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Book Notes*

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CIVIL LIBERTIES

Barbas, Samantha. *The Rise and Fall of Morris Ernst, Free Speech Renegade*. Chicago, IL: University of Chicago Press, 2021. Pp. ii + 420. $35.00 cloth.

The ACLU's general counsel for decades, Morris Ernst was renowned for his audacious fights against artistic censorship in the US. He successfully defended *Ulysses* against obscenity charges, litigated groundbreaking reproductive rights cases, and supported the widespread expansion of protections for sexual expression, union organizing, and public speech. Yet Ernst was also a man of stark contradictions, waging a personal battle against Communism, defending an autocrat, and aligning himself with FBI Director J. Edgar Hoover's inflammatory crusades. Barbas concludes that Ernst both transformed free speech in America and inflicted damage to the cause of civil liberties.

CRIMINAL JUSTICE AND SOCIAL CONTROL

Ben-Moshe, Liat. *Decarcerating Disability: Deinstitutionalization and Prison Abolition*. Minneapolis, MN: University of Minnesota Press, 2020. Pp. xiii + 349. $30.00 paper.

Ben-Moshe argues that the largest exodus of people from carceral facilities in the twentieth century was not from prisons, but from deinstitutionalization—the closure of disability institutions and psychiatric hospitals. She discusses a range of topics, including why deinstitutionalization is often wrongly blamed for the rise in incarceration; who resists decarceration and deinstitutionalization, and the coalitions opposing that resistance; and how understanding deinstitutionalization as a form of residential integration makes visible intersections with racial desegregation.

Lane, Sean M., and Kate A. Houston. *Understanding Eyewitness Memory: Theory and Applications*. New York, NY: NYU Press, 2021. Pp. iii + 213. $30.00 paper.

Lane and Houston explain the science of eyewitness memory, covering topics from basic research on perception and memory to the implications of this research on the quality and accuracy of eyewitness evidence. They address such questions as how we remember and describe people we have encountered, the nature of false and genuine memories, and how emotional arousal and stress affect what we remember.

Rabinowitz, Mikaela. *Incarceration without Conviction: Pretrial Detention and the Erosion of Innocence in American Criminal Justice*. New York, NY: Routledge Taylor & Francis Group, 2022. Pp. xv +114. $42.95 paper.

On any given day, approximately 500,000 people are in pretrial detention in the US, held in local jails solely because they are poor and cannot afford bail or a bail bond. Rabinowitz finds that pretrial detention drives guilty pleas and thus fuels mass incarceration, with a disproportionate impact on Black Americans. Reviewing the myriad harms that being detained wreaks on people's lives and well-being, regardless of conviction, she concludes that pretrial detention erodes the very meaning of innocence.

ICONOGRAPHY OF LAW AND JUSTICE

Khorakiwala, Rahela. *From the Colonial to the Contemporary: Images, Iconography, Memories, and Performances of Law in India's High Courts*. Oxford, UK: Hart Publishing, 2020. Pp. viii + 296. £70.00 cloth.

Drawing on ethnographic research and interviews with judges, lawyers, court staff, press reporters, and others, Khorakiwala explores the representation of law, images, and justice in the first three

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colonial high courts of India at Calcutta, Bombay, and Madras, which share a recurring historical tension between the Indian and British notions of justice. She concludes that the architecture and judicial iconography of the high courts helps to constitute, preserve, and reinforce the ambivalent relationship that the court shares with its own contested image.

LAW AND ANIMAL RIGHTS

Bradshaw, Karen. *Wildlife as Property Owners: A New Conception of Animal Rights*. Chicago, IL: University of Chicago Press, 2020. Pp. iii + 203. $27.50 paper.

Bradshaw argues that the effects of the presumption that only people can own land are disastrous for both wildlife and humans—that anthropocentric property is a key driver of biodiversity loss, a silent killer of species worldwide. She concludes that folding animals into our existing system of property law, giving them the opportunity to own land, is a solution worthy of consideration.

