 Tex. Rev. Civ. Stat. | 1911 Texas Revised Civil Statutes |
| 1925 Tex. Rev. Civ. Stat. | 1925 Texas Revised Civil Statutes |
| TEX. REV. CIV. STAT. ANN. Annotated | Texas Revised Civil Statutes |
| Tex. S. Con. Res. | Texas Senate Concurrent Resolution |
| TEX. S.J. | Texas Senate Journal |
| Tex. Sec'y of State | Texas Secretary of State |
| TEX. TAX CODE ANN. | Texas Tax Code Annotated |
| TEX. WATER CODE ANN. | Texas Water Code Annotated |
| TEX. WATER CODE AUX. LAWS Laws | Texas Water Code Auxiliary |
| U.N.T.S. | United Nations Treaty Series |
| U.S. | <i>United States Reports</i> [official reporter for the United States Supreme Court] |
| U.S.C. | United States Code |
| U.S. CONST. | United States Constitution |
| U.S.P.Q. (BNA) [unofficial Bureau of National Affairs] | <i>United States Patents Quarterly</i> reporter published by the Affairs] |
| U.S.T. International West | United States Treaties and Other Agreements West Publishing Company |

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