

Keeping Up with New Legal Titles*

Compiled by Amy Atchison** and Laura Cadra***

Contents

<i>The Interdict in the Thirteenth Century: A Question of Collective Guilt</i>	377
<i>The Wealth of Wives: Women, Law, and Economy in Late Medieval London</i>	379
<i>The Law Student's Pocket Mentor: From Surviving to Thriving</i>	380
<i>The Trial of "Indian Joe": Race and Justice in the Nineteenth Century West.</i>	382
<i>Strategic Selection: Presidential Nomination of Supreme Court Justices from Herbert Hoover through George W. Bush</i>	383
<i>It's Harder in Heels: Essays by Women Lawyers Achieving Work-Life Balance</i>	384
<i>The Nine: Inside the Secret World of the Supreme Court.</i>	385
<i>Cultural Products and the World Trade Organization</i>	387
<i>The Origins of the Ownership Society: How the Defined Contribution Paradigm Changed America.</i>	388
<i>The Renegade Lawyer: Legal Humor for Law Students, Attorneys, and Other Interested Third Parties.</i>	390

List of Contributors

Shaun Esposito
Head of Public Services & Adjunct Assistant Professor of Legal Research
Law Library, James E. Rogers College of Law
University of Arizona
Tucson, Arizona

<i>The Trial of "Indian Joe": Race and Justice in the Nineteenth Century West.</i>	382
--	-----

* © Amy Atchison and Laura Cadra, 2008. The books reviewed in this issue were published in 2007. If you would like to review books for "Keeping Up with New Legal Titles," please send an e-mail to atchison@law.ucla.edu or laura.cadra@lls.edu.

** Acting Director, Reference & Research Services & Williams Institute Librarian, Hugh & Hazel Darling Law Library, UCLA School of Law, Los Angeles, California.

*** Head of Reference Services/Foreign and International Law Librarian, William M. Rains Law Library, Loyola Law School, Los Angeles, California.

- Stanley E. Horst
Retired Law Librarian
Geneva, Illinois
The Interdict in the Thirteen Century: A Question of Collective Guilt 377
- Cheryl L. Kelly
Reference Librarian
Hugh & Hazel Darling Law Library
UCLA School of Law
Los Angeles, California
The Wealth of Wives: Women, Law, and Economy in Late Medieval London. . . 379
- Karen Kronenberg
Reference Librarian
Florida Coastal School of Law Library and Technology Center
Jacksonville, Florida
The Law Student's Pocket Mentor: From Surviving to Thriving 380
- Yuxin Li
Coordinator of Cataloging and Serials Management
O'Quinn Law Library
University of Houston
Houston, Texas
Cultural Products and the World Trade Organization 387
- Lynn Connor Merring
Librarian & Records Manager
Stradling, Yocca, Carlson & Rauth
Newport Beach, California
*It's Harder in Heels: Essays by Women Lawyers Achieving
Work-Life Balance* 384
- Cathryn O'Neill
Reference Librarian
Southern New England School of Law Library
North Dartmouth, Massachusetts
*The Renegade Lawyer: Legal Humor for Law Students, Attorneys, and Other
Interested Third Parties* 390
- Joshua Phillips
Reference Librarian
William M. Rains Law Library

Loyola Law School
Los Angeles, California

*The Origins of the Ownership Society: How the Defined
Contribution Paradigm Changed America.* 388

Mary Rice
Law Librarian
Charles County Circuit Court Law Library
La Plata, Maryland

The Nine: Inside the Secret World of the Supreme Court. 385

Julie A. Stuckey
Reference Librarian
Ehrhorn Law Library
Liberty University School of Law
Lynchburg, Virginia

*Strategic Selection: Presidential Nomination of Supreme Court
Justices from Herbert Hoover through George W. Bush* 383

Clarke, Peter D. *The Interdict in the Thirteenth Century: A Question of Collective Guilt*. New York: Oxford University Press, 2007. 300p. \$117.

Reviewed by Stanley E. Horst

¶1 Author Peter D. Clarke, lecturer in Medieval History at the University of Southampton, has in *The Interdict in the Thirteenth Century: A Question of Collective Guilt* produced a work of significant scholarly value which explores the interdict, a largely neglected aspect of papal, ecclesiastical, legal, and political history of the Middle Ages. The only other monograph in English on interdicts appeared in 1909.¹

¶2 Clarke distinguishes the intent of the interdict from excommunication. In contemporary church law excommunication is the penalty most often indicated for specified offenses of an individual. In the thirteenth century it was likewise imposed only on individuals for their own sins. Excommunication bound the soul, whereas the effect of temporal punishment such as the interdict was limited to this earthly life. As Clarke states, “The interdict and excommunication were the only means of coercion that the spiritual power had under its direct control, which accounts for . . . papal concern to regulate their usage, lest they came to lose their efficacy and diminish respect for ecclesiastical authority” (p. 129).

