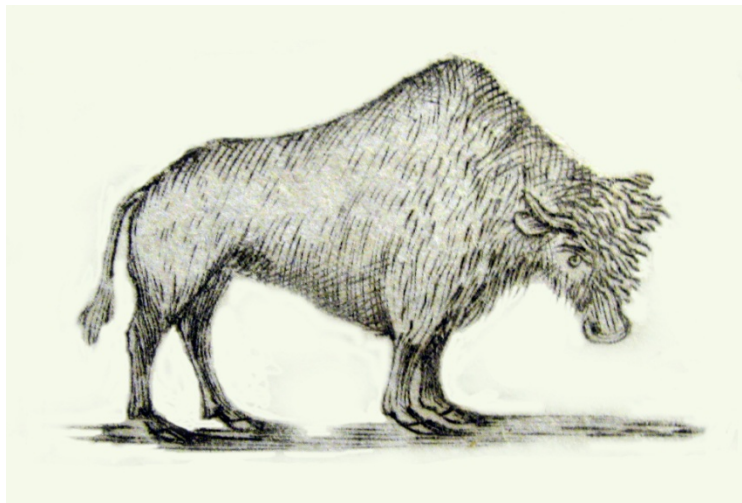


UNBOUND

A Review of Legal
History and Rare Books



Journal of the Legal History and Rare Books
Special Interest Section of the
American Association of Law Libraries

Volume 11
Number 1
Winter/Spring 2019

UNBOUND

A Review of Legal History and Rare Books

Unbound: A Review of Legal History and Rare Books (previously published as *Unbound: An Annual Review of Legal History and Rare Books*) is published by the Legal History and Rare Books Special Interest Section of the American Association of Law Libraries.

Articles on legal history and rare books are both welcomed and encouraged. Contributors need not be members of the Legal History and Rare Books Special Interest Section of the American Association of Law Libraries.

Citation should follow any commonly-used citation guide.

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LEGAL HISTORY

Andrew Duncan Duff; Southern Illinois Judge, Prisoner of State, and Frontier Legal Educator

Douglas W. Lind*

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Introduction

The story of Andrew Duncan Duff (1820-1889) is known only to a few, and to them simply as the subject of an annotation or a foot-

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note in a handful of works analyzing Lincoln's suspension of habeas corpus.¹ Although the account of this nineteenth-century southern Illinois judge's arrest and imprisonment is a fascinating one that was detailed after the Civil War in John Marshall's popular Copperhead work, *American Bastile*,² there is much more about the man that has never been told.

For instance, it is not commonly known that A. D. Duff was the leading legal educator in southern Illinois during the mid-1800s, opening law schools in Benton and Shawneetown, and serving as the driving force behind an 1874 attempt to establish a school of law at Southern Illinois Normal University (now Southern Illinois University) in Carbondale, Illinois. Duff later stamped his legacy in the southwest, playing a role in President Grover Cleveland's attempt to clean up fraud there, and serving as Register of the Land Office in Tucson, Arizona, until his death in 1889. This essay hopes to remedy the dearth of recorded biographical details in the life of this obscure but important figure in the history of both southern Illinois and early legal education.

Early Legal Career

Not much is known about Duff's early life. The single modern account of his formative years derives almost entirely from a brief entry in an 1875 Illinois directory.³ Unfortunately, sketches in those early biographical works were often self-written or composed by someone close to the subject and, given the opinions expressed in Duff's entry regarding politics and temperance, it appears that he oversaw or had a hand in its writing. The information provided is brief and the details are scant. Duff's father was a native of Georgia, his mother from South Carolina; after marrying in that state they emigrated in 1809 to Bond County, Illinois, and it was here that A.D. Duff was born on January 24, 1820.⁴ Educated in frontier

¹ See, e.g., Mark E. Neely, Jr., *The Fate of Liberty; Abraham Lincoln and Civil Liberties* (New York: Oxford University Press, 1991), 203-204.

² John A. Marshall, *American Bastile. A History of the Illegal Arrests and Imprisonment of American Citizens During the Late Civil War*. (Philadelphia: T.W. Hartley, 1876), 293-302.

³ John Y. Simon, "Judge Andrew D. Duff" 15(4) *Springhouse* (August 1998): 8-9, relying upon, *The Biographical Encyclopedia of Illinois of the Nineteenth Century* (Philadelphia: Galaxy Publishing Company, 1875), 291.

⁴ *Supra*, *The Biographical Encyclopedia of Illinois of the Nineteenth Century*, at 290-291.

schools, he worked as a schoolteacher from 1842 to 1843, and supplemented that vocation as a farmer for the next four years, during which he married Mary Eliza Powell.⁵

It was in 1847 that Duff's life becomes more interesting to historians and warrants a detailed examination. In that year, at the suggestion of his friend, Judge William A. Denning, Duff left behind his livelihoods of farming and teaching, and moved ninety miles south to Benton to pursue a career in law under Denning's tutelage.⁶ But soon after arriving, Duff's studies were interrupted by his mentor's appointment as an associate justice of the Illinois Supreme Court in Springfield. Denning's move likely precipitated, or at least contributed to, Duff's decision to take a hiatus from legal training and enlist to fight with the U.S. armed forces in the Mexican War.⁷

As a private in the army, Duff travelled throughout the southwest, serving under Captain J. M. Cunningham, the former sheriff of nearby Williamson County (located directly south of Benton),⁸ until his discharge at the end of the war in October 1848.⁹ While serving, Duff was part of Company H, which marched from Fort Leavenworth to the northernmost Mexican outpost at Santa Fe.¹⁰ Although fighting against boredom, heat, and measles were the only battles that Company H actually waged, friendships were undoubtedly forged through the hardships endured on the long march through the desolate southwest. It was quite fortuitous for Duff later in life that the second lieutenant of Company H was a man named John Logan, who would later find fame as both a Union general during the Civil War and as a United States senator.¹¹ This would prove to be valuable many years later, during the Civil War, when Duff and other politicians from southern Illinois were imprisoned under accusations of treasonous activities and General Logan penned a letter to President Lincoln suggesting the arrests were of a spurious and political nature.¹²

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ James Pickett Jones, *Black Jack; John A. Logan and Southern Illinois in the Civil War Era* (Carbondale: Southern Illinois University Press, 1995), 6.

⁹ Isaac H. Elliott, *Record of the Services of Illinois Soldiers in the Black Hawk War, 1831-32, and in The Mexican War, 1846-8* (H.W. Rokker: Springfield, IL, 1882), 210-212.

¹⁰ Jones, at 6.

¹¹ *Id.*

¹² Neely, *The Fate of Liberty* at 55.

At the conclusion of the Mexican war in late 1848, Duff returned home to Benton and reunited with Judge Denning, who had recently been elected to the third judicial circuit.¹³ Although still early in his legal studies, chance offered Duff's professional career an accelerated path when the Illinois Constitutional Convention of 1847 the County Commissioners' Courts and Probate Courts. In their place, each county was mandated to have a County Court consisting of one judge and two associates.¹⁴ In 1849, only twenty-nine years old and not yet having tested for the bar, Duff ran for and was elected as the first County Court Judge of Franklin County, Illinois. At the conclusion of his four-year term, during which he became a member of the state bar, Duff remained in Franklin County and began a law practice that was active until 1861 when he returned to the bench.

In November of that year, voters elected Duff, running again as a Democrat, to a six-year term for the newly created twenty-sixth circuit, covering Franklin, Johnson, Saline, and Williamson Counties.¹⁵ It was a busy time for the judge. In addition to travelling on the judicial circuit, he was elected to represent Franklin and Jackson Counties as a delegate to the Illinois Constitutional Convention of 1862, for which he served as chair of the Committee on Judicial Circuits and as a member of the Committee on Public Accounts and Expenditures.¹⁶ But if the years leading up to 1862 served to establish a substantial legal career, the events of 1862 would stamp Duff's name in the footnotes of history.

Arrest and Imprisonment

Soon after the attack on Fort Sumter, President Lincoln, seeking to preserve the Union, granted broad authority for the military to arrest and imprison hundreds of civilians. By the end of September 1862, he would formalize those orders as a proclamation suspending the writ of habeas corpus.¹⁷ Many of those arrested were from border-states, areas often sympathetic to the Confederate cause. Due not only to its geographic location, but also its Democratic leanings and public sentiment against Lincoln's administration, it

¹³ Frederick B. Crossley, *Courts and Lawyers of Illinois* (Chicago: American Historical Society, 1916), 1:388

¹⁴ *Journal of the Convention Assembled at Springfield, June 7, 1847* (Springfield: Lanphier & Walker, 1847) 216-217.

¹⁵ State of Illinois, *21st General Assembly, Public Laws, 1st Session*, 1859, 50.

¹⁶ *Journal of the Constitutional Convention of the State of Illinois convened at Springfield, January 7, 1862* (Springfield: Charles H. Lanphier, 1862), 4, 45, 46.

¹⁷ War Department, *General Orders No. 141*, September 25, 1862.

is not surprising that southern Illinois came under federal scrutiny. In July 1862, based on a spurious affidavit stating that a secret society, the Knights of the Golden Circle, was planning an attack on the Big Muddy Bridge, a number of prominent civilians, including Duff, were arrested under charges of treasonous intentions.¹⁸

A scathing anti-Republican pamphlet written by Duff in December 1862, details their ordeals from arrest to release.¹⁹ Duff, an outspoken Democrat, describes the speech he gave at a political rally in which he stressed the importance of defeating the incumbent party in the upcoming November elections. He believed it was this speech that earned him a spot on the list of those to be arrested.²⁰ The tract provides to modern scholars with a window into the details of wartime arrests and the measures taken by the Lincoln administration to silence opposition in a time of war.

