

# Law and History Review

# Law and History Review

---

The purpose of *Law and History 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.

Back issues of *Law and History Review* may be ordered directly from *Law and History Review*, Cambridge University Press, Journals Fulfillment Dept., 100 Brook Hill Drive, West Nyack, NY 10994-2133, USA.

**Editorial Office:** Department of History, University of Nevada, Las Vegas, 4505 Maryland Parkway, Las Vegas, NV 89154-5020, USA. David S. Tanenhaus, Editor; telephone: 702-895-3549; fax: 702-895-1782; e-mail: david.tanenhaus@unlv.edu

Address all general editorial correspondence to David S. Tanenhaus, Editor, *Law and History Review*, Department of History, University of Nevada, Las Vegas, 4505 Maryland Parkway, Las Vegas, NV 89154-5020, USA (tel: 702-895-3549; fax: 702-895-1782; e-mail: david.tanenhaus@unlv.edu). Address books for review and correspondence regarding book reviews and reviewing on the Americas to Daniel W. Hamilton, Associate Editor, *Law and History Review*, Professor of Law, University of Illinois College of Law, 504 East Pennsylvania Avenue, Champaign, IL 61820, USA (tel.: 217-244-5084; fax: 217-244-1478; e-mail: dhamltn@law.illinois.edu). Address books for review and correspondence regarding book reviews and reviewing on the non-Americas to Amalia D. Kessler, Associate Editor, *Law and History Review*, Stanford Law School, 559 Nathan Abbott Way, Stanford, CA 94305-8610, USA (tel: 650-725-5800; fax: 650-725-0253; e-mail: akessler@law.stanford.edu).

**Publishing, Advertising, and Subscription Offices:** Cambridge University Press, 32 Avenue of the Americas, New York, NY 10013-2473, USA. (for USA, Canada, and Mexico); or Cambridge University Press, The Edinburgh Building, Shaftesbury Road, Cambridge CB2 8RU, UK (for UK and elsewhere).

*Law and History Review* (ISSN 0738-2480) is published four times a year, in February, May, August, and November by Cambridge University Press, 32 Avenue of the Americas, New York, NY 10013-2473, USA / Cambridge University Press, The Edinburgh Building, Shaftesbury Road, Cambridge CB2 8RU, England for the American Society of Legal History. Annual institutional subscription rates for Volume 29 (2011) USA, Canada, and Mexico / Elsewhere are \$189 / £102 for print and electronic subscriptions. Single part: \$52 / £28. Prices include postage and insurance. *Law and History Review* and all other Cambridge journals can be found at <http://journals.cambridge.org/>.

© the American Society for Legal History, Inc. 2011. All rights reserved. No part of this publication may be reproduced in any form or by any means, photocopying, electronic, or otherwise, without permission in writing from Cambridge University Press. Policies, request forms, and contacts are available at: <http://www.cambridge.org/rights/permissions/permission.htm>.

Permission to copy (for users in the USA) is available from the Copyright Clearance Center (CCC), <http://www.copyright.com>, email: [info@copyright.com](mailto:info@copyright.com).

Forwarding and return postage guaranteed, address correction requested. Postmaster: Send address changes in the USA and Canada to *Law and History Review*, Cambridge University Press, Journals Fulfillment Dept., 100 Brook Hill Drive, West Nyack, NY 10994-2133, USA. Send address changes elsewhere to *Law and History Review*, Cambridge University Press, The Edinburgh Building, Shaftesbury Road, Cambridge CB2 8RU, England.

Abstracting and Indexing Information: America: History and Life; CSA Worldwide Political Science Abstracts; Current Law Index; Current Abstracts; SocIndex; SocIndex with Full Text; TOC Premier; Scopus; Family Index; Academic OneFile; General OneFile; InfoTrac Custom; LegalTrac; Biography Index; Index to Legal Periodicals & Books; Historical Abstracts.

# Law and History Review

---

Volume 29, Number 3

August 2011

---

*Published four times a year by Cambridge University Press for the  
American Society for Legal History*

**Editor**

David S. Tanenhaus  
*University of Nevada,  
 Las Vegas*  
 Department of History  
 4505 Maryland Parkway  
 Las Vegas, NV 89154-5020  
 702.895.3549  
 FAX: 702.895.1782  
 E-Mail: david.tanenhaus@  
 unlv.edu

**Associate Editor  
(Book Reviews, Americas)**

Daniel W. Hamilton  
*University of Illinois College  
 of Law*  
 504 East Pennsylvania Avenue  
 Champaign, IL 61820  
 217.244.5084  
 FAX: 217.244.1478  
 E-Mail: dhamilton@law.  
 illinois.edu

**Associate Editor  
(Book Reviews, Non-Americans)**

Amalia D. Kessler  
*Stanford Law School*  
 559 Nathan Abbott Way  
 Stanford, CA 94305-8610  
 650.725.5800  
 FAX: 650.725.0253  
 E-Mail: akessler@  
 law.stanford.edu