¶3 *The Interdict in the Thirteenth Century*, a rewriting of Clarke’s Ph.D. thesis, presents a wealth of new evidence drawn from manuscripts and archival sources

1. EDWARD B. KREHBIEL, *THE INTERDICT: ITS HISTORY AND ITS OPERATION: WITH ESPECIAL ATTENTION TO THE TIME OF POPE INNOCENT III, 1198–1216* (1909).

showing how medieval canonists intended the interdict to work and how it actually worked in practice. Clarke examines how princely and popular reactions to interdicts encouraged the papacy to reform the sanction in order to make it more effective.

¶4 The interdict was an ecclesiastical sanction that had the effect of closing churches and suspending religious services. The hegemony of the papacy also permitted it to intervene in the affairs of secular rulers by means of the interdict. A community was usually subject to this sanction because its ruler had violated ecclesiastical rights. For example, Innocent III imposed an interdict on France in 1199 because its king refused to abandon his mistress and return to his wife despite papal refusal of a divorce. The popes established a common law of interdicts that “effectively regulated [their] operation . . . and formed part of the *Corpus iuris canonici* that remained binding on all Catholics till 1917” (p.3).

¶5 To more fully understand the background of both civil and canon law in this period, this reviewer suggests a book by the late Harold J. Berman,² which rejects the idea that modern legal systems began in the sixteenth century. Berman argues that the rise of papal authority with its own canon law in the eleventh century laid the foundation for modern law.

¶6 Through Clarke’s analysis, however, the interdict can be seen as the Church’s reaction to lay forms of social organization that made claims to collective loyalty sometimes conflict with those asserted by the Church. It came to be linked with consent to wrongdoing and was designed both to punish the failure of subjects to restrain their ruler from sin and to turn them against him, compelling him to make amends. Nevertheless, the Church advocated peaceful protest, not armed uprising. It recognized that royal power was ordained by God and hence to be obeyed even when misused against the Church. The aim of the interdict was not retribution but reconciliation. Medieval churchmen believed in the possibility of redemption for sinners; thus, their sanctions were meant to induce repentance.

¶7 *The Interdict in the Thirteenth Century: A Question of Collective Guilt* is recommended for purchase by libraries with canon law or European law collections. It has the usual scholarly apparatus, including citations to relevant legal texts, and may be of interest to historians, lawyers, theologians, social and political scientists, and moral philosophers.

¶8 In addition, *The Interdict in the Thirteenth Century* is full of interesting anecdotes. The clergy strike in the Tuscan commune of San Gimignano c.1289–93 was of interest to this reviewer (pp.204–18). It involved a “walkout,” the hiring of “scabs,” and an end negotiated by an independent arbitrator. And I would certainly have enjoyed being among the author’s “friends at the Vatican Library coffee bar” (p.vi).

2. HAROLD J. BERMAN, *LAW AND REVOLUTION: THE FORMATION OF THE WESTERN LEGAL TRADITION* (1983).

Hanawalt, Barbara A. *The Wealth of Wives: Women, Law, and Economy in Late Medieval London*. New York: Oxford University Press, 2007. 336p. \$74.

Reviewed by Cheryl L. Kelly

¶9 Author Barbara Hanawalt's research for *The Wealth of Wives: Women, Law, and Economy in Late Medieval London* began nearly ten years ago as part of a project to reveal the life cycle of medieval Londoners. A professor of history at Ohio State University, Hanawalt is an expert on medieval England. She has published books focusing on peasants in medieval England, and childhood in medieval London.³ The latter was also part of her larger project on life in medieval London, which she describes in her preface as resulting in something of a trilogy, including the early book on childhood, this second book on women, and a forthcoming study on dispute resolution, focusing on medieval London men.

¶10 In writing *The Wealth of Wives*, Hanawalt adds a legal spin to the prevailing story about the economic contributions of women in medieval England. Earlier research revealed that medieval women were successful as workers and businesswomen, and thus made personal, trade-related contributions to the rising status of London on the international stage. Hanawalt, however, finds that while women did contribute through their personal involvement in various trades, they made an even larger, more significant contribution to the economy. This larger contribution was through their role as wives, obtaining wealth via inheritance and dower and then passing it on through marriages. Hanawalt reveals that unlike most of Europe, and even other areas of England, London shirked the practice of passing property and wealth vertically through the male line. Rather, its citizens placed an emphasis on spreading wealth horizontally throughout a social class. This was achieved by laws such as those allowing daughters to inherit equally with sons, and allowing widows to take a dower into a new marriage.