The sweep of arrests through southern Illinois included many prominent members of the community, all of whom were leaders of the Democratic Party, including William J. Allen, a sitting U. S. Congressman; Israel Blanchard, the brother-in-law of General John Logan; John H. Mulkey, a judge of common pleas from Cairo; and John M. Clementson, the state's attorney from Williamson County.²¹ These arrests were public affairs, clearly intended to send a message that traitorous speech, or at least speech deemed so by federal marshals, was not to be tolerated. In Duff's case, he was arrested while presiding over his court. He and the others were sent to Cairo where they learned their detentions were based on charges of disloyalty,²² apparently derived from an affidavit (later proven to be false) claiming that some of the arrested, including Duff, were part of the secret society, Knights of the Golden Circle, that was planning to destroy bridges and telegraph lines in southern Illinois.²³ The accused were then sent, without trial or any

¹⁸ *Washington National Republican* Sept. 1, 1862, 1.

¹⁹ A. D. Duff, *Arbitrary Arrests in Illinois, Letter of Judge A. D. Duff, of Franklin County, to the Public of South Illinois, Relative to his Arrest and Imprisonment by the Abolition Despotism* (Springfield: State Register Steam Print, 1863).

²⁰ *Id.* at 4.

²¹ Handwritten arrest record from U. S. Marshall David L. Phillips to Edwin M. Stanton, dated September 4, 1862, charging the arrested men with "treasonable languages and practices" and "clearly proven to be leading and influential members of the Knights of the Golden Circle."

²² D. A. Mahony, *The Prisoner of State* (New York: Carelton, 1863), 359-362.

²³ *Id.*

other fact-finding, to the Old Capital Prison in Washington, DC. Three months after his arrest, Duff was released, but only after taking a loyalty oath and swearing that he would not prosecute for his arrest.²⁴

Although Duff's fiery narrative was printed primarily for circulation in southern Illinois, his experience was made known on a national level when it was included in a widely distributed book detailing the account of the arrests, authored by one of Duff's fellow prisoners, D. A. Mahony.²⁵ In a chapter titled "The Kidnapping of Hon. Andrew D. Duff," the judge provided a detailed, first-person narrative of his arrest.²⁶ Duff's story received even broader contemporary attention when it was included in John A. Marshall's nationally popular Copperhead treatise, *American Bastille*.²⁷

Release and Return

The citizens of southern Illinois during the Civil War, although pro-Union, were staunchly Democrat and, not surprisingly, many felt that the civilian arrests in their region were based on ideological differences rather than treasonous speech or actions. As a result, Duff returned from the Old Capitol Prison somewhat of a hero, and he records turning down numerous requests to speak on his "illegal arrest and open act of tyranny."²⁸ Despite this warm welcome, Duff had become disillusioned with politics, and he sought to distance himself from any party affiliation.

Unfortunately, party politics and maneuvering were alive and well in the region and Duff could not help but be caught up in them. In the judicial election of 1867, anticipating the re-election of the popular Judge Duff, his opponents tried to render him ineligible based on his residency in Franklin County. This was accomplished through a creative interpretation of a recently enacted state statute which fixed the times of the terms of the newly added counties to the twenty-sixth circuit.²⁹

²⁴ *Id.* at 402.

²⁵ D. A. Mahony, *The Prisoner of State* (New York: Carelton, 1863).

²⁶ *Id.* at 359-365.

²⁷ John A. Marshall, *American Bastille; a history of the arbitrary arrests and imprisonment of American citizens in the northern and border states, on account of their political opinions, during the late Civil War* (Philadelphia: T. W. Hartley, 1883), 293-302.

²⁸ Duff, *Arbitrary Arrests in Illinois*, at 3.

²⁹ State of Illinois, 25th General Assembly, *Public Laws, 1st session*, "An Act to Define the Twenty-Sixth Judicial Circuit of this state and to fix the times of holding courts therein." In force May 10, 1867. 62.

Two years earlier, state legislation had added Gallatin and Hardin Counties to Duff's circuit and established that the court term for Franklin County would be in March and August.³⁰ Because the new act did not mention Franklin County (presumably because its meeting time had already been established and was not in conflict with the new counties' calendars), James S. Barr, Clerk of the Circuit Court of Franklin County, chose to interpret the new law to read that because no time was set for that county's term, the new statute had, in effect, abolished the court in Franklin County.³¹ Under this reading, Duff was therefore ineligible to run for office. With the election rapidly approaching, Duff sought a resolution from the state's highest court, and indeed the Illinois Supreme Court sided with him, finding that Barr's interpretation was likely politically motivated and that any reading of the statute which left Franklin County without a court would be "appalling to consider."³² Duff was easily reelected to the Circuit Court in 1867 and served until losing a re-election bid in 1873.

*Law Schools at Benton, Shawneetown and
Southern Illinois Normal*

Although Duff's wartime arrest has been well documented, one of the lesser-known aspects of his career that had a lasting impact was his commitment to legal education in southern Illinois. While serving on the bench for the twenty-sixth circuit, Duff founded two law schools and was a primary participant in an early attempt to create a law school at the Southern Illinois Normal University in Carbondale. It is important to understand that legal education is much different today from the mid-19th century. That period represents a time of flux for legal education; the traditional method of having members of the bar training pupils in their offices was slowly giving way to the use of private local law schools which grew out of expanded law offices.³³ At that time, legal education was not standardized and there were no professional requirements dictating the extent to which one had to be educated before practicing law.³⁴

³⁰ State of Illinois, 24th General Assembly, *Public Laws, 1st Session*, p. 31.

³¹ *The People ex rel. Harwell Freeman et al. v. James S. Barr, Clerk of Franklin County Circuit Court* 44 Ill 198, 200 (1867).

³² *Id.*

³³ Pound, Roscoe, "Introduction" in Clark, George L., *Summary of American Law* (Rochester: Lawyers Co-op, 1947), iii-vi.

³⁴ Reed, Alfred Zantzinger, *Training for the Public Profession of the Law* (New York: Carnegie Foundation, 1921), 79-84.

Although a resident of southern Illinois could certainly obtain practice experience in the hope of passing the state bar by studying under a judge or attorney, Duff wanted to create an opportunity for a more formal education. At that time, the nearest degree-granting law schools for a southern Illinois resident were at the University of Louisville, in Kentucky, and McKendree College, located in Lebanon, Illinois.³⁵ Distance and cost made them prohibitive to most in the region. Realizing there were underserved legal education needs in the region and many without the means to attend a university-affiliated law school, Duff sought to remedy this by opening a local private school offering a curriculum of formal legal education and modeled after those at larger schools.

Despite the fact that an 1865 census shows a resident population of only 589 in the four square miles surrounding the city,³⁶ Duff's choice to establish his law school was in his hometown of Benton, Illinois. The private act incorporating the Benton Law Institute reveals Duff's lofty aspirations for the school, with its stated mission being "to establish a regular and systematic study of the law as a science, and facilitate the means of acquiring a more thorough and perfect knowledge of all the fundamental principles thereof by practitioners before entering the profession."³⁷

The school was to have a president, secretary, and treasurer, for its administration, and there would even be a librarian to oversee practitioner's library.³⁸ The projected depth of faculty was also impressive, proposing six permanent professors teaching in the following areas: law generally, American and constitutional law, common and ancient law, languages, ancient and modern history, and political economy.³⁹ Advertisements for the law school began to appear in local papers in the fall of 1869, seeking to fill the inaugural class slated to begin at the end of November of that year.⁴⁰ Although only two faculty were named in these promotions, Duff and local attorney W. W. Barr, they described a rigorous curriculum and the availability of a library and reading room.⁴¹ A supportive editorial piece appearing in a local newspaper described the school as a "legal education within the reach of young men of the most

³⁵ *Id.*, at 424.

³⁶ *The Prospectus of Franklin County Illinois*, (1912), 44.

³⁷ *Private Laws of the State of Illinois, passed by the twenty-sixth general assembly*, (Springfield: Illinois Journal Printing Office, 1869), 3.

³⁸ *Id.* at 3-5.

³⁹ *Id.* at 4.

⁴⁰ *Cairo Evening Bulletin*, Oct. 25, 1869, and issues throughout December 1869.

⁴¹ *Id.*

limited means,” and pronounced Duff as standing “at the very head of the legal profession in Illinois. He is everywhere recognized as one of the ablest jurists of the land; as a ripe scholar, and as a law lecturer of most eminent ability.”⁴² A photograph of an early Benton Law Institute class published years later in a St. Louis newspaper shows Duff among several men who went on to become prominent lawyers, judges, and legislators throughout the country.⁴³

Despite its lofty aspirations, the small-town law school did not thrive, and less than two years after opening, it ceased to exist. An annual state directory of colleges in Illinois identifies the Benton Law Institute as being in Franklin County in 1871,⁴⁴ but at some point during that year Duff moved the school fifty miles southeast to the booming port city of Shawneetown. A reasonable assumption is that the Benton market was exhausted and the school simply moved to where the students and the legal opportunities were. An 1872 Shawneetown directory and prospectus for potential émigrés and businesses, makes it apparent why Duff’s choice was a logical one for his law school.⁴⁵ Situated on the Ohio River in southeastern Illinois, Shawneetown had a population of two thousand and many opportunities for growth in manufacturing, shipping, real estate, and banking – all generators of legal needs. Additionally, its location on a central rail line allowed for direct access to Springfield, Chicago, St. Louis, and Cincinnati.

Even with these ingredients for success, the Shawneetown school did not flourish. Perhaps this was due to its proximity to a competing law school in Louisville, located a hundred and fifty miles away but easily accessible via the Ohio River. Another contributor to the school’s failure may have been the lack of national standards for law schools and a continuing preference for the traditional method of legal apprenticeship, particularly in rural areas. A speech given by Duff to the inaugural class suggests that there were not many enrolled, describing them as a “little band of law students.”⁴⁶ Although at least fifteen lawyers are listed in the 1872

⁴² *Cairo Evening Bulletin*, Oct. 25, 1869.

⁴³ *St. Louis Globe-Democrat*, July 21, 1907, 11.