LAW AND BANKRUPTCY

Torrie, Virginia. *Reinventing Bankruptcy Law: A History of the Companies' Creditors Arrangement Act*. Toronto, Canada: University of Toronto Press, 2020. Pp. xv + 300. $75.00 cloth.

In this history of the Canadian *Companies' Creditors Arrangement Act*, Torrie finds that CCAA was shaped by the commercial needs of powerful creditors to restructure corporate borrowers. She argues that courts and the legislature have switched roles—leading to the conclusion that contemporary CCAA courts function like a modern day Court of Chancery.

LAW AND CITIZENSHIP

Chen, Ming Hsu. *Pursuing Citizenship in the Enforcement Era*. Stanford, CA: Stanford University Press, 2020. Pp. xi + 215. $28.00 paper.

This book argues that the citizen/alien binary should be reframed as a spectrum of citizenship, emphasizing continuities between the otherwise distinct experiences of membership and of belonging for immigrants seeking to become citizens. To understand citizenship from the perspective of noncitizens, Chen interviewed more than one hundred immigrants of varying legal statuses about their attempts to integrate economically, socially, politically, and legally during a modern era of intense immigration enforcement. He concludes that limited legal status breeds a sense of citizenship insecurity for all immigrants that inhibits their full integration into society.

LAW AND CULTURE

McDonagh, Luke. *Performing Copyright: Law, Theatre and Authorship*. Oxford, UK: Hart Publishing, 2021. Pp. vi + 232. $115.00 cloth.

Drawing on empirical research, McDonagh explores issues of performativity and authorship in the theater world under copyright law. He examines the history of the dramatic work as text and as performative work, explores authorship as it applies to the actual process of creating plays, considers the reasons that cases of alleged theatrical infringement reach the courts comparatively rarely in comparison with music cases, and examines the moral rights of attribution and integrity.

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LAW AND EMOTION

Bandes, Susan A., Jody Lyneé Madeira, Kathryn D. Temple, and Emily Kidd White, eds. *Research Handbook on Law and Emotion*. Northampton, MA: Edward Elgar Publishing, 2021. Pp. xvi + 618. $325.00 cloth.

Contributors to Bandes, Madeira, Temple, and White's volume reject the simple dichotomy of law and emotion and examine the role of a wide range of emotions across a variety of legal contexts. Chapters consider how emotion impacts legal actors, influences legal doctrine, and shapes the dynamics of legal institutions. In addition to legal contexts traditionally considered rife with emotion, they consider areas such as contracts, property, and bankruptcy.

LAW AND FAMILY RELATIONSHIPS

Palazzo, Nausica. *Legal Recognition of Non-Conjugal Families: New Frontiers in Family Law in the US, Canada and Europe*. Oxford, UK: Hart Publishing, 2021. Pp. xi + 248. £85.00 cloth.

Palazzo argues that insufficient recognition of relationships falling outside the model of the marital family —such as non-conjugal unions of friends or relatives, polyamorous relationships, and various religious-based families—is a legal problem that needs repair. She discusses recent developments in family patterns and norms, explores how law can accommodate multiple family grids without legal recognition involving normalization, and examines strategies that might be used to effect change in Canada, the US, and within the systems of the European Convention of Human Rights and European Union.

Sword, Kirsten. *Wives Not Slaves: Patriarchy and Modernity in the Age of Revolutions*. Chicago, IL: University of Chicago Press, 2021. Pp. v + 376. $50.00 cloth.

Sword reconstructs the stories of wives who fled their husbands between the mid-seventeenth and early nineteenth century US, comparing their plight with that of other runaway dependents. She explores the links between local justice, the emerging press, and transatlantic political debates about marriage, slavery, and imperial power.

LAW AND GLOBAL GOVERNANCE

Allen, Lori. *A History of False Hope: Investigative Commissions in Palestine*. Stanford, CA: Stanford University Press, 2020. Pp. xx + 408. $30.00 paper.

Drawing on debates in the press, UN reports, historical archives, and ethnographic research, Allen analyzes six key commissions investigating the status of the Palestinians over the last century. She concludes that Palestinians' demands for independence have been routinely translated into the numb language of reports and resolutions, and that the commissions operate as technologies of liberal global governance that yield no justice.