¶11 Hanawalt explains in her preface that "no comprehensive book or set of articles exists on the legal rights of women in London, which necessitated reconstructing this complicated system from laws and ordinances written at the time and from the actual court cases in which the laws were reiterated as they were applied or interpreted" (p.vi). Thus, her work is not intended to be a complete exploration of the law in relation to women in late medieval London. In fact, Hanawalt states that she intends her work to be a starting point for future research that may uncover additional details about London law in medieval times. That said, the meticulous research in archival materials and other primary and secondary sources that is the foundation of this book makes it a significant contribution on the topic of law in late medieval London.

3. BARBARA A. HANAWALT, *THE TIES THAT BOUND: PEASANT FAMILIES IN MEDIEVAL ENGLAND* (1986); BARBARA A. HANAWALT, *GROWING UP IN MEDIEVAL LONDON: THE EXPERIENCE OF CHILDHOOD IN HISTORY* (1993).

¶12 Hanawalt presents the evidence found during her research in a well-organized manner, convincingly supporting her argument that the wealth-spreading role of medieval London women as wives was more significant than their economic contribution as individual laborers. The nine chapters each tackle an aspect of the women's lives that affected the economy in London. Her evidence takes the form of family letter collections from the fifteenth century, wherein the economic aspects of making a good marriage were made evident (p.82) and the details of marital economic and business partnerships were illuminated (p.121). There is also evidence quoted from court cases and wills, describing the intricate arrangements sometimes necessary for families to set up a proper dowry/dower transaction (p.59). Advice literature from the period and sermon stories are only some of the additional sources used in Hanawalt's study (p.118).

¶13 The writing style is scholarly and readable, though not unproblematic. While the book's unquestionable strength is the incredible amount of detail taken straight from archival materials and primary sources, these details are sometimes presented in a fashion that reads much like a laundry list of cases to illustrate a point. I do not think that this work would be as valuable without the extensive examples pulled from her research. However, it makes the work more suitable for use as a reference tool than a smooth read.

¶14 Nearly one-third of the book's more than three hundred pages is devoted to reference materials, including a glossary, notes pages, a bibliography, and an index. Hanawalt has dotted the chapters with references that are collected in a lengthy notes section at the end of the book. The bibliography is extensive, and in addition to separate listings of primary sources and secondary sources, it includes manuscript sources such as the Mayor's Court, Original Bills, and the Coroners' Roll.

¶15 Law libraries might have missed Hanawalt's earlier works, since her focus has been historical and social rather than legal. In fact, Hanawalt's thesis in *The Wealth of Wives* encompasses social and economic issues as well as legal ones, making some chapters less legally focused than others. *The Wealth of Wives*, however, contains a valuable collection of quotations from and recounts of legal manuscripts and other rare material that, without Hanawalt's book, a researcher would have to pore through the archives and record halls of London to find. Thus it is a worthwhile addition to all law libraries that collect materials on English legal history.

Iijima, Ann L. *The Law Student's Pocket Mentor: From Surviving to Thriving*. New York: Aspen Publishers, 2007. Paper. 256p. \$26.95.

Reviewed by Karen Kronenberg

¶16 As a guide for law students, *The Law Student's Pocket Mentor: From Surviving to Thriving* has an impressive breadth of coverage. It begins with advice on the right (and wrong) reasons to go to law school and takes the reader all the way

to full-time legal employment. In between, it gives advice on academic success, choosing extracurricular activities, building a legal career, and balancing law school with a personal life. It also includes a chapter for issues facing nontraditional students. Not covered are the law school admissions process or the LSAT, most likely because the book is intended for admitted law students.

¶17 While not every possible aspect of the law school experience is dealt with, author Ann L. Iijima covers topics not typically addressed in law student handbooks. For example, a chapter is dedicated to the subject of financing a law degree and strategies for keeping student debt to a minimum. The author ties this discussion directly to how this will affect the student's career choices later. Also discussed are law firm billing practices and other aspects of a beginning lawyer's employment.

¶18 Advice on academic success is not broken down by subject, but rather concentrates on techniques for briefing, note taking, and outlining that can be applied to any substantive course. Legal research and writing courses are not addressed. Readers are advised to take their learning styles into account when choosing study methods. Suggestions on how to make a study schedule are offered, along with some useful worksheets for briefing cases, taking notes, and outlining classes.

¶19 *The Law Student's Pocket Mentor: From Surviving to Thriving* has a reassuring, conversational tone, and includes several useful letters from law students with advice they wish someone had given to them earlier in their careers. The author also includes sample worksheets for students to create time-management plans, money- and debt-management plans, and plans on what classes to take. The publisher's web site for the book makes these worksheets available in PDF format (http://www.aspenlawschool.com/books/iijima_pocketmentor).