⁴⁴ *Rummel’s Illinois Hand-Book, and Legislative Manual for 1871* (Springfield: Illinois State Register Printing Office, 1871), 80.

⁴⁵ *Directory, Charter and Ordinances, of the City of Shawneetown. 1872. With a Brief Reference to the Resources of Gallatin County*, (Shawneetown: D. W. Lusk, Mercury Office, for Glass and Co., 1872)

⁴⁶ “Salutatory Address of Judge A. D. Duff, delivered before the Law School, Shawneetown, on Monday, Nov. 27, 1871,” *Gallatin*

city directory, and several prominent attorneys are recorded in various legal directories as graduates of Duff's Shawneetown Law School, no mention of this school offering classes is found after 1872.

The demise of his schools in Benton and Shawneetown did not mean Duff's foray into legal education was complete. In 1873, having recently lost re-election to the bench, Duff was now practicing law and living in Carbondale, the home of a newly established state teachers' school. Southern Illinois Normal University was chartered in 1869 with the mission "to qualify teachers for the common schools [of Illinois]."⁴⁷ From the beginning, the school aspired to offer a broad and diverse curriculum. In an effort to live up to its "university" designation and include offerings beyond those of traditional normal schools, the university announced in its first catalog that the inaugural term would also include a Law Department.⁴⁸

There was clearly concern that this bold reach by the school might extend beyond what was allowed by its legislative charter, and the board of trustees sought legal advice from Judge Duff, inquiring if he felt this departure from traditional Normal school offerings went beyond what was authorized.⁴⁹ It is not surprising that Duff, who had already been tapped to lead the Law Department, and had a financial interest in the law school's establishment and success, advised the board that it was indeed allowed under the broad statutory phrase, "such other studies as the board of education may, from time to time, prescribe."⁵⁰

The inaugural catalogue of Southern Illinois Normal University lists Duff as one of the eleven faculty members, identifying him as "Teacher of Law Department and Lecturer on Constitution of

Daily Gazette, Dec. 5, 1871. Available at Southern Illinois University Special Collections Research Center, *Andrew D. Duff Vertical File Manuscript*, 1871-.

⁴⁷ *Public Laws of the State of Illinois, passed by the twenty-sixth general assembly* (Springfield: Illinois Journal Printing Office, 1869), 35.

⁴⁸ *First Annual Catalogue of the Southern Illinois Normal University 1874-75* (Carbondale: Southern Illinoisan Print., 1875), [7].

⁴⁹ *Seventy Five Years in Retrospect; From Normal School to Teachers College to University, Southern Illinois University 1874-1949* (Carbondale: University Editorial Board, Southern Illinois University, 1955), 28.

⁵⁰ *Id.*

United States and Illinois, and School Laws.”⁵¹ A description of the proposed Law Department indicated that it was to operate independently of the rest of school, stating:

The Trustees have unanimously voted to establish a Law Department, in case the Hon. Judge Duff will undertake the charge of it, and give instruction and lectures. It will not interfere with the regular work of the Normal Departments, and will have no other connection with the faculty than through Judge Duff.⁵²

Despite the pre-opening fanfare, the Law Department never held a single class. An encyclopedia published while Duff was living in Carbondale contains an apparently autobiographical entry, which states that he simply declined the honor of the offer of Law Department Chair,⁵³ but it is more likely that a lack of students doomed the department. As an independent department within the university, Duff’s salary was to be paid by the incoming law students, and because no students showed up, the proposed law school simply never materialized.⁵⁴

Duff’s Growing Disillusionment

In 1873, the twenty-sixth circuit was yet again legislatively reorganized and renamed the twenty-fifth circuit.⁵⁵ Despite the new name, the circuit still included Union, Jackson, Williamson, Franklin, and Saline counties, but a politically significant aspect of this redistricting was the removal of Gallatin County, which included the prospering trade port city of Shawneetown.⁵⁶ This loss of electoral base would prove to be disastrous for Duff who was much admired in the legal community of that county, many of whom were

⁵¹ *First Annual Catalogue of the Southern Illinois Normal University 1874-75*, at [7].

⁵² *Id.* at 29.

⁵³ *The Biographical Encyclopedia of Illinois of the Nineteenth Century* (Philadelphia: Galaxy Publishing Company 1875), 291. This account was retold in, Turner, Jas. W. *Half a Century in the School Room or Personal Memoirs of Jas. W. Turner* (Carrier Mills, IL: Turner Publishing Co., 1920), 370.

⁵⁴ Eli G. Lentz, *Seventy Five Years in Retrospect; from normal school to teachers college to university, Southern Illinois University 1874-1949* (Carbondale: University Editorial Board Southern Illinois University, 1955), 28. This account was reiterated in the Carbondale history, *Miss Lillian’s Town; Carbondale, Illinois 1823-1973* (Carbondale: E. S. Morris, 1980), 164.

⁵⁵ *Laws of the State of Illinois: Passed by the 28th General Assembly, 1st session, 1873*. 77, 80.

⁵⁶ *Id.*

graduates of his short-lived Shawneetown Law School and lamented his “retirement” from the Gallatin County bench.⁵⁷ Duff, who had for so many years lived and worked in Benton and Franklin County, moved to nearby Carbondale, in Jackson County, and decided to seek re-election. However, aligned against him, in addition to the loss of popular support from Shawneetown, was Duff’s disillusionment with party politics. Fueled by both his arrest and his imprisonment, he was not only philosophically opposed to the Republican platform, he now no longer supported *any* party, including the Democratic Party.⁵⁸ In his bid for re-election he chose not to run on the ticket of his former party, declaring that he was “the candidate of no party.”⁵⁹

Despite these factors working against his re-election, Duff hoped his popularity would bring victory, but opposing him in the election was Monroe Crawford, a well-liked judge from Jonesboro (a town south of Carbondale, best known as the site of one of the 1858 Lincoln-Douglas Debates). Although very popular with the general public, Crawford was not backed by the local bar which denounced him as “incompetent to properly fill the judicial office,” and “a demagogue who talked over their heads from the bench at the people.”⁶⁰

Even with this professional disdain for Crawford, Duff’s return to the bench, was not assured. Soon after announcing his independent candidacy, the local Democratic-leaning newspaper ran an editorial declaring that it was a time for change, describing Duff as “a very estimable gentleman of kindly disposition” but, despite the local bar’s praise and respect, “one of the fossil judges who in this day of advancing ideas ought to be retired.”⁶¹ The newspaper that had so often supported Duff in the past may simply have been supporting the Democratic candidate over Duff’s independent run, but perhaps it was also echoing the public’s desire to shift away from Duff’s pre-war views on slavery and white supremacy that he so strongly defended in his post-arrest pamphlets.⁶² The editor the *Cairo Daily Bulletin* concluded that the time had come for “gentlemen like Judge Duff [to] be pushed into private life by the ballots of an intelligent people,” adding:

⁵⁷ *Cairo Daily Bulletin*, May 13, 1873. 2

⁵⁸ *The Biographical Encyclopedia of Illinois of the Nineteenth Century* (Philadelphia: Galaxy Publishing Co., 1875), 291.

⁵⁹ *Cairo Daily Bulletin*, April 29, 1873. 4.

⁶⁰ *Id.* June 7, 1873, 2.

⁶¹ *Id.* May 9, 1873, 2.

⁶² A. D. Duff, *Foot-Prints of Despotism, or the Analogy Between Lincoln and Other Tyrants* (Benton: Standard Office Print., 1864), 18-19; and Duff, *Arbitrary Arrests in Illinois*. 16-17.

[t]he Duffites of today are covered an inch thick with the dust of precedent in which the finger of present events can write no words to give hope to the people that they will soon be enabled to break the fetters of caste which make them the slaves of the monopolies, those favored children of the played-out doctrine of vested powers.⁶³

Although Duff won in his former home of Franklin County, he lost soundly to Crawford, receiving only thirty eight percent of the total votes cast.⁶⁴

Duff's Continuing Role in Legal Education

Now residing in the university town of Carbondale, retired from the bench, and no longer involved with either party politics or law schools, Duff returned to the practice of law, partnering with William J. Allen, a man with whom he was held captive at the Old Capital Prison. Allen had moved to Carbondale after serving terms as a judge on the state circuit and the federal bench in Springfield, and the two men had an active practice, arguing many cases before Judge Crawford (the man to whom Duff lost re-election).⁶⁵ Although Duff was no longer operating a law school in the region, he still held a belief in the need for educating the next generation of lawyers. Rather than formal "law school" classes, Duff now operated in the traditional method of apprenticeship. The social columns in contemporary local newspapers note that as late as 1878 young men were still studying law under Duff at his office.⁶⁶

Duff Moves West

By late 1884, at age 64, Duff's health began to fail. In a personal letter written in November of that year, he describes his condition as "not being able to set up more than one hour at a time – have been sick four weeks today...."⁶⁷ Adding to his misery was the death of his twenty-year-old daughter, May, on Nov. 11, 1884. Duff states that "my own mind is almost wrecked."⁶⁸ Despite his frail health and retirement from the bench, Governor R. J. Oglesby selected Duff to represent southern Illinois on a twelve-member commission to revise the revenue laws of Illinois which had "become

⁶³ *Id.*

⁶⁴ *Cairo Daily Bulletin*, June 5, 1873, p. 1.

⁶⁵ See, e.g. *Marion Monitor*, Sept. 30 and Oct. 7, 1880.

⁶⁶ *Marion Monitor*, Dec. 26, 1878.

⁶⁷ John M. Belt, *Who Killed Logan Belt?* (Cook & McDowell: Owensboro, KY, 1980), 106-107.