LAW AND IMMIGRATION

Peck, Alison. *The Accidental History of the U.S. Immigration Courts: War, Fear, and the Roots of Dysfunction*. Oakland, CA: University of California Press, 2021. Pp. xi + 221. $29.95 cloth.

Peck notes that US immigration courts are not courts in the usual sense, but rather an office of the Department of Justice, and she finds that paranoia sparked by World War II and the War on Terror drove this structure. Focusing on previously unstudied decisions in the Roosevelt and Bush administrations, and the human tragedy of our current immigration court system and the human crises that led to its creation, she argues for moving the courts to an independent, Article I court system.

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LAW AND LABOR

Holdren, Nate. *Injury Impoverished: Workplace Accidents, Capitalism, and Law in the Progressive Era*. New York, NY: Cambridge University Press, 2020. Pp. xxvii + 294. $59.99 cloth.

This study of law and class uses a range of archival materials, interdisciplinary perspectives, and narration to criticize the workers' compensation laws, which require employers to pay a portion of the financial costs of workplace injuries. These laws began to be adopted by state legislatures in the US in the 1910s in response to a raft of uncompensated workplace injuries. Holdren concludes that workers' compensation laws were a limited improvement for employees in economic terms, and that they created new forms of inequality—and even new forms of inhumanity.

Jacoby, Sanford M. *Labor in the Age of Finance: Pensions, Politics, and Corporations from Deindustrialization to Dodd-Frank*. Princeton, NJ: Princeton University Press, 2021. Pp. xii + 354. $35.00 cloth.

Drawing on history, economics, and politics, Jacoby explores the paradox of capital ceding power to labor in the US in the tumultuous era of Enron, Lehman Brothers, and Dodd-Frank. He finds that since the 1970s, US unions have shrunk dramatically, but in the search for new sources of power, they turned financialization to their advantage. By leveraging pension capital, unions restructured corporate governance, and they pressed for corporate reforms in the wake of business scandals and the financial crisis. But ultimately, he concludes, the effort could not bridge the divide between workers and owners.

LAW AND THE LGBTQ COMMUNITY

Lvovsky, Anna. *Vice Patrol: Cops, Courts, and the Struggle Over Urban Gay Life before Stonewall*. Chicago, IL: University of Chicago Press, 2021. Pp. viii + 337. $35.00 paper.

Lvovsky chronicles the tactics used to criminalize, profile, and suppress gay life in the US from the 1930s through the 1960s, and the surprising controversies those tactics often inspired in court. She finds that the vice squads' campaigns stood at the center of debates about not only the law's treatment of queer people, but also the limits of ethical policing, the authority of experts, and the nature of sexual difference itself—debates that had often unexpected effects on the LGBTQ community's civil liberties, and that continue to be relevant today.

Mayo-Adam, Erin. *Queer Alliances: How Power Shapes Political Movement Formation*. Stanford, CA: Stanford University Press, 2020. Pp. xii + 227. $26.00 paper.

Drawing on archival research and in-depth interviews with organization leaders and advocates, this book examines the extent to which LGBTQ grassroots groups bridged historic divisions based on race, gender, class, and immigration status through the development of coalitions. Mayo-Adam focuses on coalition building around expansion of LGBTQ rights in Washington state and of immigrant and migrant rights in Arizona. She finds that while the movements expanded, they simultaneously ossified around goals that matter to the most advantaged segments of their respective communities.

Syrett, Nicholas L. *An Open Secret: The Family Story of Robert and John Gregg Allerton*. Chicago, IL: University of Chicago Press, 2021. Pp. vii + 210. $20.00 paper.

In 1922 Robert Allerton—the "richest bachelor in Chicago"—met John Gregg. Virtually inseparable from then on, they publicly referred to one another as father and son. In 1960 Allerton,

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nearing ninety, legally adopted the sixty-year-old Gregg, the first such adoption of an adult in Illinois. Syrett tells the story of these iconoclasts, locating them among their queer contemporaries and exploring why becoming father and son made a surprising kind of sense for a twentieth-century couple who had every monetary advantage but could not be together openly.

