In This Issue

The first four articles in this issue remind us of the scope of legal history as they move us across time and space. The first, by Ernest Caldwell, looks at the development of written law in early China (roughly 771–221 BCE). He argues that the shift to written law arose in response to intrakingdom problems during the reign of the Eastern Zhou. Specifically, he shows that written law was seen as a way to quell conflict within the aristocracy and stabilize relations between that aristocracy and the general populace. By positioning these legal reforms in the context of sociopolitical problems, Caldwell moves the history of traditional Chinese law away from a narrow focus on the form and content of law. Instead, he seeks to look at early Chinese law comparatively, to show that "like the ancient Babylonians, Greeks, and Romans, the early Chinese legal writers understood that specific written forms were capable of enhancing the communicative, and, by extension, transformative, function of law."

The next two articles take us around the globe to Europe between the thirteenth and fifteenth centuries. Stefan K. Stantchev's article on canon law is a study of the breakdown of a legal taxonomy. Specifically, it is an account of how and why legal categories (pagans, Jews, and heretics) that appeared stable and distinct were increasingly collapsed together until "what was said of the Jews was applicable to Muslims, what was said of heretics was applicable to Schismatics." Discursively, the result was to erase the distinctions recognized in law by creating a broad legal category of "infidelity" or infidels. Practically, this led to the creation of a general, if unwritten, rule that non-Christians had to be segregated from Catholics, and that Catholics should avoid all non-Christians.

Ryan Greenwood's article, although set in Europe at almost the same time (1250–1450), deliberately moves us away from canon law to the development of the law of war in medieval Roman law. Where

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Stantchev describes the way that legal practices led to the creation of new legal statuses that then reshaped sociolegal relations at a particular moment in time, Greenwood's article reveals how the development of the legal concept of the "licit" war gave rise to a theory of sovereignty that redefined the powers of the Italian cities and, ultimately, set the stage for the political writings of theorists such as Hobbes and Locke.

Greenwood's late medieval civilians, like Stantchev's canonists and Caldwell's writers during the Eastern Zhou, were "attempting to respond to their own fractious, contemporary environment." The subjects of Edward Cavanagh's article engaged in a similar struggle as they claimed dominion over land in New France in the seventeenth century. In many respects, Cavanagh's article tells a tale of possession and dispossession familiar to students of colonial efforts in the Atlantic world and beyond. It is a story of dominion seized and defended in a piecemeal fashion, justified by theories that denied indigenous people possessed the land they lived on. And for Cavanagh, that familiarity is precisely the point. Just as Caldwell hoped to put China's embrace of written law into dialog with studies of Babylon, Greece, and Rome, Cavanagh's article is intended to put studies of claims to possession in the French Atlantic into conversation with scholars who trace colonization in the English Atlantic and Pacific worlds. At the same time, Cavanagh also argues that the study of dominion in New France must move beyond a focus on monarchical claims of possession. Private parties, most particularly the Compagnie de la Novelle-France, gave the process of dominion and dispossession a corporate and private aspect for its first 100 years.

The last two articles, by Tom Johnson and Melissa Hayes, reduce the scope of inquiry down to the microcosm of the trial as they invite us to reconsider how we understand witness testimony. Johnson's study unpacks the testimony from two unrelated church court cases from sixteenth century London to examine how late medieval and early modern witnesses restated and reinterpreted social discourses in legal settings to "tell the court what they thought it wanted to hear." Building on recent works that suggest that people in late medieval and early modern England were familiar with legal institutions and concepts, he argues that reading his two cases against one another suggests that the witnesses deliberately chose to tell their stories in self-consciously "legal" ways. This is partly an argument about witnesses' agency, but it is also a claim about the nature of legal sources. Johnson suggests at the end of his piece that the "idea" that those early modern witnesses "might have been prompted to think 'legally,' about social discourse" should make historians pause and wonder anew about whether their testimony reliably represented the relations they thought to describe.

Where Johnson urges historians to consider the "preconstructions" of early modern witnesses, to explore those witnesses' efforts to reconstitute their claims into the language of law, Hayes's study of trials of seduction, breach of promise and bastardy claims from late nineteenth-century Illinois argues that the often bawdy and frequently recounted sexual narratives produced in those cases helped shape popular beliefs about sexuality. Not surprisingly, she concludes that male testimony in those cases reinforced, and helped naturalize, popular beliefs about the aggressive male sex drive. Hayes also argues that the testimony about female sexuality required in those cases, although typically framed in the dominant tropes of female passivity and victimization, "exposed and fueled bolder facets of female sexuality." In the process, that testimony kept the issue of female sexual agency before the public. But although her emphasis is on the ways in which legal discourses shaped social perceptions, Hayes discussion of her witnesses' testimony also provides what seem to be modern examples of the "preconstruction" practiced by Johnson's early modern witnesses. As she notes at one point, "it is likely that female litigants recognized the kinds of rhetoric that would be accepted by courts."

This issue concludes with a selection of book reviews. We invite readers to also consider American Society for Legal History's electronic discussion list, H-Law, and visit the Society's website at http://www.legalhistorian.org/. Readers may also be interested in viewing the journal online, at http://journals.cambridge.org/LHR, where they may read and search issues of the journal.

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