⁶⁸ *Id.* at 107.

wholly inadequate to guarantee equal and just taxation.”⁶⁹ Pursuant to the General Assembly’s joint resolution, Duff’s group met in Springfield throughout September 1885 and issued its report, in the form of a proposed bill, on March 1, 1886.⁷⁰

With his health failing and perhaps a feeling that he had accomplished all that he could in southern Illinois, Duff and his wife, Mary Eliza, decided to leave the only place they had ever lived, and move to Arizona. Their choice seemed to be a logical one as Duff was familiar with the area, having served in the southwest in the Mexican-American War from early 1847 until its conclusion in 1848.⁷¹ Additionally, the Homestead Act of 1862 and the completion of the second transcontinental railroad in 1880 through the southern portion of the Arizona Territory created an influx of opportunities, and residents.⁷² The choice was also an economically feasible one for Duff, as by the mid-1880s, competition among the various railroad lines servicing California had lowered the price of a train ticket from the Mississippi River from more than one hundred dollars to only twenty-five dollars.⁷³

In a testament to his impact on the legal profession in southern Illinois, before leaving Carbondale, a banquet was held in Duff’s honor at the elegant Carbondale hotel, the Newell House, and reported as far away as St. Louis.⁷⁴ The tribute was presided over by Judge Crawford, the man to whom Duff lost re-election in 1873, and speeches were given by his partner, W. J. Allen, as well as Robert Allyn, the president of Southern Illinois Normal University.⁷⁵

⁶⁹ *Laws of the State of Illinois; Enacted by the Thirty-Fourth General Assembly* (Journal Co.: Springfield, IL, 1885), 265-66.

⁷⁰ Illinois Revenue Commission. *Report of the Revenue Commission, appointed under the joint resolution of the two houses of the 34th General Assembly to propose and frame a revenue code, etc., with accompanying address* (H. W. Rokker: Springfield, IL, 1886).

⁷¹ Isaac H. Elliott, *Record of the Services of Illinois Soldiers in the Black Hawk War, 1831-32, and in The Mexican War, 1846-8* (H.W. Rokker: Springfield, IL, 1882), 210-212.

⁷² Public Land Commission, *Committee on Codification. The Public Domain; its history*. (Government Printing Office: Washington, 1884), 406.

⁷³ *Rails West*. <http://www.railswest.com/history/secondtranscontinental.html>

⁷⁴ “Judge Duff’s Send-Off,” *St. Louis Globe-Democrat*. March 10, 1886, 12.

⁷⁵ *Id.*

The Arizona Land Office

Duff arrived in Phoenix in 1887, but his retirement did not last long. Although he had eschewed party politics as a result of his Civil War experiences, he was nevertheless thrust into a political fray involving attempted reforms of the Public Land Office of the United States. Prior to Duff's arrival, Dr. Benjamin M. Thomas, a former dentist with no prior political or government experience, served as the Register of the Land Office for Tucson. Thomas was appointed and served the U.S. Government in Indian relations from 1870 to 1877, and was Register from 1877 until 1886, when he was identified by the newly elected Democrat President Grover Cleveland as part of the culture of corruption and fraud in the Land Office and was removed from his position.⁷⁶ Cleveland's choice to lead the overhaul of the office was Col. Charles E. Dailey, who assumed his Land Office duties in November 1886.⁷⁷ Unfortunately, Dailey was not only a Democrat and a reformer, but he also served under one – distinctions at that time and place which almost ensured a short tenure.

Directly above Dailey in the reporting line was General William A. J. Sparks, the newly appointed Commissioner of the General Land Office. Sparks, an attorney who had served as a Democrat in both chambers of the Illinois General Assembly, had also served under President Pierce as Receiver of Public Moneys for the U. S. Land Office at Edwardsville, Illinois. Having a reputation as a reformer, Cleveland appointed Sparks to the Arizona Territory to eliminate the rampant fraud in the agency and weed out speculators and land grabbing syndicates – most of whom were in the employ of the railroads and other large corporations attempting to convert lands in the public domain into land that was corporate controlled.⁷⁸

Not surprisingly, it was these very groups who in turn were determined to bring about the removal of the two reformers. Although both Sparks' and Dailey's attempts to eliminate the organized fraud were supported by several local newspapers, the *Tombstone Epitaph* of April 13, 1887, reported their eventual professional demise, stating "the Washington ring are too strong for even the administration, and the head of a worthy official must fall at their bidding."⁷⁹ On March 3, 1887, the last day of the Congressional session, the U.S. Senate rejected Dailey's presidential appointment.⁸⁰

⁷⁶ *Arizona Weekly Citizen*. September 11, 1886, 3.

⁷⁷ *Id.*

⁷⁸ John M. Palmer, *The Bench and Bar of Illinois; Historical and Reminiscent* (Lewis Publishing Co.: Chicago, 1899), 782.

⁷⁹ *Tombstone Epitaph*, April 13, 1887, 4.

⁸⁰ 18 *Cong. Rec.* 2669 (March 3, 1887).

By the end of that year, Sparks had resigned his position in a dispute with the Secretary of the Interior whom Sparks felt was sympathetic to the railroads to the point of violating the law.⁸¹ President Cleveland now desperately needed a replacement for Dailey; he needed a man who could curtail the existing abuses but would be acceptable to Congress and their constituents.

Despite being retired and now fifteen hundred miles from where he made his name professionally, Duff somehow appeared on President Cleveland's radar as a suitable replacement for Register of the Land Office. Perhaps Sparks planted the seed, as he would surely have been aware that his colleague from Illinois had arrived in the area, and that Duff was the type of man who would be sympathetic to the goals of the president. Additionally, the seeds sowed by Duff in his role as legal educator likely came back to benefit him professionally while in Arizona.

Daniel M. Browning, who was not only a fellow former circuit court judge from southern Illinois, but also a graduate of Duff's first law school, the Benton Law Institute, had been in contact with Cleveland, seeking the office of Commissioner of General Land Office.⁸² Although that appointment had already been made, Cleveland thought enough of Browning to appoint him to the post of Commissioner of Indian Affairs. Furthermore, Duff's former law partner William J. Allen might also have made President Cleveland aware of Duff's suitability, as Cleveland had appointed Allen to the U. S. District Court for the Southern District of Illinois in April 1887.⁸³ Likely it was one or more of these men who were instrumental in bringing Duff out of retirement, and on June 25, 1887, during the Congressional recess, President Cleveland appointed Duff, who began his duties as Register of the Tucson Land Office on July 5.⁸⁴

If Duff had any hesitations about accepting the position, the annual salary of more than \$5000 undoubtedly would have made the offer an attractive one.⁸⁵ Because the position had been vacant for four months, it was a salary that would be earned, and Duff's first

⁸¹ Palmer, at 783.

⁸² Allen, John W., *It Happened in Southern Illinois* (Carbondale: Area Services, Southern Illinois University, 1968), 237.

⁸³ *Morning Monitor* (Springfield), April 19, 1887.

⁸⁴ 19 *Cong. Rec.* 276 (January 5, 1888), 19 *Cong. Rec.* 2775 (April 6, 1888).

⁸⁵ *Report of the Secretary of the Interior; being part of the message and documents communicated to the two houses of congress at the beginning of the second session of the fifty-first Congress* (Washington: GPO, 1890), 259.

weeks as Register were busy ones. During the first month, the office examined and passed upon 260 entry papers, wrote 390 official letters, fixed the time for hearing five contested cases, issued 11 notices for publication of application of patents to the mines and 48 notices for publication of proof on agricultural lands.⁸⁶

Despite having the regional political stigma of being appointed by Cleveland and serving under Sparks, Duff did not seem to ruffle the feathers of the corporate syndicates. Even the *Arizona Weekly Citizen*, which had described the appointment of Dailey as being “very much to the disgust of everyone in this land district,” seemed accepting of Duff’s appointment.⁸⁷ On April 6, 1888, the United States Senate finally approved his nomination, but by this time his frail health was failing.⁸⁸

In early 1889, sensing the end was near, Duff began arranging to return to Illinois to spend his remaining days with his married daughter, Connie Barker.⁸⁹ Arizona newspapers announced his resignation from the Land Office in early June, but Duff never lived to see southern Illinois again.⁹⁰ On June 25, 1889, at the age of 69, Andrew Duncan Duff died after being “confined to his room by sickness for the past three or four months.”⁹¹ Soon thereafter, Mary Eliza returned with her husband’s embalmed remains to southern Illinois.⁹² Although Duff had stated in his post-arrest pamphlet that his tombstone should read: “Andrew D. Duff, one of the tyrants’ prisoners in the Old Capitol, during the great moral struggle between freedom and despotism, in 1862,”⁹³ Duff and Mary Eliza are believed to be buried in unmarked graves next to their daughter, May, at Oakland Cemetery in Carbondale, Illinois.

The Legacy of Andrew Duncan Duff

As a prisoner of state, A. D. Duff’s published narratives of his arrest and captivity served to help open the eyes of American citizens regarding the dangers of party politics and abuses of executive power during wartime. Today they offer contemporary details for modern scholars examining Lincoln’s suspension of habeas corpus, as well as the myths and realities of copperhead activities in border areas during the Civil War. Similarly, Duff’s appointment and term as

⁸⁶ *Tombstone Epitaph*, August 6, 1887.

⁸⁷ *Arizona Weekly Citizen*, July 9, 1887, 3.

⁸⁸ 19 *Cong. Rec.* 2775 (April 6, 1888).

⁸⁹ *Carbondale Free Press*, July 5, 1889.

⁹⁰ *Arizona Sentinel*, June 1, 1869.

⁹¹ *Carbondale Free Press*, July 5, 1889.

⁹² *Arizona Silver Belt*, July 6, 1889.

⁹³ Duff, *Arbitrary Arrests in Illinois*, at 18.

the Register of the Land Office in Arizona provides research fodder for modern scholars examining President Cleveland's attempts to clean up government corruption in the developing southwest.

As a man passionate about introducing formal legal education to the developing region of southern Illinois, Andrew Duff should be remembered and admired for his attempts to meet the legal needs of rural, frontier Illinois through the systematic study of law as a science. The region would have to wait almost one hundred years to meet the "non-existent" legal education resources of the state's southern thirty-seven counties when the state legislature established Southern Illinois University School of Law in 1972.⁹⁴ Although Duff's law schools never achieved the success for which he hoped, his vision and presence are alive today. The foundational motto of the Southern Illinois School of law, "Established in the Public Interest...Serving the Public Good," channels his educational philosophy, and a number of books found on the shelves of that school's library bear the inscription, "Donation of Judge A. D. Duff, March 1886."

