

Law and History Review

Law and History Review

Editor

Christopher Tomlins
American Bar Foundation

Associate Editor

Laura Edwards
UCLA

Managing Editor

Diane Levin
American Bar Foundation

Law and History Review (ISSN 0738-2480) is published three times a year, in spring, summer, 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 61820-6975. Requests for replacement of damaged or undelivered issues will be honored for up to six months after publication of the issue.

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.

© 2000 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 18, Number 2

Summer 2000

*Published three times a year by the University of Illinois Press
for the American Society for Legal History*

Editorial Board

David Abraham
University of Miami

William P. Alford
Harvard University

Mary Frances Berry
University of Pennsylvania

Thomas Brennan
U.S. Naval Academy

Martin Chanock
*La Trobe University,
Melbourne*

Elaine Clark
*University of Michigan,
Dearborn*

Martha F. Davis
*NOW Legal Defense,
New York*

Thomas J. Davis
Arizona State University

Cornelia Dayton
University of Connecticut

Laura Engelstein
Princeton University

Jean-Marie Fecteau
*Université du Québec
à Montréal*

Christian G. Fritz
University of New Mexico

Judy Fudge
York University, Toronto

Paul Hyams
Cornell University

Nancy Isenberg
University of Northern Iowa

Bruce Kercher
Macquarie University, NSW

Diane Kirkby
*La Trobe University,
Melbourne*

Michael Klarman
University of Virginia

David Konig
*Washington University,
St. Louis*

Mindie Lazarus-Black
*University of Illinois at
Chicago*

Kenneth F. Ledford
*Case Western Reserve
University*

Brian P. Levack
University of Texas at Austin

Jeanette Neeson
York University, Toronto

Kent Newmyer
University of Connecticut

James P. Oakes
CUNY Graduate Center

John V. Orth
University of North Carolina

Steven Pincus
University of Chicago

W. Wesley Pue
*University of British
Columbia*

Nicole Hahn Rafter
Northeastern University

Gerry R. Rubin
*University of Kent,
Canterbury*

Lucy E. Salyer
*University of
New Hampshire*

John Henry Schlegel
SUNY, Buffalo

Stephen A. Siegel
De Paul University

Rayman L. Solomon
Rutgers University, Camden

Robin Chapman Stacey
University of Washington

Robert J. Steinfeld
SUNY, Buffalo

Emily Z. Tabuteau
Michigan State University

Victor M. Uribe
*Florida International
University*

Barbara Y. Welke
University of Minnesota

James Q. Whitman
Yale University

Stephen C. Yeazell
*University of California,
Los Angeles*

Note to Contributors

The editors welcome unsolicited manuscripts and books for review. Address manuscripts and all general editorial correspondence to Christopher Tomlins, The American Bar Foundation, 750 North Lake Shore Drive, Chicago, IL 60611 (tel 312 988 6553; fax 312 988 6579; e-m <clt@abfn.org>). Address books for review and correspondence regarding book reviews and reviewing to Laura Edwards, Department of History, UCLA, 6265 Bunche Hall, Los Angeles, CA 90095-1473 (tel 310 825 3737; fax 310 206 9043; e-m <edwards@history.ucla.edu>). Manuscripts must be double-spaced typescript throughout, with citations prepared according to the *Chicago Manual of Style*, 14th ed. The *Review's* style guides for articles and book reviews are available on the *LHR* web page <www.press.uillinois.edu/journals/lhr.html>. Please use word processing wherever possible. Submitted manuscripts are subject to double-blind peer review; authors should therefore identify themselves on the title page only. Accepted manuscripts are copyedited for style but not substance; authors remain responsible for citation accuracy and for all statements of fact or opinion. The *Law and History Review* will not consider any manuscript concurrently submitted for publication elsewhere. Submission of a manuscript is understood to commit its author to publish the manuscript in the *Law and History Review* if accepted by the editor.

Contents

Law and History Review

Vol. 18, No. 2, Summer 2000

www.press.uillinois.edu/journals/lhr.html

In This Issue

v

Articles

- The Civil Law Tradition and Constitutionalism in Twentieth-Century Mexico: The Legacy of Emilio Rabasa
Charles A. Hale 257
- Legal Order as Motive and Mask: Franz Schlegelberger and the Nazi Administration of Justice
Eli Nathans 281
- The Shadow of the Gallows: The Death Penalty and the British Labour Government, 1945–51
Victor Bailey 305
- Policing in a Penal Colony: Governor Arthur's Police System in Van Diemen's Land, 1826–1836
Stefan Petrow 351

Forum: Codifying Crime, Finding Government

- Reconstructing the English Codification Debate: The Criminal Law Commissioners, 1833–45
Lindsay Farmer 397

Comments

- How Benthamic Was the Criminal Law Commission?
Michael Lobban 427
- The Historical Analysis of Criminal Codes
Markus Dirk Dubber 433

Response

- "The Principle of the Codification We Recommend Has Never Yet Been Understood"
Lindsay Farmer 441

The LHR Electronic Resource Page

- Webbing the Pacific—Teaching an Intercontinental Legal History Course
Ozcan 445

Book Reviews

- Law in the Crisis of Empire, 379–455 A.D.: The Theodosian Dynasty and Its Quaestors*—Tony Honoré
reviewed by Elizabeth A. Meyer 457
- Prefaces to Canon Law Books in Latin Christianity: Selected Translations, 500–1245*—Robert Somerville and Bruce C. Brasington, editors and translators
reviewed by R. H. Helmholz 460
- The Trials of Oscar Wilde: Deviance, Morality, and Late-Victorian Society*—Michael S. Foldy
reviewed by Deborah Wiggins 461
- Between Two Revolutions: Stolypin and the Politics of Renewal in Russia*—Peter Waldron
reviewed by Steven L. Hoch 462
- White Man's Justice: South African Political Trials in the Black Consciousness Era*—Michael Lobban
reviewed by Ivan Evans 464
- Women before the Bar: Gender, Law, and Society in Connecticut, 1639–1789*—Cornelia Hughes Dayton
reviewed by Katherine Hermes 466
- Governing the Tongue: The Politics of Speech in Early New England*—Jane Kamensky
reviewed by Kirsten Fischer 468
- Disowning Slavery: Gradual Emancipation and “Race” in New England, 1780–1860*—Joanne Pope Melish
reviewed by Robert J. Steinfeld 470
- No Constitutional Right to Be Ladies: Women and the Obligations of Citizenship*—Linda K. Kerber
reviewed by Nancy Isenberg 474
- How Curious a Land: Conflict and Change in Greene County, Georgia, 1850–1885*—Jonathan M. Bryant
reviewed by John C. Rodrigue 476