¶20 The book is clearly organized with a detailed table of contents and a reasonable depth of indexing. I found I could quickly locate almost any information using either feature, the one exception being the worksheets, which are not indexed.

¶21 Iijima is well qualified to advise law students. She is Vice Dean for Academic Programs at William Mitchell College of Law, and has published articles on academic support programs and the problems of law students.⁴ She also develops the school's Compass programs, which are courses intended to help students improve their academic performance.

¶22 Because most law school libraries collect handbooks on how to succeed in law school, *The Law Student's Pocket Mentor: From Surviving to Thriving* is worth considering for its choice of subjects and its contemporary approach. It would be a valuable addition if the books already in your library's collection do not address learning styles or the realities of student loan debt, and at \$26.95, it is reasonably priced.

4. See, e.g., Ann L. Iijima, *Lessons Learned: Legal Education and Law Student Dysfunction*, 48 J. LEGAL EDUC. 524 (1998).

McKanna, Clare V., Jr., *The Trial of "Indian Joe": Race and Justice in the Nineteenth Century West*. Lincoln, Neb.: University of Nebraska Press, 2003 (reprinted in 2007). 155p. \$19.95.

Reviewed by Shaun Esposito

¶23 *The Trial of "Indian Joe": Race and Justice in the Nineteenth Century West* derives chiefly from historian Clare V. McKanna Jr.'s review of a trial transcript from a murder case in San Diego in 1892. The defendant, José Gabriel, was charged with the murders of farmers John and Wilhelmina Geysler on their farm just outside San Diego. The victims were white, the defendant a Native American originally from a village in Baja, California. The author uses the trial transcript to outline the presentation of the case and supplements this information with newspaper articles from the time. The result is a very readable narrative of a historical event, as well as a thought-provoking essay on the racism inherent in society in general, and the justice system in particular, in late nineteenth-century California.

¶24 The book is all the more thought provoking because, rather than presenting the story as clear-cut oppression of an innocent man by an evil and racist justice system, it closely examines the evidence in this case and demonstrates how underlying racist stereotypes affected everyone in the trial from the judge and the prosecution to the witnesses, jurors, and defense attorney. The reader is left not with the strong belief that an unquestionably innocent person was convicted for a crime he did not commit, but that a fair trial was impossible given the underlying and erroneous assumptions based upon prejudice and stereotype.

¶25 Opening with a description of the night of the murder, McKanna focuses subsequent chapters on the prosecutors and their development of the case, the defense attorneys and their handling (or mishandling) of the defense, the judge, and the jury selection process, which ensured that only white males were selected as jurors. Next, he discusses the crime scene in depth and examines the state of forensic science at the time.

¶26 In perhaps the most revealing chapter, "The Illusion of 'Indian Joe,'" McKanna discusses the sociological significance of marginalizing groups by examining the media's role in the trial. The media, who gave José Gabriel the moniker "Indian Joe," used the trial to perpetuate the stereotypes of Native Americans as at once savage and passive. In a final chapter, "The Scales of Justice," McKanna analyzes the evidence and courtroom atmosphere to portray an inadequate defense attorney and a judge who lost control of the courtroom. In the epilogue, he describes futile attempts by the defendant's former employers and acquaintances to delay his execution at San Quentin.

¶27 Undoubtedly this book has or will find its way to the shelves of most law school libraries. It could be used in a variety of classes, ranging from legal history to criminal procedure and trial practice to law and society to Native American law. Serving as the basis for a mock trial, this case could be tried again to see if a different outcome would result today. In the criminal procedure context, examining

the defense attorney's actions in light of the United States Supreme Court case law on the ineffective assistance of counsel might also be interesting.

¶28 McKanna does compare current standards of criminal investigations and trial practice with the historical practices of the time. Thus, a critical examination of this work would also make a fruitful topic for a legal history course: would a law-trained observer agree with all of the historian author's observations of trial strategy and forensic evidence? A lively debate could follow about whether it is fair to apply current standards to what happened over one hundred years ago.

¶29 While not intended as a reference source, *The Trial of "Indian Joe": Race and Justice in the Nineteenth Century West* provides an extensive bibliography that could be used for further research, and despite any shortcomings in its legal analysis, it should be of interest to anyone interested in the importance of fairness in the justice system. If anything, the tragic story of José Gabriel shows the central importance of a fair trial, not so much in cases where evidence of innocence or guilt is clear, but where it is uncertain and where a fair and unbiased trial process can do the most to get to the truth. Given the current upheaval over the status of undocumented immigrants and the fear of terrorists, the judicial system must be ever-vigilant that a fair trial is not hindered by assumptions based upon underlying prejudice.