⁹⁴ Southern Illinois University at Carbondale, *Proposal for the Establishment of the School of Law of Southern Illinois University at Carbondale, Illinois* (Carbondale: The University, 1971), 6.



The Honorable Andrew Duncan Duff. Courtesy of the Special Collections Research Center, Morris Library, Southern Illinois University Carbondale.

Idaho: The State Where They Eat Potatoes, Not People

Mark W. Podvia*

While watching a recent episode of the zombie apocalypse television show *The Walking Dead*, I gave some thought to a question that has, I am sure, plagued many of us: where would we go in the event of a zombie apocalypse? The answer came easily to me. I would go to Idaho.

Of course, we all know that the State of Idaho is known for growing wonderful potatoes.¹ Whether they are served baked, fried, au gratin, scalloped, roasted, boiled, or mashed, they are fantastic! What most people do not know about Idaho is that it is the only state in the nation where human cannibalism is illegal.² While eating Idaho potatoes is strongly encouraged, eating people is not. That is why it would be the perfect place to be in the event of a zombie apocalypse. Surely no self-respecting zombie would violate the law by illegally consuming someone!

The Idaho cannibalism statute specifically provides that “[a]ny person who wilfully [sic.] ingests the flesh or blood of a human being is guilty of cannibalism.”³ Those found guilty face “imprisonment in the state prison not exceeding fourteen (14) years.”⁴

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¹ Please note that the author will not provide an opinion as to whether Idaho potatoes are superior to those grown in Maine. I have too many friends in both states to enter into that debate.

² For the record, while cannibalism is not illegal per se in other states, many do have criminal and/or civil actions governing the abuse or desecration of a corpse that could apply to such cases.

³ IDAHO CODE ANN. § 18-5003(1). The statute was said to be “specific and graphic in order to help law enforcement in the tracking, enforcement and prosecution of these crimes.”

⁴ IDAHO CODE ANN. § 18-5003(3).

The law does include an affirmative defense: cannibalism is permitted if the person being consumed is served with Idaho potatoes. Hold it, that is not correct. Actually, the statute permits cannibalism in the event “that the action was taken under extreme life-threatening conditions as the only apparent means of survival.”⁵

The Idaho cannibalism statute, approved on April 3, 1990, was part of an act that also provided penalties for the ritualized abuse of a child.⁶ The law was adopted at a time when stories of human sacrifice and cannibalism by Satanic cults—particularly the sacrifice of children—were being reported as fact throughout the nation, including Idaho. The Idaho Senate Judiciary and Rules Committee recommended that the act be adopted, noting that “[w]hen a participant’s strong personal beliefs focus on a diety [sic.] which demands destructive, harmful, or illegal acts of worship, the laws of the State and the safety of its citizens are jeopardized.”⁷

It was only later that these stories of ritualistic abuse were largely debunked:

Sandi Bargioni, a San Francisco police officer who specializes in ritualistic crime, said that she has received scores of call from women claiming to have been Satanically abused as children. Not one of the stories could be proven, she said, and she is among the skeptics.

So is Kenneth Lanning, who works in the FBI’s Behavioral Science Unit in Quantico, Virginia. Considered an expert in cult crime, he has advised police departments on more than 300 cases, many involving survivor tales.

“In the early ‘80s, the first few times my phone rang, I was inclined to believe it,” he said. Then the cases began piling up. There were lots of reports of cults,

⁵ IDAHO CODE ANN. § 18-5003(2).

⁶ 1990 Idaho Sess. Laws 467.

⁷ Idaho Senate Judiciary and Rules Committee Minutes, Ritualistic Child Abuse, Mar. 16, 1990, 2. The author would like to thank Stacy Etheredge, Interim Director, Law Library and Associate Professor of Law, University of Idaho College of Law (Boise) and Amanda Rickard, Library Research Assistant, Idaho Legislative Research Library, for their assistance in locating this material.

but no bodies. Lanning said that airplanes with heat-seeking equipment sought out mass graves on the theory that decomposing bodies would give off heat. None was found. Lanning stopped believing.

“What are the probabilities of this?” he said. “Two or three people in Southern California may be able to do this a couple times and get away with it.” But when all the claims of Satanic sacrifice were added up, it amounted to thousands of people murdering thousands more.⁸

It was no wonder that the tales of “[t]he existence of a widespread network of murderous Satanic Cults” were determined to be a “national myth” by experts in law enforcement, mental health and academia.⁹ While the Idaho cannibalism statute was adopted and remains on the books, it is not surprising that no one has been prosecuted for violating this law.¹⁰

Ironically, no famous cannibalism cases have taken place in Idaho. America’s best-known instance of cannibalism—the ill-fated trek of the Donner Party—took place in California. The Donner Party was among the last settlers to leave Independence, Missouri, bound for California in May, 1846. Already running late, the group lost additional time when it attempted to take a new and supposedly shorter route to California.¹¹ The Donner Party became trapped in November of that year near Truckee (now Donner) Lake, located in the Sierra Nevada Mountains.

Ensnared by an early blizzard, the group might have made it safely to California had they either departed Independence a few days earlier or stuck to the usual route. There were 87 in the party, more than half of them children. Only 48 individuals lived to reach

⁸ Steve Padilla and John Johnson, *Satanism Scare may be Overblown*, S.F. Chron, May 12, 1991, at 14/Z1.

⁹ Rex Springston, *Experts Say Tales are Bunk—Rumors Abound but Nothing Proves that Cults Exist*, RICHMOND TIMES-DISPATCH, Apr. 6, 1989, 1.

¹⁰ *Did You Know that these ‘Odd Laws’ Existed in Idaho?*, SPOKESMAN-REV. (Spokane), Jan. 12, 2019, <http://www.spokesman.com/stories/2019/jan/21/did-you-know-that-these-odd-laws-existed-in-idaho/>.

¹¹ The men leading the party refused to stop and ask for directions.

safety. Many of these survivors ate the dead for sustenance.¹² No one among the group was prosecuted for cannibalism.

A somewhat less well-known case involving cannibalism was that of Albert Packer. He was one of a group of six men who attempted to cross the San Juan Mountains of Colorado during the winter of 1874. He later confessed to cannibalism, living of the flesh of the other five men when the party became snowbound.¹³

Alfred Packer was tried and convicted of murdering his five companions. It was reported that when sentencing Packer following the trial, the judge said “[t]here were seven Democrats in Hinsdale County, but you, you voracious, man-eating son-of-a-bitch, you ate five of them. I sentence you to be hanged by the neck until you’re dead, dead, dead, as a warning against reducing the Democratic population of the state.”¹⁴ Except for sentencing Packer to hang, the judge in fact said no such thing. However, the false report did sell newspapers.¹⁵

Packer’s original sentence was later overturned on a technicality. He was tried a second time and sentenced to 40 years imprisonment. In 1901 Colorado Governor Charles Thomas paroled, but did not pardon, Packer.¹⁶ Alfred Packer died in 1907. The Alfred Packer Restaurant & Grill, located at the University of Colorado Boulder, is named in Packer’s honor. The slogan of the restaurant is “have a friend for lunch.” No, I am not making that up.

¹² For a complete account of the ill-fated Donner Party see ETHEN RARICK, *DESPERATE PASSAGE: THE DONNER PARTY’S PERILOUS JOURNEY WEST* (2008). See also DONALD L. HARDESTY, *THE ARCHAEOLOGY OF THE DONNER PARTY* (1997), C.F. MCGLASHAN, *HISTORY OF THE DONNER PARTY, A TRAGEDY OF THE SIERRA* (1880), and MICHAEL WALLIS, *THE BEST LAND UNDER HEAVEN: THE DONNER PARTY IN THE AGE OF MANIFEST DESTINY* (2017).

¹³ In 1989, George Washington University Law Professor James Starrs oversaw the exhumation of the skeletons of Packer’s comrades. He found knife marks on the bones indicating defleshing.

¹⁴ Matt Masich, *The Mystery of Alfred Packer*, COL. LIFE MAG. (Mar./Apr. 2013), <http://www.coloradolifemagazine.com/The-Mystery-of-Alfred-Packer/index.php?cparticle=3&siarticle=2#artanc>.

¹⁵ It is not known what the actual party registration of the five dead men was, or even whether they were registered to vote.

¹⁶ *The Mystery of Alfred Packer*, *supra*.

In case you are curious, cannibals in the southwest Pacific have reported that human beings taste like pork.¹⁷ Because we have a fairly low percentage of muscle, we have a much lower nutritional value compared to other animals.¹⁸ Bodybuilder, actor and former California Governor Arnold Schwarzenegger might be somewhat more nourishing than your typical human.

In the event of a zombie apocalypse, some people might prefer to avoid flying. After all, a zombie could possibly be consuming your air traffic controller just as your plane is coming in for a landing. Fear not—Amtrak's *Empire Builder* does make regular stops at Sandpoint, Idaho!¹⁹

¹⁷ CAROLE A. TRAVIS-HENIKOFF, DINNER WITH A CANNIBAL: THE COMPLETE HISTORY OF MANKIND'S OLDEST TABOO 25 (2008).

¹⁸ Erika Engelhaupt, *Cannibalism Study Finds People Are Not That Nutritious* (Apr. 6, 2017) <https://news.nationalgeographic.com/2017/04/human-cannibalism-nutrition-archaeology-science/>.

¹⁹ If you want to take the *Empire Builder*, the train's schedule is available at <https://www.amtrak.com/content/dam/projects/dotcom/english/public/documents/timetables/Empire-Builder-Schedule-042918.pdf>.

