LaWand History Review

Law and History Review

Editor
Michael Grossberg
Indiana University
Book Review Editor
Christopher Tomlins
American Bar Foundation

Law and History Review (ISSN 0738-2480) is published twice a year, in spring and fall, by the University of Illinois Press for the American Society for Legal History. The purpose of the Review is to further research and writing in the fields of the social history of law and the history of legal ideas and institutions.

The Review is sent to all members of the American Society for Legal History. Information about membership in the Society appears on the inside back cover of this issue.

Address all business inquiries (subscriptions, membership applications, back-issue orders, advertisements, and change-of-address notices) to the Journals Department, University of Illinois Press, 1325 South Oak Street, Champaign, Illinois 61820. Requests for replacement of damaged or undelivered issues will be honored for up to six months after publication of the issue.

Address manuscript submissions and books for review to Christopher Tomlins, American Bar Foundation, 750 North Lake Shore Drive, Chicago, Illinois 60611. Instructions for preparation of manuscripts are printed on page ii.

For authorization to photocopy from Law and History Review for uses exceeding those permitted by Sections 107 and 108 of the U.S. Copyright Law, contact the Copyright Clearance Center (CCC), 222 Rosewood Drive, Danvers, MA 01923. The CCC will send an invoice for permissions fees. Permissions given above do not extend to copying for advertising or promotional purposes or to creating new collective works.

© 1996 by the Board of Trustees of the University of Illinois. Manufactured in the United States of America.

This journal is printed on acid-free paper.

Law and History Review

Volume 14, Number 1

Spring 1996

Published twice a year by the University of Illinois Press for the American Society for Legal History

Editorial Board

Constance Backhouse University of Western Ontario

Michael Les Benedict Ohio State University

Elaine Clark
University of Michigan,
Dearborn

Cornelia Dayton
University of California,
Irvine

Tony Freyer University of Alabama

Christian Fritz
University of New
Mexico

Cynthia Herrup Duke University

Herbert Hovenkamp University of Iowa

Paul R. Hyams Cornell University

William Jones
Washington University

Laura Kalman
University of California,
Santa Barbara

Linda Kerber University of Iowa

Michael Klarman University of Virginia

David Konig Washington University

Brian Levack University of Texas

Bruce Mann University of Pennsylvania

Charles McCurdy
University of Virginia

John P. S. McLaren University of Victoria

Kent Newmyer University of Connecticut

John Orth
University of North
Carolina

Lawrence Poos
Catholic University of
America

W. Wesley Pue University of British Columbia

Stephen Siegel
DePaul University

A. W. Brian Simpson University of Michigan

Susan Staves Brandeis University

Robert Steinfeld State University of New York, Buffalo

Emily Z. Tabuteau Michigan State University

Brian Young McGill University

Note to Contributors

The editors welcome unsolicited manuscripts, books for review, and suggestions concerning Law and History Review. Manuscripts should be submitted to Christopher Tomlins, American Bar Foundation, 750 North Lake Shore Drive, Chicago, Illinois 60611. The text should be typed, double-spaced, on 8½ x 11" paper with ample margins on all sides. Type on one side of the paper only. Footnotes should be typed double-spaced and separate from the text, and should conform to either the style found in the Chicago Manual of Style (14th ed.) or to A Uniform System of Citation (15th ed.); the Chicago Manual is preferred. Authors of accepted manuscripts should contact the editorial office regarding computer compatibility. Because of the commitment we ask of our outside referees, Law and History Review cannot consider for publication manuscripts that have been submitted to other journals. A submission to the Review carries with it the implicit promise that the author will not submit the manuscript elsewhere while it is under consideration by Law and History Review.

Contents

Law and History Review	Vol. 14, No. 1, Spring 1	996
Articles		
Rights Talk in Canada in the Late Nineteent Sense and Right Feeling of the People" Richard Risk and Robert C. Vipond	h Century: "The Good	1
Written Law and Unwritten Norms in Color Stuart Banner	nial St. Louis	33
"The Marriage Covenant is at the Foundation The Politics of Slave Marriages in North Ca Emancipation Laura F. Edwards	-	81
Book Reviews		
Narrative, Violence, and the Law: The Essa; —Martha Minow, Michael Ryan, and Austin		125
Law's Violence—Austin Sarat and Thomas I reviewed by John Henry Schlegel	R. Kearns, editors	
Women, Crime, and Custody in Victorian Enreviewed by Adrian Howe	agland—Lucia Zedner	128
Inventing Criminology: Essays on the Rise of —Piers Beirne	of 'Homo Criminalis'	131
Apprehending the Criminal: The Production Nineteenth-Century Discourse—Marie-Chri reviewed by Martin J. Wiener	-	
Emancipation: The Making of the Black Law —J. Clay Smith Jr. reviewed by Aaron Porter	wyer, 1844–1944	136
Making Civil Rights Law: Thurgood Marsha Court, 1936–1961—Mark V. Tushnet reviewed by Martha F. Davis	all and the Supreme	139
Julius Stone: An Intellectual Life—Leonie S	Star	141