Nemacheck, Christine L. *Strategic Selection: Presidential Nomination of Supreme Court Justices from Herbert Hoover through George W. Bush*. Constitutionalism and Democracy Series. Charlottesville, Va.: University of Virginia Press, 2007. 192p. \$35.

Reviewed by Julie A. Stuckey

¶30 *Strategic Selection: Presidential Nomination of Supreme Court Justices from Herbert Hoover through George W. Bush* presents the results of author Christine Nemacheck's research into one of the most crucial roles of a United States president, the selection of a nominee to the nation's highest court. Nemacheck, Associate Professor of Government at the College of William and Mary, finds that there are systematic patterns to the selection of United States Supreme Court nominees. Her overall theory is that presidents consult similar types of governmental and congressional advisors when selecting nominees and are influenced by the current political climate.

¶31 *Strategic Selection* is heavily researched and focuses on the ten presidents in office during the time span from Herbert Hoover to George W. Bush. Nemacheck analyzed the personal papers of eight of the presidents archived at presidential libraries around the country. These papers document each president's meetings as he compiled a short list of nominees to the Supreme Court and his selection of a final candidate. Research into the Bill Clinton and George W. Bush administrations was based on media accounts, as the official papers have not yet been released. Nemacheck provides her research methodology and includes statistical tables

based on an extensive ratings system she developed. An epilogue focuses on the most recent nominations.

¶32 Many other works on the U.S. Supreme Court focus on the confirmation process, making *Strategic Selection* a worthy addition to the literature. Most of the book is well written, with numerous interesting anecdotes describing how these presidents chose their nominees to the Supreme Court. However, various aspects of presidential decision making and how the conclusions in each area were reached could have been more clearly explained.

¶33 *Strategic Selection* includes a number of helpful research tools. In addition to the table of contents and lists of tables and figures, the appendix includes a valuable table listing each president from Hoover to Bush with their final Supreme Court nominee(s) and a short list of the other individuals also under serious consideration. The author also includes her personal research notes by chapter. The index focuses on proper names and would benefit from more subject listings and cross-references. In addition to the works-consulted section, which contains an extensive list of the various books and articles the author used during the research process, readers would benefit from a more specific works-cited bibliography of those materials referenced in the textual endnotes.

¶34 I recommend *Strategic Selection: Presidential Nomination of Supreme Court Justices from Herbert Hoover through George W. Bush* to academic law libraries. Firm and public law librarians will probably not wish to purchase the title unless they serve attorneys or judges who are interested in the judicial selection process. Overall, this is an interesting, extensively researched book on a timely legal topic.

Slotkin, Jacqueline Hersh, and Samantha Slotkin Goodman. *It's Harder in Heels: Essays by Women Lawyers Achieving Work-Life Balance*. Lake Mary, Fla.: Vandepas Publishing, 2007. 170p. \$24.95.

Reviewed by Lynn Connor Merring

¶35 Perhaps my expectations were unrealistic, but I was very disappointed by *It's Harder in Heels: Essays by Women Lawyers Achieving Work-Life Balance*. The introduction describes the book as “portray[ing] women’s advancements in the legal profession while identifying the difficulties, challenges and barriers” (p.4). Based on this description and author Jacqueline Slotkin’s Ph.D. work analyzing data on female college graduates, I was expecting something fairly concrete: specifics about problems encountered by women lawyers and strategies to address them.

¶36 Instead, *It's Harder in Heels* is an uneven collection of essays vaguely reminiscent of a junior-high project requiring you to write the biography of someone you admire. Yes, the women included mention difficulties that they have encountered, but the “how I dealt with it” portion is almost always along the lines of shrugging it off and slogging on. One woman mentions her child not wanting

her to go to work—but doesn't address how she handled that guilt. Another says her children were essentially raised in the law school, but makes no mention of whether the administration was supportive, or how she handled the nuts and bolts of having small children in such an environment.

¶37 If what you want is a pleasant collection of “life is good, nothing stopped me and I'm happy” stories, this is the book for you. If like me, however, you are hoping for some scholarship or some actual tools to apply to your own life, I am afraid *It's Harder in Heels* is not the book to choose.

Toobin, Jeffrey. *The Nine: Inside the Secret World of the Supreme Court*. New York: Doubleday, 2007. Cloth. 369p. \$27.95.

Reviewed by Mary Rice

¶38 From the very first page of the prologue of *The Nine: Inside the Secret World of the Supreme Court*, Jeffrey Toobin grabs the reader with a description of architect Cass Gilbert's vision of the Supreme Court building as institution and inspiration, fronted by forty-four steps, which “separated the Court from the everyday world—and especially from the earthly concerns of the politicians in the Capitol—and announced that the justices would operate, literally, on a higher plane” (p.1). The prologue then sets up the rest of the book with brief, incisive portraits of the current justices and some of their famous predecessors, and summaries of their most significant decisions. What follows is a fascinating story which shows the justices arguing, discussing, and even scheming their way through some of the most important cases of the past twenty-five years.