BOOK REVIEWS

Books reviewed in this issue:

CAMPBELL, PETER SCOTT. *THE QUOTABLE BRANDEIS*. Durham, NC: Carolina Academic Press, 2017. xxi, 135p. Paper. ISBN: 9781531004132. \$22.00.

WELLS, HARWELL (ed.), *RESEARCH HANDBOOK ON THE HISTORY OF CORPORATE AND COMPANY LAW* (Cheltenham, UK; Northampton, MA: Edward Elgar Publishing, 2018) ISBN-13: 978-1784717650, \$290.00.

KRAUSS, STANTON D. *NEWSPAPER REPORTS OF DECISIONS IN COLONIAL, STATE, AND LOWER FEDERAL COURTS BEFORE 1801*. Durham, NC: Carolina Academic Press, 2018. 2v. (lxii, 1-968, 971-1972p). ISBN: 978-1-59460-983-1. \$350.00.

WIDENER, MICHAEL AND WEINER, MARK S. *LAW'S PICTURE BOOKS: THE YALE LAW LIBRARY COLLECTION*. Clark, NJ: Talbot Publishing, 2017. vii, 211 pp. ISBN 9781616191603. \$39.95.

Krauss, Stanton D. Newspaper Reports of Decisions in Colonial, State, and Lower Federal Courts Before 1801. Durham, NC: Carolina Academic Press, 2018. 2v. (lxii, 1-968, 971-1972p). ISBN: 978-1-59460-983-1. \$350.00.

Professor Stanton Krauss has earlier compiled the well-received *Gentlemen of the Grand Jury: The Surviving Grand Jury Charges of the Colonial, State, and Lower Federal Courts Before 1801* (2012). Now he has turned to court cases that appeared in colonial and early Republic newspapers. There are 599 cases divided into 504 cases listed by state and 95 found in the appendix of each state. It is unclear to this reviewer why the cases listed in the appendixes are different from the main body of cases.

Professor Strauss has done a remarkable job in compiling this publication. He has recorded information from 212 newspapers:

| | |
|----------------------|-----|
| Canada | 2 |
| Connecticut | 15 |
| Delaware | 2 |
| District of Columbia | 1 |
| Georgia | 6 |
| Kentucky | 3 |
| Maryland | 9 |
| Massachusetts | 43 |
| New Hampshire | 5 |
| New Jersey | 11 |
| New York | 26 |
| North Carolina | 9 |
| Ohio | 1 |
| Pennsylvania | 30 |
| Rhode Island | 6 |
| South Carolina | 13 |
| Tennessee | 1 |
| Vermont | 6 |
| Virginia | 22 |
| West Virginia | 1 |
| | 212 |

As expected, Massachusetts, Pennsylvania, New York, and Virginia have the most newspapers and make up more than half of the total number. Four of the Massachusetts newspapers he lists become Maine newspapers and a West Virginia newspaper becomes Virginia(?). With only eight volumes published for federal and state cases by 1800, the newspaper reports of cases becomes an im-

portant source for case reporting. The 599 cases are from newspapers throughout the states. In various jurisdictions, cases are reported from other jurisdiction newspapers, e.g., Pennsylvania newspapers reporting New York, Massachusetts, and New Jersey cases, New York papers covering Massachusetts cases, etc.

In drawing up these cases, one must remember that federal and state court reports only began publication in 1789:

Pennsylvania, Francis Hopkinson, Judgments in Admiralty, 1789
Connecticut, Ephraim Kirby, Reports of Cases...Connecticut, 1789

Pennsylvania, Alexander Dallas, Reports ...Pennsylvania, 1790
Vermont, Nathaniel Chapman, Reports and Dissertations...Vermont, 1793

Pennsylvania, Francis Hopkinson, Judgments in Admiralty Es-says v. 3, 1793

Virginia, George Wythe, Decisions...Virginia...Chancery, 1795

Pennsylvania Alexander Dallas Reports ...several courts v.2
1796

Pennsylvania Alexander Dallas Reports ...several courts v.3
1799

Strauss reports 599 cases from the following jurisdictions:

| Jurisdiction | Cases | Dates | Appendix | Dates |
|---------------------|-------|------------|----------|-----------|
| Connecticut | 16 | 1770-1800 | 6 | 1742-1800 |
| Delaware | 6 | 1731-1795 | 0 | |
| Georgia | 38 | 1733-1800 | 8 | 1736-1795 |
| Kentucky | 3 | 1793-1800 | 1 | 1793 |
| Maryland | 42 | 1746-1797 | 1 | 1750 |
| Massachusetts | 87 | 1705-17992 | 2 | 1723-1795 |
| New Hampshire | 6 | 1732-1791 | 2 | 1755-1798 |
| New Jersey | 31 | 1729-1800 | 5 | 1730-1796 |
| New York | 32 | 1705-1800 | 6 | 1736-1798 |
| North Carolina | 10 | 1752-1800 | 2 | 1796-1797 |
| Northwest Territory | 1 | 1796 | 0 | |
| Pennsylvania | 62 | 1720-1798 | 12 | 1779-1799 |
| Rhode Island | 12 | 1723-1791 | 4 | 1767-1792 |
| South Carolina | 98 | 1733-1800 | 11 | 1732-1800 |
| Tennessee | 2 | 1794-1798 | 0 | |
| Vermont | 2 | 1793-1800 | 0 | |
| Virginia | 19 | 1737-1795 | 9 | 1766-1800 |
| Federal | 37 | 1790-1800 | 6 | 1790-1798 |
| | 504 | | 95 | |

Of the 599 entries, the clear majority are only a couple of paragraphs up to four to six pages. Only twelve cases contain references to published cases in published court reports.

The longest entries are from the following jurisdictions:

| | |
|----------------|---|
| Massachusetts | 3 |
| New York | 1 |
| Pennsylvania | 3 |
| Rhode Island | 1 |
| South Carolina | 1 |
| Vermont | 1 |
| Virginia | 2 |
| Federal | 3 |

The ten longest entries by pages range from 86 down to 39 pages:
 86 New York Appendix: Rex v. McDougall (New York Sup. Ct. Jud. 1770) with 40 items (pp.841-927)
 83 Federal: Duplaine's Case (1793) with 37 items (pp.1886-1969)
 76 New York: Keteltas's Case (New York Cir. Ct. 1798) with 68 items (pp.729-805)
 64 Pennsylvania Appendix: Oswald's Case (O.T. Phila. 1782) with 32 items (pp.1170-1234)
 57 Massachusetts: Rex v. Richardson, Rex v. Wilmot (Mass. Super. Ct. Jud. 1770) with 29 items (pp.342-399)
 46 Pennsylvania: Respublica v. Longchamps (O.T. Philadelphia 1784) with 21 items (pp. 1030-1076)
 45 Federal: U.S. v. Williams (C.C.D. Conn. 1799) with 11 items (pp.1811-1856)
 40 Virginia Appendix: Chiswell's Case (Gen. Gt. 1766) with 27 items (pp.1604-1644)
 39 Virginia Appendix: McRae, Temple, Webb, & Wilson's Cases (1799) with 7 items (pp.1648-1677)
 39 Massachusetts: Com. v. Adams (Mass. Super. Jud. Ct. 1799) with 12 items (pp.547-586)

Each entry may or may not have multiple entries ranging from one to 68 entries within the case. The five highest cases with the most entries are:

68 items Keteltas's Case, NY Cir. Ct. 1798)
 40 items Rex v. McDougall (N.Y. Sup. Ct. Jud. 1770)
 37 items Duplaine's Case (Fed. 1793)
 32 items Oswald's Case, O.T. Phila. 1782)
 29 items Rex v. Richardson/Rex v. Wilmot (Mass. Super. Ct. Jud. 1770).

The cases come from both appellate and county court cases, while the Federal cases are all from the district and circuit courts

Besides the regular state appellate or county court, there are several cases from individual courts like the Georgia Court of Conscience, 1769 (1:73) charging for the burial of a dissenter; New Hampshire, Portsmouth Slaves' Court, 1788 (1:644) in which a Slave court of three blacks condemned another slave for theft to receive fourteen lashes; two South Carolina Slave Court cases, 1741 and 1743 (2:1322-23), a Negro convicted for arson and executed and two Negroes arrested for attempting to get other slaves to leave the province, one being executed, the other escaped; Georgetown Slave Court, 1799 (2:1503) in which two Negroes convicted of theft were given 100 lashes and branded with the letter T on their cheek; and the Charleston Slave Court, 1800 (2:1510) in which two slaves found guilty of murder were found guilty and punished by being burned alive.

Among the listings are Rules for Admitting Attorneys in Fairfield County, Connecticut (1:34); Georgia: Superior Court Rule (1:159), Removal of Judges (1:161), Advisory Opinion on Public Officials Salaries (1792) (1:192), Advisory Opinion on Effect of Constitutional Revision on Governor's Power (1795) (1:209); Kentucky: Rules of the Court of Appeals (1793)(1:220); Massachusetts: Advisory Opinion on Commutation Power (1787)(1:617); New Jersey: Judge Elmer's Resignation (1796) (1:693); North Carolina: Attorney General's Opinion Letter on the Stamp Act (1766)(1:960); Pennsylvania: Advisory Opinion on Penn Land Claims (1779) (2:1164), Rules for Admission (1782)(2:1170), Advisory Opinions on Elections (1792, 1796) (2:1244), Advisory Opinion on Voting (1798) (2:1248); South Carolina: Court Rules, Pretrial Criminal Procedure (1740-72) (2:1511), Order to Grand Juries (1788) (2:1519), Commutations of Punishment (1798) (2:1520); Massachusetts (Federal): Rule for Admitting Attorneys (1790) (2:1884); North Carolina (Federal): Rule for Admitting Attorneys (1791) (2:1884).

