might remember, however, that Peter Alley and his fellow “hacks” contributed to the evolution of those modern rules of evidence Bentley wishes to preserve; more importantly, they saved innocent men from the gallows, the convict ship, and the prison. Sham solicitors and the more disreputable of their legitimate brethren were indeed a problem, but the emergence of the highly respectable dedicated attorney, James Harmer, in the opening decades of the nineteenth century should not go unremarked. Moreover, anecdotal evidence to the effect that briefs often consisted of little but copies of the depositions cannot be trusted as conveying the whole truth. The dearth of solicitors’ papers makes it difficult to determine what routinely went into a brief. The evidence of those that survive, however, and of counsels’ line of attack when in court, suggests that the solicitor’s investigation of the facts of a case and his instructions for the way in which the prosecution or defense should proceed could be vital to the outcome of a trial. There is equally evidence to suggest that counsel in some instances had neither the time nor the inclination to study the briefs provided: James Scarlett admitted to having adopted early in his legal career the habit of interrogating attorneys rather than reading their briefs and claimed he had not read “one brief in ten” of the most important cases he was engaged in in quarter sessions (Peter Campbell Scarlett, A Memoir of the Right Honourable James, First Lord Abinger [London, 1877], 62).

In attempting a survey of the complicated workings of the nineteenth-century criminal trial, David Bentley set himself an ambitious task and he has not entirely succeeded. *English Criminal Justice* would have benefited from a more critical attitude toward his primary sources (opinions expressed in the legal periodical press cannot always be relied upon as “the truth”), recourse to newspapers other than *The Times*, and a much more extensive use of secondary sources. References to the secondary literature are thin on the ground, and, while a list of cases referred to is provided, a bibliography is not. It is also clear that Bentley is more interested in rules of evidence than in advocacy; nine of his twenty-six chapters are devoted to evidentiary issues whereas the rise of adversarialism and the ethics of advocacy in the criminal courts, key issues in the nineteenth century, are entirely ignored. He is to be praised, however, for providing in chapter 12 a valuable reminder of the “cruel irrelevance” of a Prisoners’ Counsel Act that made no provision for legal aid. If the result of Bentley’s efforts is not a perfect survey, he has nonetheless provided a useful one and added considerably to our knowledge of the criminal trial in nineteenth-century England.

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This book is a history of the origin and regulation of the earliest securities markets in England and then in the United States. It is primarily a legal history which traces attempts to define the nature of a new form of property, but just as impo-
tantly it employs a wide range of fascinating literary material drawn from pamphlets and plays which commented on the new world of the stock market and stock-jobbing. It begins with the emergence of continual trading in stocks in England in the 1690s and then goes on to deal with the effect of the South Sea Bubble on English law and subsequent securities regulation in the eighteenth century. Here the examination of England ends, and the focus shifts to post-revolutionary America, tracing the links between the development of stock trading in the new United States with precedents which were learned from England. Attitudes to trading by the various state governments after the revolutionary wars are examined in the context of the huge paper currency debts which had been left in its wake. The book then traces American securities laws and regulation to 1860 where the narrative ends because, as Banner explains, the period after the Civil War saw a massive expansion in the activity of the stock market.

This book will be of great interest not only to legal historians but to social and economic historians as well. It contains one of the best and most succinct descriptions of the practice of early stock-jobbing as it developed in the first years of the eighteenth century in Exchange Ally. Banner describes the emergence of time bargains, calls and refuses, leading to the concepts of bear and bull markets, and shows how different this sort of bargaining, based on the ability to predict future price movements, was from traditional food markets where regulation and the concept of a public market price set by the magistrate were important. Although stocks had been around since the advent of joint stock companies over one hundred years previously, the expansion of their number in the 1690s led to increased trading. This in turn led to stock-jobbing, and the result was much critical comment on this new form of exchange. Here Banner includes a wide range of fascinating literary and pamphlet material dealing with the practices of buying and selling stocks which many saw as an equivalent to gambling. Stock jobbing was condemned as an inherently dangerous practice which encouraged deceit and false dealing because the value which was being traded in the stocks had little physical reality beyond the simple hope of rapid profit for little effort. This stood in stark contrast with older notions of wealth based on personal credit, where a reputation for honesty and probity in paying debts was crucial to the working of the economy, and where justice and fairness in an exchange was a central economic concept. The new trading in stocks also emerged out of a world in which investment interest had only come to be accepted based on its utility, against religious opinions which saw it as uncharitably usury. Thus, it is not surprising that many saw the profit motive behind time bargains as simply a form of gambling, and the South Sea Bubble—where investment seemed to have become unattached to any form of prudence or ethical behavior—seemed to bear out such fears because so many were eager to gamble in this fashion in hopes of what seemed like an easy profit.

The South Sea Bubble enticed a very large number of people to invest without considering where the “capital” could be earned to finance the wealth which the stocks were to represent. Ideally an informed stock market will set a value on a company’s stocks based in investors, or their representatives’ judgment about the company’s ability to make a profit. But such information was an impossibility in the early eighteenth century because of the fact that risk still played a large role in
any overseas trading adventure. In this light it is not surprising that the Bank of England was the most successful of the new companies because its ability to pay interest on its stock was based on Parliament’s willingness to vote taxation rather than the vagaries of a competitive marketplace. In this light the maintenance of the East India Company’s monopoly trading privileges also played a vital role in its continuing success.

The book is perhaps most important because, although there have been other works looking at the economic organization of the early stock market, and also the effects of the South Sea Bubble, it offers a comprehensive history of stocks as a nature of property. Stocks were a new form of property and, as the title of the book suggests, one in which “security” had to be constructed because trust in stocks was radically different from older interpersonal trust. They were also different from older forms of financial property such as bonds, and also real property, because they were very rapidly transferable and difficult to equate with personality and reputation. Trust was instead based on the profitability of joint stock companies, and the fact that all who bought the stocks had an interest in such profit. But as the South Sea Bubble, and the later American crash of 1792 showed, such trust could evaporate very rapidly because so much emphasis was placed on anticipation. As a result, in the Bubble Act and later Barnard’s Act in England, and state legislation in America, legislators attempted to ban the practices of time bargains, which promoted making a profit out of anticipation (whether positive or negative), and to limit stock trading to practices more like other sales bargains. But Banner argues that such attempts at legislation were rarely enforced in the courts because it was too easy for stock-jobbers to deal in private, leaving little evidence of the transaction. This meant that self-regulation among traders and jobbers became a more important factor in creating confidence in the system. This was especially true in the early nineteenth-century United States where stocks were not considered a type of property which could be sued for in common law courts and were thus quite insecure as a form of debt. Banner includes an entire final chapter examining how the New York Stock and Exchange Board used self-regulation to create such trust in the system, by making public the names of those who did not fulfill their bargains in the purchases and sales of stock. In this way professional reputation was created over time to replace the older notion of personal trust. But it is important to note that in both English and American cases the importance of self-regulation was learned the hard way: through the experience of financial crashes brought about by over-speculation.

This is an excellent book from which much can be learned about the development of a vital form of modern property. It ends by arguing how similar present day concerns about stock market regulation are to those of the period it discusses, and although it would have been interesting if the author had made some short comment about any similarities or differences of developments in England in comparison to the United States after 1790, the book will be of great interest to historians of both countries.

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