¶39 Toobin, who has covered the law for almost fifteen years, is a best-selling author, CNN senior legal analyst, and *New Yorker* staff writer. His other books include *Opening Arguments: A Young Lawyer's First Case: United States v. Oliver North*⁵ and *Too Close to Call: The Thirty-Six-Day Battle to Decide the 2000 Election*.⁶ In the notes, Toobin states that the book is based primarily on his interviews with the justices and more than seventy-five of their law clerks, as well as other articles, books, and the Court's opinions.

¶40 Hard to put down, *The Nine* often reads more like a novel, although the author's research and scholarship are evident throughout. Toobin is clearly intent on revealing the inside story of the Supreme Court in action. He does this with extensive and absorbing portraits of the justices, from their pre-Supreme Court days to the present. We see their relationships with their law clerks and fellow justices as well as with family members and friends outside the Court.

¶41 Toobin finds the relationship between Justice Sandra Day O'Connor and Justice William Rehnquist to be one of the most extraordinary in the history of the

5. JEFFREY TOOBIN, *OPENING ARGUMENTS: A YOUNG LAWYER'S FIRST CASE, UNITED STATES V. OLIVER NORTH* (1991).

6. JEFFREY TOOBIN, *TOO CLOSE TO CALL: THE THIRTY-SIX-DAY BATTLE TO DECIDE THE 2000 ELECTION* (2001).

Supreme Court. They met at Stanford University when he was a law student and she was an undergraduate. Rehnquist worked in the dining hall where O'Connor ate, and they struck up a friendship that lasted until Rehnquist's death in 2005. Rehnquist and his wife settled in Phoenix, as did Sandra and John O'Connor, and the two couples shared backyard barbecues. Rehnquist became an Associate Justice in 1972 and Chief Justice in 1986. O'Connor was appointed to the Court in 1981. Both were conservative Republicans, but after O'Connor joined the Court, she gradually assumed a more moderate position. Toobin says that O'Connor frustrated Rehnquist time and again, as she moved more to the center of the Court on cases involving abortion, affirmative action, and the separation of church and state.

¶42 During the last decade or more of Rehnquist's tenure as Chief Justice, lawyers with cases before the Court began to pitch their arguments toward O'Connor because of her position as the swing justice. The Court even became known, informally, as the O'Connor Court rather than the Rehnquist Court. I have read many times that she disliked the moniker "swing justice," but Toobin shows her relishing the actual role, especially in her later years on the Court. Having met her informally several times during her last years on the Court, I especially enjoyed the book's extended treatment of O'Connor. Even in those brief glimpses, she showed the down-to-earth, practical, and gracious aspects of her character that Toobin reveals in the book.

¶43 While there are many books about the Supreme Court, a number of which have been published in the past few years, *The Nine* stands out because of the author's evident enjoyment of his subject, his deep knowledge of the Court, and his skill as a storyteller. After reading the book, I discovered that its listing on Amazon.com includes clips from a fascinating interview in which Toobin discusses the origins and aims of the book.⁷ In this interview, he says (loosely quoted) that he wanted to show the Court as it really is, not a dull, quiet institution, but as a place roiling with rivalries, where the stakes are enormous, and the people are eccentric. He also said that the biggest challenge was "getting inside the Justices' thoughts," and that he wanted the book to show "what they did, how they evolved [and] why it matters."⁸ He succeeds admirably in all of these aims, making it one of the most absorbing books that I have read for some time.

¶44 *The Nine* is well documented with thorough, but not distracting, endnotes. The bibliography is extensive, as Toobin appears to have consulted every significant book written about the Court since 1965. Toobin says in his interview that going behind the scenes and writing this book was "a thrill and a privilege,"⁹ and the end result is similarly a thrill and a privilege to the reader. *The Nine: Inside the*

7. Amazon.com, Author Jeffrey Toobin on *The Nine*, <http://www.amazon.com/gp/mpd/permalink/m39J05US5SL7M9:m20CJTfDp22NQK> (video interview) (last visited Feb. 5, 2008).

8. *Id.*

9. *Id.*

Secret World of the Supreme Court will make a wonderful addition to almost any law library.

Voon, Tania. *Cultural Products and the World Trade Organization*. Cambridge, U.K.: Cambridge University Press, 2007. 306p. \$117.

Reviewed by Yuxin Li

¶45 Many, many titles on the World Trade Organization (WTO) have been published since its inception in 1995, but author Tania Voon's is the first, and so far the only, book-length publication in English on the WTO and cultural products.