Professor Krauss provides Table of Civil Cases Reported, Table of Crimes Investigated, Charged or Tried, Table of Constitutions Cited, Table of Statutes Cited, Index. Strauss lists 48 topics under the civil cases with action on a bond, debt, habeas corpus, and trespass of the case as the four most listed. Of criminal cases, there are 83 categories with murder, larceny, burglary, counterfeiting, and assault as the top five categories. Strauss states that the index does not repeat the entries contained in the tables. The highest number of references are to bail, confessions, constitutionality, defense counsel (criminal cases), evidence, examination, freedom of the press, grand juries, jury's authority to determine the law, law

of nations, pardons, statutory construction, sureties, and warrants.

Professor Krauss's work is exemplary. He records that it has taken him twenty-five years to complete this work. His three-page acknowledgement to those who helped him on the project shows his dedication and work it took to obtain copies of all of these newspaper accounts, since so many were probably obtained before the Internet made many of these possible to researchers. His thank you to Keith Sipe of the Carolina Academic Press for publication of the work is heartfelt and to be congratulated for publication of this work.

This work is a major contribution of primary sources to the legal history of the colonial and early Republic. It belongs in every academic general or law library.

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Harwell Wells (ed.), *Research Handbook on the History of Corporate and Company Law* (Cheltenham, UK; Northampton, MA: Edward Elgar Publishing, 2018) ISBN-13: 978-1784717650, \$290.00.

With the daily life of the 21st century increasingly defined by global economic forces and multinational corporations, this collection of far-flung legal histories of corporate and company law is a valuable addition to the literature of legal history and corporation law. Including the work of twenty-five authors from around the globe, the work examines the corporate legal history of thirteen individual nations, the Islamic world, the European Union, and countless trading companies and merchant organizations from the late Middle Ages to the Dodd-Frank Wall Street Reform Act of 2010.

The book is divided into four geographic parts. The first part is the least homogenous part, a group of four disparate pieces on pre-modern business organizations. Jared Rubin argues why the corporation could not have developed in the Islamic world. Vikramaditya Khanna discusses pre-colonial India trading organizations. In a pair of papers, Yadira González de Lara detects the origin of the European corporation in the canon law, while Ron Harris finds it in early municipal charters.

In part two, which covers the rise of the corporate form of business in individual European countries, John D. Turner traces the development of the English corporation while Marc T. Moore looks at the tension between shareholder rights and labor in UK company law. The rise and development of German corporation law is covered in successive pieces by Timothy W. Guinnane, who outlines its 19th century roots and Thilo Kuntz, who discusses the 20th century. Kuntz, in particular, covers a lot of territory, including the role of the state in Weimar and Nazi corporation law, as well as postwar tensions between shareholder and labor rights in the context of German party politics.

Jean Rochat tracks the “making of the société anonyme” in nineteenth century France, noting the flexibility of the SA in response to political change. Giulio Sandrelli and Marco Ventoruzzo cover the rise of Italian company law, observing the importance of voting rights and classes of shares in the evolution of the modern corporation. The history of the corporation in Spain is the subject of a piece by Susana Martínez-Rodríguez. Martin Gelter closes this part with an examination of corporation law in the European Union.

Part three offers a trio of pieces on Asian business organization. Teemu Ruskola traces the origins of Chinese corporation law in late Imperial China. A “stakeholder approach to corporate law” is the focus of Umakanth Varottil’s historical survey of India. Finally, Bruce Aronson puts Japanese corporate governance and its legal framework in historical perspective.

The law of business associations of North America is the subject of part four. It begins with a pair of articles on Mexican and Canadian law, before turning to the economic elephant of the hemisphere. Aurora Gomez-Galvarriato and Gustavo A. Del Angel chart the evolution of Mexican mercantile and corporate laws from its time as a Spanish colony up to the 20th century. Fenner L. Stewart’s history of Canadian corporation law examines its interaction and divergence from the model of its economically domineering Southern neighbor.

The next three articles look at corporation laws in the United States. Robert E. Wright discusses the early period (1608-1860) before the enactment of state general corporation laws, when each corporation had to seek a charter from state legislatures. These early corporations were often engaged in banking and transportation, but many were nonprofits like schools, charities, and other eleemosynary societies. Dalia T. Mitchell uses a brief history of modern U.S. corporate law to explore shifting power between corporate boards and managers over the 20th century. William W. Bratton and Michael L. Wachter, examine a 1932 debate in the pages of the *Harvard Law Review* over corporate governance and the proper role given to various stakeholders.

Two pieces nominally center on the U.S. but explore issues of interest in any jurisdiction. Lyman Johnson examines the history of corporate social responsibility in governance. Amitai Aviram’s piece is theoretical, describing the tensions between evolutionary models of legal development (most useful in comparative law which is defined by horizontal geographic analysis) and in legal history (in which the analysis is of vertical change over time).

Research Handbook on the History of Corporate and Company Law succeeds at bringing a diverse number of comparative approaches to the study of the history of the law of corporate governance. Scholars are going to find this exciting and it will surely spark ideas for their own research. I will note that the work omits two huge geographic regions, South America and Africa, which also may have remarkable corporate legal histories. Another critique is that the editor doesn’t use the introductory chapter to bring all these

threads together into a general narrative history of the topic—admittedly a difficult task. This leaves the reader with less a handbook than an assortment of several interesting starting points for further research. Nonetheless, the work is a valuable addition to most academic law libraries.

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Widener, Michael and Weiner, Mark S. *Law's Picture Books: The Yale Law Library Collection*. Clark, NJ: Talbot Publishing, 2017. vii, 211 pp. ISBN 9781616191603. \$39.95.

In preparation for writing this review, I asked a student worker in my library to bring me the largest textbooks on reserve, “and when I sat down to read I saw that the books were hoary and mouldy, and that they included old [Farnsworth’s] wild [*Contracts Cases and Materials*], the terrible [*Civil Procedure: Doctrine, Practice and Context*] of [Stephen Subrin], [first] published in [2000], the shocking [*Administrative Law, the American Public Law System: Cases and Materials*], [first] printed in [1985] at [St. Paul], and worst of all, the unmentionable [*Constitutional Law*] of the mad [Dean Erwin Chemerinsky], in [the] forbidden [fifth edition]; a book which I had never seen, but of which I had heard monstrous things whispered.”¹

In all seriousness, reflecting on the textbooks I used in law school, my aesthetic sensibilities are offended by the fact that—in the thousands of pages of printed material—one very rarely happens upon an image. This is hardly a new problem. As the law and culture scholar Steve Redhead has written, whereas law is a literary pursuit, “the contemporary cultural terrain is defined almost exclusively in visual terms.”² Furthermore, law, which is increasingly esoteric and technical, is increasingly difficult to translate into visual terms, or so they say. It is no wonder, then, that a divide exists between law and the visual arts.

Now, however, a catalogue comes forth from the storied collection of Yale’s Lillian Goldman Law Library that reveals the forgotten and clandestine history of law’s love affair with the image. Arranged by Michael Widener, the Goldman Law Library’s rare book librarian and one of the foremost authorities on the subject of rare legal texts, and Mark S. Weiner, a law professor at Rutgers and a noted legal historian, this volume is as approachable as it is attractive. The images—which the authors tell us must have appeared inside a book in order to be included—are organized into chapters according to their function, from the more serious “Teaching the Law” to

¹ H.P. Lovecraft, *The Festival*, WEIRD TALES, Jan. 1925, at 169, 171, available at <https://archive.org/details/tails/WeirdTalesV05N01192501>.

² STEVE REDHEAD, UNPOPULAR CULTURE: THE BIRTH OF LAW AND POPULAR CULTURE 79 (1995) (discussing a passage found in the works of Peter Goodrich).

the playful “Laughing—and Crying—at the Law.” Introductory essays by Jolande E. Goldberg of the Law Library of Congress and Erin C. Blake of the Folger Shakespeare Library lend context to the collection of images, describing the historical situation that gave rise to the artistic depiction of law.

There are too many images to do any of them justice, yet it would be a travesty to describe none of them. My favorites included a set of illustrations taken from the *Bambergensis*, an early-16th-century legal treatise that led to the “unification of criminal law in the Holy Roman Empire.”³ Two engravings depict various methods of torture that, evil though they may look, actually represent the imposition of limits on the practice under the reforms of the jurist Johann von Schwarzenberg (6.01). Another highlight is an 18th-century handbook on legal self-representation—“plus ça change, plus c’est la même chose”⁴—printed in the Swiss city of Basel: an innocent man comes before a court and faces four judges marked by ignorance, drunkenness, avarice, and lasciviousness, respectively (9.09). Last, but not the least of which, is a beautiful red jungle fowl perched at the end of an early-19th-century Peruvian lawyer’s manual (10.11). A fine and delicate flourish befitting a profession that prides itself on precision, accuracy, and attention to detail.



³ MICHAEL WIDENER & MARK S. WEINER, LAW’S PICTURE BOOKS: THE YALE LAW LIBRARY COLLECTION 114 (2017).

⁴ “The more things change, the more they stay the same.” Jean-Baptiste Alphonse Karr, LES GUÊPES 278, 305 (Calmann Lévy ed., 1891) (July 1848 or Jan. 1849) (traditionally ascribed to the January 1849 edition of Karr’s journal *Les Guêpes*, I have found evidence to suggest that the phrase first appears in the July 1848 edition).

To return, for a moment, to my original complaint, I wish to add that the same basic legal concepts are taught in law schools across the United States every year. There can be no doubt that a beautifully illustrated tree depicting the law of inheritance would be as useful and amusing today as it was during the Renaissance. The same can be said for sketches and engravings depicting rights and prohibitions or diagrams conceptualizing complicated regulatory schemes. Yet, they are notably absent from our textbooks with few exceptions. Might it be that it is art that has grown too abstract for the law?

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Campbell, Peter Scott. *The Quotable Brandeis*. Durham, NC: Carolina Academic Press, 2017. xxi, 135p. Paper. ISBN: 9781531004132. \$22.00.