Vogler, Stefand. *Sorting Sexuality: Expertise and the Politics of Legal Classification*. Chicago, IL: University of Chicago Press, 2021. Pp. iv + 276. $30.00 paper.

This is a study of state classification of LGBTQ people seeking asylum in the US and sexual offenders being evaluated for carceral placement—two situations where state actors must determine individuals' sexualities. Though these legal settings are diametrically opposed—one a punitive assessment, the other a protective one—they present the same question. Vogler finds that different legal arenas take dramatically different approaches to classifying sexuality and use those classifications to legitimate different forms of social control. He concludes that the science of sexuality is far more central to state power than we realize.

LAW AND MEDICINE

Columb, Seán. *Trading Life: Organ Trafficking, Illicit Networks, and Exploitation*. Stanford, CA: Stanford University Press, 2020. Pp. xx + 196. $28.00 paper.

Columb charts the development of trade in human organs from an informal economic activity into a structured criminal network operating within and among Egypt, Libya, Sudan, Eritrea, and Europe. He finds that economic pressures and the demands of survival force people into exploitative arrangements, and concludes that investing in law enforcement and border securitization at the expense of social services has led to the convergence of illicit smuggling, organ trading networks, and the development of organized crime.

LAW AND POPULAR CULTURE

Asimow, Michael, and Paul Bergman. *Real to Reel: Truth and Trickery in Courtroom Movies*. Lake Mary, FL: Vandeplas Publishing, 2021. Pp. xviii + 497. $35.00 paper.

Asimow and Bergman argue that lawyers are storytellers, courtrooms are theaters, and the trial process provides drama, surprise, suspense, and comedy. Their book discusses 200 US courtroom movies, including such classics as *To Kill a Mockingbird*, *My Cousin Vinny*, *12 Angry Men*, and *The Trial of the Chicago 7*, and addresses such questions as: Where does truth end and trickery begin? Are courtroom stunts actually successful? Does the trial process reveal—or conceal—the truth? How well do reel trials reflect real events?

LAW AND PRESIDENTIAL POWER

Rudalevige, Andrew. *By Executive Order: Bureaucratic Management and the Limits of Presidential Power*. Princeton, NJ: Princeton University Press, 2021. Pp. xvi + 303. $29.95 paper.

Rudalevige examines archival evidence from the Office of Management and Budget and presidential libraries as well as original interviews, and finds that the crafting of executive orders by the US president requires widespread consultation and compromise with a formidable bureaucracy. He details how bureaucratic resistance can stall and even prevent actions the chief executive desires, and how presidents must bargain with the bureaucracy even when they seek to act unilaterally.

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LAW AND RACE

Beermann, Jack M. *The Journey to Separate but Equal: Madame Decuir's Quest for Racial Justice in the Reconstruction Era*. Lawrence, KS: University Press of Kansas, 2021. Pp. xiii + 238. $34.95 cloth.

Through an examination of the case record, the lives of the parties, lawyers, and judges, and the case's social context in 1870s Louisiana, Beermann tells the story of how, in *Hall v. Decuir*, the post–Civil War US Supreme Court took its first step toward perpetuating the "Jim Crow" subjugation of non-whites.

Gómez, Laura E. *Inventing Latinos: A New Story of American Racism*. New York, NY: The New Press, 2020. Pp. v + 255. $25.99 cloth.

Gómez examines the race-making, unmaking, and remaking of Latino identity that has spanned centuries, leaving a permanent imprint on how race operates in the US today. She finds that, over the course of more than a century, the US role in Latin America—from military interventions and economic exploitation to political interference—has destabilized national economies and spurred migrants northward. She concludes that a full understanding of this history justifies a call for reparations.

Jenkins, Jeffery A., and Justin Peck. *Congress and the First Civil Rights Era, 1861–1918*. Chicago, IL: University of Chicago Press, 2021. Pp. x + 332. $35.00 paper.