**Editorial Board**

Edward J. Balleisen  
*Duke University*  
 Stuart Banner  
*University of California,  
 Los Angeles*  
 David A. Bell  
*Princeton University*  
 Mary Sarah Bilder  
*Boston College*  
 Elizabeth Borgwardt  
*Washington University  
 in St. Louis*  
 Bettina Bradbury  
*York University, Toronto*  
 Holly Brewer  
*North Carolina State University*  
 Warren C. Brown  
*California Institute of Technology*  
 Peter C. Caldwell  
*Rice University*  
 Christopher Capozzola  
*Massachusetts Institute  
 of Technology*  
 Andrew Wender Cohen  
*Syracuse University*  
 Jane Dailey  
*University of Chicago*  
 Elizabeth R. Dale  
*University of Florida*  
 Thomas J. Davis  
*Arizona State University*  
 Christine A. Desan  
*Harvard University*  
 Simon Devereaux  
*University of Victoria*  
 Charles R. Donahue  
*Harvard University*  
 Markus Dirk Dubber  
*University of Toronto*

Mary L. Dudziak  
*University of Southern California*  
 Laura F. Edwards  
*Duke University*  
 Daniel R. Ernst  
*Georgetown University*  
 William E. Forbath  
*University of Texas, Austin*  
 Thomas P. Gallanis  
*University of Iowa*  
 Annette Gordon-Reed  
*Harvard University*  
 Mark Graber  
*University of Maryland*  
 Ariela J. Gross  
*University of Southern California*  
 Sally E. Hadden  
*Florida State University*  
 Ron Harris  
*Tel-Aviv University*  
 Peter C. Hoffer  
*University of Georgia*  
 Daniel J. Hulsebosch  
*New York University*  
 Nancy Isenberg  
*Louisiana State University*  
 Diane Kirkby  
*La Trobe University*  
 Daniel M. Klerman  
*University of Southern  
 California*  
 Carl Landauer  
*General Counsel at Loyal3*  
 Mindie Lazarus-Black  
*University of Illinois, Chicago*  
 Kenneth F. Ledford  
*Case Western Reserve University*  
 Sanford V. Levinson  
*University of Texas, Austin*

Michael Lobban  
*University of London*  
 M. C. Mirow  
*Florida International University*  
 Mae M. Ngai  
*Columbia University*  
 William J. Novak  
*University of Michigan*  
 James C. Oldham  
*Georgetown University*  
 Ruth Paley  
*History of Parliament*  
 Pablo Piccato  
*Columbia University*  
 W. Wesley Pue  
*University of British Columbia*  
 Stephen Robertson  
*University of Sydney*  
 Richard J. Ross  
*University of Illinois*  
 Reuel Schiller  
*University of California,  
 Hastings College of Law*  
 Robin Chapman Stacey  
*University of Washington*  
 Emily Tabuteau  
*Michigan State University*  
 Michael Vorenberg  
*Brown University*  
 Barbara Y. Welke  
*University of Minnesota*  
 James Q. Whitman  
*Yale University*  
 Martin J. Wiener  
*Rice University*  
 Michael Willrich  
*Brandeis University*  
 John Fabian Witt  
*Yale University*

# Contents

Law and History Review

Vol. 29, No. 3, August 2011

Full text available at <http://journals.cambridge.org/lhr>

## In This Issue

v

### Articles

- Imperial Impotence: Treason in 1774 Massachusetts  
Neil L. York 657
- “The Terror of the Their Lives”: Irish Jurors’ Experiences  
Níamh Howlin 703
- A “Triumph of Freedom” After All? *Prigg v. Pennsylvania*  
Re-examined  
Leslie Friedman Goldstein 763
- The Antislavery Judge Reconsidered  
Jeffrey M. Schmitt 797
- “All for Keeping His Own Negro Wench”: *Birch v. Benton* (1858)  
and the Politics of Slander and Free Speech in Antebellum  
Missouri  
Mark M. Carroll 835

### Book Reviews

- A History of European Law* (trans. Laurence Hooper)—Paolo  
Grossi  
reviewed by Joshua C. Tate 899
- Justice in Lüritz: Experiencing Socialist Law in East Germany*—  
Inga Markovits  
reviewed by Donna Harsch 900
- Pauper Capital: London and the Poor Law, 1790–1870*—David  
R. Green  
reviewed by Anthony Brundage 902
- Legal Imperialism: Sovereignty and Extraterritoriality in Japan,  
the Ottoman Empire, and China*—Turan Kayaoğlu  
reviewed by Chimène I. Keitner 904

<i>The Nature of Rights at the American Founding and Beyond—</i> Barry Alan Shain (ed.) reviewed by Kirsten Nussbaumer	906
<i>Broken Landscape: Indians, Indian Tribes, and the Constitution—</i> Frank Pommersheim reviewed by Jennifer Devroye	909
<i>The History of White People—</i> Nell Irvin Painter reviewed by Thomas J. Davis	910
<i>Southern Horrors: Women and the Politics of Rape and Lynching</i> —Crystal N. Feimster reviewed by Lisa Lindquist Dorr	912