—G. Edward White	143
The Legacy of Oliver Wendell Holmes, Jr. —Robert W. Gordon, editor	
Holmes-Sheehan Correspondence: Letters of Justice Oliver Wendell Holmes, Jr. and Canon Patrick Augustine Sheehan —David Burton reviewed by Laura Kalman	
Dead Laws for Dead Men: The Politics of Federal Coal Mine Health and Safety Legislation—Daniel J. Curran reviewed by Eric Tucker	148
Courting Danger: Injury and Law in New York City, 1870–1910 —Randolph E. Bergstrom reviewed by Arthur F. McEvoy	151
Wife and Widow in Medieval England —Sue Sheridan Walker, editor reviewed by Andrea Bessac Maxeiner	153
Women and Property in Early Modern England —Amy Louise Erickson reviewed by Eileen Spring	155
The Constitutional Thought of Thomas Jefferson—David N. Mayer reviewed by David Schultz	157
Common Law and Liberal Theory: Coke, Hobbes, and the Origins of American Constitutionalism—James R. Stoner Jr. reviewed by Sylvia Snowiss	159
The Key of Liberty: The Life and Democratic Writings of William Manning, "A Laborer," 1747–1814—Michael Merrill and Sean Wilentz, editors reviewed by Barbara Clark Smith	161
Policing Athens: Social Control in the Attic Lawsuits, 420–320 B.C. —Virginia J. Hunter reviewed by William James Booth	164
Justice upon Petition: The House of Lords and the Reformation of Justice, 1621–1675—James S. Hart reviewed by Brian P. Levack	165

Flanders, 1323–1328—William H. TeBrake reviewed by June Starr	167
Palatines, Liberty, and Property: German Lutherans in Colonial British America—A. G. Roeber reviewed by Richard Ross	170
Pillars of Salt, Monuments of Grace: New England Crime Literature and the Origins of American Popular Culture, 1674–1860 —Daniel A. Cohen reviewed by David Ray Papke	173
After the Trail of Tears: The Cherokee Struggle for Sovereignty, 1839–1880—William G. McLoughlin reviewed by Sharon Lynn O'Brien	176
Rugged Justice: The Ninth Circuit Court of Appeals and the American West, 1891–1941—David C. Frederick reviewed by Clare V. McKanna Jr.	178
Un-American Activities: The Trials of William Remington —Gary May reviewed by Arthur J. Sabin	179
Policing and Punishment in China—Michael R. Dutton reviewed by Ta-ling Lee	181
Doctors and the Law: Medical Jurisprudence in Nineteenth-Century America—James C. Mohr reviewed by Barbara Y. Welke	185
The Construction of Authorship: Textual Appropriation in Law and Literature—Martha Woodmansee and Peter Jaszi, editors reviewed by Diane Parkin-Speer	187
Stories of Scottsboro—James Goodman reviewed by Elizabeth Dale	189
Hate Speech: The History of an American Controversy —Samuel Walker reviewed by AnnJanette Rosga	191
Alternative Tracks: The Constitution of American Industrial Order, 1854–1917—Gerald Berk reviewed by Herbert Hovenkamp	193

Whaling Will Never Do for Me: The American Whaleman in the Nineteenth Century—Briton Cooper Busch reviewed by Michael Quinlan	196
Fragile Lives: Violence, Power and Solidarity in Eighteenth-Century Paris—Arlette Farge	198
Law, Magistracy, and Crime in Old Regime Paris, 1735–1789, vol. 1, The System of Criminal Justice—Richard Mowery Andrews reviewed by Thomas Brennan	
Dublin Hanged: Crime, Law Enforcement and Punishment in Late Eighteenth-Century Dublin—Brian Henry reviewed by David Philips	201
In Search of Equality: The Chinese Struggle against Discrimination in Nineteenth-Century America—Charles J. McClain reviewed by Elizabeth Higginbotham	203
Households: On the Moral Architecture of the Economy —William James Booth reviewed by William J. Novak	206
Crime and Punishment in American History —Lawrence M. Friedman reviewed by Allen Steinberg	209