Jenkins and Peck examine the fate of civil rights legislation during the Reconstruction Era after the US Civil War. They find that after an initial push, discrimination against African Americans in the South became commonplace, and civil rights advocates in Congress increasingly shifted to policies desired by white constituents in the North. They examine how the Republican Party slowly withdrew its support for a meaningful civil rights agenda, and how Democrats and Republicans worked together to keep civil rights off the legislative agenda.

LAW AND THE WAR ON TERROR

McQuade, Joseph. *A Genealogy of Terrorism: Colonial Law and the Origins of an Idea*. New York, NY: Cambridge University Press, 2020. Pp. xvi + 276. $99.99 cloth.

Drawing on archival research and an empirical study of emergency laws in British India, McQuade argues that the idea of terrorism emerged as a deliberate strategy by officials seeking to depoliticize the actions of anti-colonial revolutionaries, and that many of the ideas embedded in this colonial legislation continue to shape contemporary understandings of terrorism today.

LAW AND THE WELFARE STATE

Friedman, Rachel Z. *Probable Justice: Risk, Insurance, and the Welfare State*. Chicago, IL: University of Chicago Press, 2020. Pp. x + 256. $35.00 paper.

Tracing a conceptual and political history of the practice from the time of the French Revolution through the present, Friedman argues that social insurance is a distributive regime that by its nature combines distinct principles and aims, including individual liberty or autonomy and social equality or solidarity. Her argument has implications for the definition, protection, and promotion of social rights and the role of anti-discrimination law with respect to private insurance.

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Headworth, Spencer. *Policing Welfare: Punitive Adversarialism in Public Assistance*. Chicago, IL: University of Chicago Press, 2021. Pp. x + 293. $32.50 paper.

In the US, welfare is regarded with suspicion, and considerable resources are spent policing the boundaries of eligibility, which are delineated by an often confusing and baroque set of rules and regulations. Headworth studies the structure of fraud control in the welfare system by examining the relations between different levels of governmental agencies, from federal to local, and their enforcement practices. He concludes that the enforcement regime has been constructed to further stigmatize those already living in poverty and that it deepens disparities of class, race, and gender.

LEGAL EDUCATION

Kay, Herma Hill. *Paving the Way: The First American Women Law Professors*. Edited by Patricia A. Cain. Oakland, CA: University of California Press, 2021. Pp. xvii + 354. $32.95 cloth.

This book presents the stories of the first fourteen female law professors at accredited law schools in the US. Kay, who became the fifteenth, labored over the stories of these women in order to provide an essential history of their personal path to success, each in its particular social and historical context. The collection, edited posthumously by Cain, includes a chapter connecting the pioneering female professors to the "second wave" of women law professors who achieved tenure-track appointments in the 1960s and 1970s.

Sandomierski, David. *Aspiration and Reality in Legal Education*. Toronto, Canada: University of Toronto Press, 2020. Pp. xi + 390. $56.25 cloth.

Drawing on interviews with over sixty law professors in Canada, Sandomierski finds a widespread belief that both theory and practice are integral to a complete legal education. Nonetheless, there is a significant gap between the realist theoretical views held by a majority of professors and the formalist theories they almost uniformly convey through their teaching and conceptions of legal reasoning. Understanding the intellectual and institutional factors that account for these tensions, he argues, is essential for any meaningful project of legal education reform.

LEGAL PLURALISM

Chatterjee, Nandini. *Negotiating Mughal Law: A Family of Landlords across Three Indian Empires*. New York, NY: Cambridge University Press, 2020. Pp. xii + 297. $99.99 cloth, Open Access.

Based on a reconstructed archive of Persian, Hindi, and Marathi documents, Chatterjee provides a micro-history of a family of landlords in Malwa, central India, who flourished from at least the sixteenth until the twentieth century. She offers a history from below of the Mughal Empire, which included a quest for law, justice, rights, and righteousness. A story of Islamic law in a predominantly non-Muslim society, this is also an exploration of the peripheral regions of the Maratha empire and a neglected princely state under British colonial rule.

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