¶46 The author begins by discussing the problems that developed during the formation of the WTO. Citing articles in various WTO documents such as GATS,¹⁰ GATT 1947,¹¹ GATT 1994,¹² and the Marrakesh Agreement,¹³ the author points out that the WTO was established with the goal of trade liberalization. Therefore, members of WTO are prohibited from imposing quantitative restrictions and offering preferential treatment to local goods and selected member countries.

¶47 Members are allowed, however, to adopt and enforce measures necessary to pursue legitimate government objectives such as protection of human, animal, or plant life or health, and the conservation of exhaustible natural resources. Members are also allowed to take measures such as enforcing anti-dumping duties to counter injury to their domestic industries. In this context, trade liberalization can only trump protectionism in the absence of "other considerations." Some of these considerations have been identified by WTO agreements, while many others have not been defined or researched, creating the recurrent problem of "distinguishing between trade-restrictive or discriminatory governmental measures that are imposed in the pursuit of a legitimate government objective from those imposed purely to protect domestic industries from foreign competition" (p.6).

¶48 Among legitimate government objectives, Voon counts the promotion or preservation of culture. Voon does not establish a definition of culture in the abstract or for the purpose of international trade law. Rather, she adopts the definition of culture in the preamble to the Universal Declaration on Cultural Diversity¹⁴ and cites David Throsby's broad definition.¹⁵ Under these definitions of culture, "almost any form of international trade or trade policy could reasonably be interpreted as having a cultural aspect or influence" (p.13). After assessing the economic and social arguments for treating cultural products differently from things

10. General Agreement on Trade in Services, Apr. 15, 1994, 1869 U.N.T.S. 183, 33 I.L.M. 1167.

11. General Agreement on Tariffs and Trade, Oct. 30, 1947, 61 Stat. A3, 55 U.N.T.S. 194.

12. General Agreement on Tariffs and Trade, Marrakesh Agreement Establishing the World Trade Organization, Annex 1A, Apr. 15, 1994, 1867 U.N.T.S. 187, 33 I.L.M. 1153.

13. Marrakesh Agreement Establishing the World Trade Organization, Apr. 15, 1994, 1867 U.N.T.S. 154, 33 I.L.M. 1144.

14. UNESCO, *Universal Declaration on Cultural Diversity*, UNESCO Doc. 31C/Res.25 (Nov. 2, 2001), available at <http://unesdoc.unesco.org/images/0012/001271/127160m.pdf>.

15. DAVID THROSBY, *ECONOMICS AND CULTURE* 3-4 (2001).

like steel or wheat, the author explains how the vastly different views of WTO members in earlier negotiations led to a stalemate, an outcome that is disappointing to all.

¶49 As the current “do nothing” approach does not offer a long-term solution to the trade and culture issue, Voon proposes the following solutions in detail: resolution through dispute settlement by using international law to interpret WTO law on cultural products; constructing a new agreement outside the WTO by employing international organizations such as the International Network on Cultural Policy, the International Network for Cultural Diversity, or the UNESCO Convention on the Protection of the Diversity of Cultural Contents and Artistic Expressions; and, finally, reforms to improve the existing WTO agreements to achieve a better balance between trade liberalization and cultural policy objectives.

¶50 Voon examines each solution, its advantages, implications, and possible shortfalls. While she finds no silver bullet for the problem, Voon calls for action as UNESCO’s new convention affecting trade and cultural diversity¹⁶ enters into force in 2007 and the WTO’s Doha Round¹⁷ of negotiations stumbles.

¶51 This book is not biased in favor of trade or culture. Voon presents some solutions that should be acceptable to both sides, citing international trade treaties and other materials extensively, while explaining the reasons for different countries’ arguments. She also provides a discussion of the role of international law in WTO disputes, while taking into account political ramifications. A discussion of a highly specialized topic, this book is not meant for the layman or for entry-level reading. Fully appreciating *Cultural Products and the World Trade Organization* requires a fundamental understanding of the history of international trade, the agreements that led to the creation of WTO and their built-in conflicts, the structure of WTO, and the general practice of international trade.

Zelinsky, Edward A. *The Origins of the Ownership Society: How the Defined Contribution Paradigm Changed America*. New York: Oxford University Press, 2007. 192p. \$55.

Reviewed by Joshua Phillips

¶52 I grew up the child of a mother who was an active member of a public employee union. Upon her retirement, my mother, like the other members of her union, will be well protected for life from economic insecurity because of the pension benefits guaranteed to her. From an early age I accepted the defined benefit model of retirement savings, as represented by the pension, as being both rational and fair. The security and ease of mind that this model engendered was always on

16. UNESCO, Convention on the Protection and Promotion of the Diversity of Cultural Expressions, Oct. 20, 2005, <http://unesdoc.unesco.org/images/0014/001429/142919e.pdf>.

