In This Issue

At a first glance, the articles and essays presented in this issue of the *Law and History Review* might seem to range so widely in place and substance—from the legal culture of the Canadian frontier to eighteenth-century Parisian trial narratives, from patriarchy in English family law to the legal history of Chinese immigrants in the U.S.—as to suggest little commonality. Many legal historians will welcome such zesty variety; some, though, may find themselves wondering whether such diversity signifies that the centrifuge is now spinning as fast in our "sub" discipline as in the discipline of history as a whole. As one digs into these articles, however, one will discover that they are united by a common determination to engage readers in debate over issues of evidence, argument, and analysis that, at this juncture, are of considerable importance to the course of legal history as a field of study. They broach issues of methodology, notably what can and should be thought appropriate sources for the writing of the history of law and legal culture; issues of interpretation, notably the capacity of alterations in imaginative standpoint to suggest quite dramatic shifts from well-established tracks of legal-historical development; and finally issues of technique and conceptualization, notably the use and interpretation of narratives, official and unofficial, in recovering the legal past. To a very great degree, we all know, law is communicated and implemented through telling stories. How are stories to be used in our telling of law's histories?

Our first article takes us to the Canadian West of the mid-nineteenth century, specifically to the Red River settlement in the "District of Assiniboia" south of Lake Winnipeg—the only colonial settlement on the Canadian prairies for most of the nineteenth century. Robert Baker, a doctoral candidate at UCLA, uses the settlement as a site for critical exploration of the meaning of "law and order" on the Canadian frontier and for an investigation of the sources from which legal history might be rewritten as the history of legal culture. Like recent historians of British Columbia, Baker tells a more complex tale than one of commercial interests' legally assisted sway over indigenous peoples and local settlers alike. Previous historians have assumed that the Hudson's Bay Company's representatives designed and implemented a local legal system dedicated instrumentally to the protection of the company's fur trade monopoly and, more generally, to strict control of settlement life in the company's interests. But this view is not born out by archival research. Examination of Assiniboia's juridical institutions in

action reveals a history formed less through the imposition of authority from above than by obtaining support from below. Baker shows that the legal history of the Red River settlement—and, by extension, of the Canadian West in general—is a story of local legal culture in formation, dependent for its viability on community notions of law, justice, and reason.

In the second article, which is also this issue's *Law and History Review* "forum" essay, Danaya Wright reconsiders the meaning of *De Manneville v. De Manneville* (1804), English law's first interspousal child custody case. Examining the case through the lens of eighteenth-century guardianship and custody cases, and, more broadly, eighteenth-century family history, Wright notes how the rise in companionate marriage and the increasing prominence of law in family affairs set the stage for mothers to seek custody rights to their children. Historians have tended to see the ideology of custody right as decreasingly patriarchal, increasingly egalitarian across the course of the eighteenth and nineteenth centuries, thus favoring the maternal claim. Wright, however, contends that the reverse is true. Numerous eighteenth-century cases limited traditional paternal rights when the interests of children seemed to indicate that it was appropriate to do so; the early nineteenth century, in contrast, exhibits heightened judicial concern to protect traditional rights of fathers from maternal challenge. On this matter, in other words, English common law doctrine was more plural, less linear, than either judges or historians have represented. Further, the rejection of maternal claims long after companionate marriage had become a social norm, and a heightened role for women in child rearing an assumed social good, calls into question traditional theories of the relationship between legal doctrines and social practices. Michael Grossberg and Eileen Spring comment on the significance of Wright's findings and conclusions. The forum ends with Wright's response.

The third article in this issue exemplifies a genre of scholarly writing that I hope we will see more often in future issues of the *Law and History Review*—that is, "field review" essays that assess developments in the discipline's constituent areas of interest. Here Richard Cole and Gabriel Chin review four generations of studies of the legal experience of nineteenth-century Chinese immigrants in America. In the second half of the nineteenth century Chinese resort to legal remedy in the face of violence and discrimination created a rich legal history that won little attention from "classical" legal historians. The new scholarship of more recent years has, however, dramatically recast the legal image of the Chinese in America, helping to shatter stereotypes of nineteenth-century Chinese immigrants as in general passive and nonassimilating. The new legal history has shown how Chinese legal advocacy, though failing to protect the immigrant community from violence and discrimination, provided a democratic critique that eventually helped expand individual rights and restrict arbitrary administrative lawmak-

ing. Cole and Chin conclude that the new legal history of Chinese immigrants demonstrates the utility of legal history as a standpoint that can inform general histories of the Chinese in America. Correspondingly, they suggest that investigation of the legal histories of other overlooked groups will richly enhance our comprehension of the general development of American legal culture, not least in the areas of immigration and civil rights law.

This issue's final essay is an extended and highly entertaining note on a document of historical importance that also demonstrates the returns to be gained from engagement with a legal narrative as, first and foremost, a story constructed to be persuasive. In 1770, Santo Aricò tells us, Antoine-Louis Séguier, the king's advocate of the Parlement of Paris defended one Jean-Baptiste Dubarle against a variety of charges—betrayal, theft, kidnapping, adultery—leveled against him by a one-time acquaintance, Eustache Chefdeville. The defense is mounted through the medium of a legal brief (*mémoire*). Aricò observes that the document has formal importance in demonstrating that a king's advocate might represent members of the lower bourgeoisie in legal proceedings as well as the crown. But it is also important as an artifact of communication, both in the form by which it allows an argument to be registered and transmitted and also in the narrative license it gives its author to construct an argument through storytelling. Aricò thus points us toward the use of oratorical technique, narrative form, and easily recognizable cultural metaphor in the constitution of legal argument. Séguier's brief is "courtroom literature"—and only one of many such examples.

As usual, this issue presents numerous book reviews and the latest in our continuing series of resource pages. This page has been written by Bernard Hibbitts of the University of Pittsburgh law school. Hibbitts challenges legal historians to lift their eyes to the electronic horizon, to consider the ways in which the World Wide Web can be used not simply to replicate with greater efficiency those species of scholarship that hitherto have constituted our discipline but to reconsider and transform the parameters of legal history itself. Hibbitts's observations are a fitting conclusion to an issue that has dwelt on matters of method and historiography. They are also a fitting introduction to what I hope will be a new and expanded use of this resource page as a feature of the journal. Having pioneered it with the help of H-Law's editors, Christopher Waldrep and Ian Mylchreest, as a means of introducing legal historians to the Internet and its many resources, we plan in future issues to broaden the page to include discussion of the implications of Web-based research and scholarship for our discipline. To that end the page has been renamed "The *LHR* Electronic Resource Page." In coming issues we will invite further "guest columnists" to contribute their thoughts and expertise, and we of course welcome short submissions from readers at large.

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