“Off I go, rummaging about in books for sayings which please me – not so as to store them up (for I have no storehouses) but so as to carry them back to this book, where they are no more mine than they were in their original place.” –Montaigne¹

“More tears are shed,” Saint Teresa of Ávila is purported to have said, “over answered prayers than unanswered ones.” This epigram has long been one of my favorites, but I was recently disappointed to learn that Teresa of Ávila probably never uttered it.² Rather, the novelist Truman Capote likely misattributed these solemn words to her when he entitled his final (and unfinished) novel “Answered Prayers.”³ It is quite possible that Capote was thinking of some variation on a quip found in Oscar Wilde’s play *An Ideal Husband*.⁴ Whatever the case, it is surely Capote’s sloppy attribution that has, in our time, led lesser lights to create memes in which the quotation appears adjacent to an image of Saint Teresa of Calcutta, the late Mother Teresa as opposed to the sixteenth-century Carmelite mystic.⁵

¹ MICHEL DE MONTAIGNE, On schoolmasters’ learning, *THE COMPLETE ESSAYS* 150, 154 (M.A. Screech ed., Penguin Classics 2003) (1580).

² It appears nowhere in the three volumes that make up *The Collected Works of St. Teresa of Ávila* (translated by Kieran Kavanaugh and Otilio Rodriguez), a set published by ICS Publications: the publishing house of the Institute of Carmelite Studies (ICS).

³ See TRUMAN CAPOTE, *ANSWERED PRAYERS* (1987). The earliest instance of Capote’s misattribution, which I could find, is a November 1967 interview with Gloria Steinem. See Gloria Steinem, “Go Ahead and Ask Me Anything.” (*And So She Did*): An Interview with Truman Capote, *MCCALL’S* (magazine), Nov. 1967, at 76-77, 148-52, 154 (“Answered Prayers, a novel I’ve been working on for years, is about four people who get exactly what they set out to get in life. The title comes from something Saint Theresa [sic] is supposed to have said: ‘More tears are shed over answered prayers than unanswered ones.’”).

⁴ “I remember having read somewhere, in some strange book, that when the gods wish to punish us they answer our prayers.” OSCAR WILDE, *AN IDEAL HUSBAND* act 2 (1895).

⁵ *More tears are shed over answered prayers than unanswered ones*, A-Z QUOTES, <https://www.azquotes.com/quote/544805>.

The dogged pursuit of some quotation's source is a nearly universal experience for academic librarians. It was just such an experience that inspired this meticulously researched yet pithy lexicon of Justice Louis Brandeis's thought. In his speech accepting the Green Party's presidential nomination in 2000, the consumer advocate Ralph Nader remarked,

In 1941, Supreme Court Justice Louis Brandeis made a prescient observation when he wrote: "We can have a democratic society or we can have the concentration of great wealth in the hands of a few. We cannot have both."⁶

In the months and years that followed, Peter Scott Campbell, technical services librarian and archivist of the Brandeis papers at the University of Louisville Louis D. Brandeis School of Law, was inundated with inquiries about the original citation.⁷ In a Spring 2013 article in *The Green Bag*, Professor Campbell concluded that "[u]nfortunately, there is no evidence he ever actually said it"⁸ or, if he did, it was in a private conversation with Colorado Congressman Edward Keating.⁹ Apparently the quotation—in its current form—was first attributed to Brandeis in a pseudonymous eulogy written by Keating and published in a little-remembered national weekly called *Labor*.¹⁰

Reflecting on the careful detective work it must have taken just to find the source of this one quotation, *The Quotable Brandeis* becomes all the more impressive. With subjects as divergent as "Zionism" ("Practical experience and observation convinced me that to be good Americans, we must be better Jews, and to be better Jews we must be Zionists."¹¹) and "William Howard Taft" ("He has all the defects but also the advantages of the aristocratic order that has done well by him."¹²), Brandeis scholars and admirers alike

⁶ Acceptance Statement of Ralph Nader, 23 SYNTHESIS/REGENERATION, Fall 2000, www.greens.org/sr/23/23-02.html.

⁷ Peter Scott Campbell, *Democracy v. Concentrated Wealth: In Search of a Louis D. Brandeis Quote*, 16 GREEN BAG 2D 251, 252 (2013).

⁸ *Id.* at 251.

⁹ *Id.* at 253.

¹⁰ *Id.* at 255-56.

¹¹ PETER SCOTT CAMPBELL, THE QUOTABLE BRANDEIS 80 (2017).

¹² *Id.* at 92.

owe Professor Campbell an enormous debt of gratitude.

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Leibniz, Gottfried Wilhelm. *The New Method of Learning and Teaching Jurisprudence: According to the Principles of the Didactic Art Premised in the General Part and in the Light of Experience. The First Complete English Translation of the 1667 Frankfurt Edition with Notes by Carmelo Massimo de Iuliis*. Clark, NJ: Talbot Publishing, 2017. lxxxvii, 218p. Hard-bound. ISBN: 978-1-61619-5472. \$85.00.

Once, when I was stuck somewhere with time to kill and a Bible, I opened the Good Book at random to the Book of Leviticus, which instructed me regarding the conditions under which I could kill or enslave a vanquished foe, take the women of vanquished tribes as multiple wives, and so on. Reading Leviticus was a somewhat interesting but mostly difficult, disorienting archaeological experience, revealing a time and mindset so far removed from my own that I had trouble appreciating the very different priorities and preoccupations of a remote and ancient people. Leviticus did not speak to me very well across the gulf of time.

Somewhat to my surprise, I had a similar experience while reading Leibniz's *New Method of Learning and Teaching Jurisprudence*. I suspect most other modern readers would, too.

This in itself may be a useful historical lesson. Humans too often assume that all roads and pathways of history basically, and properly, lead to wherever we are today, and that our present priorities and preoccupations are appropriate, inevitable, and presumably were shared by our predecessors.

So it is perhaps illuminating to be reminded that Gottfried Wilhelm Leibniz (1646-1716)—legendary genius and polymath of early modern Central Europe, philosopher and co-discoverer of calculus (independently of his contemporary, Isaac Newton)—actually inhabited an intellectual universe that in many ways shared relatively little with our own regarding social, political, intellectual, and even legal assumptions and priorities. Rather like 19th century Victorians, described as backing into the future—moving forward reluctantly while looking backward and longing for the past—Leibniz and his mid-Enlightenment contemporaries seem relatively uninterested in most of what concerns us today, or in moving in that direction, and more inclined to revere, even seek to recreate, the ancient Classical past—notably imperial Rome, not democratic Athens—as well as the medieval Holy Roman Empire.

So, for instance, Leibniz matter-of-factly accepts slavery and that slaves are “not to be considered as a person, but as a thing” (p. 52); because slavery existed throughout the Biblical and Classical

worlds, the devout Leibniz likely accepted it as natural, inevitable, and the will of God (rather like antebellum slaveowners in the American South). Similarly quaint to modern readers is a statement that because criminal sentencing first requires a confession, criminals found guilty of course must be compelled to confess through torture as necessary (p. 66). Leibniz also accepts, and seemingly reveres, the rigid aristocratic and Church hierarchy of his day—including in his fawning Dedication to a potential aristocratic patron he sought to impress (pp. lxxix-lxxxii). More of the book is devoted to theology and canon law than to law as we think of it today (and the remainder concerns Roman law), a reminder that to scholars of the day, these all remained closely intertwined, while the separation of church and state was still a relatively new-fangled (and possibly heretical) idea. Leibniz's participation in a continent-wide scholarly community speaking and writing in Latin hearkens back to the medieval era at a time when modern nation-states were still only taking shape.

Part I of the treatise briefly reviews 1660s-vintage general educational theory, including the inculcation of memory and habit by repetition, mnemonics, and such. Here as elsewhere, Leibniz seeks to analyze matters down to their elements and basic definitions, like his contemporaries Hobbes and Locke. The 21-year-old Leibniz, however, adds no particularly striking or novel insights, so the commentary is mostly of antiquarian interest today.

Part II turns to jurisprudence. Extensive sections of Leibniz's treatise effectively constitute a lengthy annotated bibliography (e.g., pp. 66-115), including Leibniz's opinions on a great many earlier or contemporary scholars and who among them got things right or wrong regarding particular aspects of Church doctrine, canon law, or similar issues of concern to early modern European scholars that may be of interest to intellectual, legal, or Church historians or theologians seeking to carefully reconstruct the mentalité of those times and associated doctrinal debates (and comments on figures of note, from Aristotle and Cicero to Hobbes and Grotius, can be found using a thorough name index). Non-specialists likely will find such commentary extremely dry and arcane.

So much space in a slender volume is devoted to bibliography that fuller comments on particular topics of interest, such as the Catholic-Protestant schism, natural law, logic, grammar, and hermeneutics, tend to be brief and sparsely interspersed. Unlike most present legal scholars, Leibniz saw legal history as fundamental to legal education, but only ecclesiastical history and pre- and post-Justinian Roman history really mattered. Overall, Leibniz shows a quasi-religious, proto-positivist faith in the fundamental truth and

order of Law, but also complains how humans have messed it up through the years. Noting cluttering of the Law with extraneous interpretive glosses over centuries, Leibniz briefly proposes a system of brush-cutting and bibliographic reorganization to distill the true, useful essence of the law in a more compact form, including a quasi-mathematical or symbolic logic system of categorizing cases and arguments (p. 175). Such ideas are little developed, however. Contrary to what readers might hope from the title, Leibniz's treatise provides little usable insight for re-envisioning legal education in the present, and only a somewhat disorderly mixed bag of tips for preparing legal scholars of the 1600s buried among all the bibliographic annotations.

To say that Leibniz's 1667 treatise speaks relatively little to present-day concerns is emphatically not to denigrate editor and translator Carmelo Massimo de Iuliis's impressive scholarly and linguistic feat of working with countless resources in at least six different languages (German, French, Italian, Latin, Greek, and English) to produce the first complete English translation of the work, which should be valuable for Anglophone scholars of Leibniz and his times. The lengthy and thoroughly researched editor's introduction also likely helps the non-specialist reader understand the work's significance better than the work does itself.

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