17. World Trade Organization, Ministerial Declaration of 14 November 2001, WT/MIN(01)/DEC/1, 41 I.L.M. 746 (2002) (Doha Declaration).

my mind when considering possible career paths. Now that I have entered the labor market, it is clear that employers have made a significant shift from the defined benefit model of retirement savings, which was the dominant model only a generation ago, to the defined contribution model, taking the form of 401(k), 403(b), and profit-sharing plans.

¶53 This revolution in tax and social policy is the subject of Edward A. Zelinsky's book, *The Origins of the Ownership Society: How the Defined Contribution Paradigm Changed America*. Zelinsky, a professor at the Benjamin N. Cardozo School of Law, has authored many articles in the area of tax law.¹⁸ *The Origins of the Ownership Society* serves as the culmination of several of the law review articles by providing a broader view of the entire system of retirement savings.

¶54 Zelinsky begins his book with a clear and concise explanation of the differences between two competing models of retirement savings: the defined benefit model and the defined contribution model. He goes on to discuss the advantages and disadvantages associated with each, while clarifying tax issues and introducing readers to the tax jargon that will be used throughout the book.

¶55 Following this primer on the law of pensions and benefits, Zelinsky provides a lengthy and detailed narrative of the tax legislation that helped usher in the paradigm shift of the defined contribution society. According to Zelinsky, this body of legislation, beginning with ERISA¹⁹ in 1974, generated a set of unintended consequences that helped introduce the defined contribution model of retirement savings. This model was then able to take root in a society that was ideologically predisposed to valuing individual control, private ownership, and self-sufficiency—all aspects associated with the defined contribution model (p.97).

¶56 After providing a thorough description of how society embraced the defined contribution model, Zelinsky opines on what the future holds in store for this area of tax law. He outlines the possibilities currently under discussion by various academics, politicians, and think tanks. He then addresses the probability of success that each proposal for reform has in terms of enactment by our politicians and adoption by our society.

¶57 *The Origins of the Ownership Society: How the Defined Contribution Paradigm Changed America* would be an excellent addition to any academic library collection. It serves both as an access point from which readers can begin to understand this complex subject matter, as well as a resource that offers sound advice as to how our society can resolve many of the thorny issues raised by the paradigm shift that has occurred in retirement savings plans. Zelinsky's work reads like a law review article rather than a book, in its length as well as in its format.

18. See, e.g., Edward A. Zelinsky, *Do Tax Expenditures Create Framing Effects? Volunteer Firefighters, Property Tax Exemptions, and the Paradox of Tax Expenditure Analysis*, 24 VA. TAX. REV. 797 (2005); Edward A. Zelinsky, *THE DEFINED CONTRIBUTION PARADIGM*, 114 YALE L.J. 451 (2004).

19. Employee Retirement Income Security Act of 1974, Pub. L. No. 93-406, 88 Stat. 829.

His text is richly footnoted, providing elucidation of complex tax jargon, and includes useful suggestions for further reading on many of the subject areas that he addresses. He also provides an index that is quite useful in navigating within the text to locate his discussion concerning specific subject matter, individuals, and pieces of legislation.

Zyla, Eric. *The Renegade Lawyer: Legal Humor for Law Students, Attorneys, and Other Interested Third Parties*. Carson City, Nev.: Xygnia, Inc., 2007. 267p. \$25.95.

Reviewed by Cathryn O'Neill

¶58 Do not confuse Eric Zyla's *The Renegade Lawyer: Legal Humor for Law Students, Attorneys, and Other Interested Third Parties* with the similarly titled book, *Renegade Lawyer: The Life of J. L. Cohen*,²⁰ which is about J. L. Cohen, an early labor lawyer in Canada and an advocate on behalf of the working individual. Zyla's book is not a biography nor, as the title suggests, is it a joke book about lawyers.

¶59 Zyla opens the introduction by relaying his experience of being caught smiling by a law firm partner who said to him, "I saw you smiling in the hall yesterday. What was that all about?" (p.1). He goes on to pose the question "Can lawyers smile?" *The Renegade Lawyer* uses satire to encourage the lawyer (and others) to recognize the existing image of lawyers as staid and boring and to encourage individuals to take the field of law, but not themselves, seriously.

¶60 The second chapter begins with an anecdote designed to remind students to dress appropriately when attending events with the faculty. Zyla recalls his own discomfort when as a student he attended a "meet and greet" law school event inappropriately dressed in shorts and found himself seated at the dean's table. He then goes on to share the table's conversation regarding the movie, *The Verdict*.²¹ He was about to say that he liked the movie when the dean and another individual commented on how awful it was. The conversation took exception to a multiple of sins that the lawyer committed in the movie that would not occur in the real practice of law. Zyla then laments how thereafter it became impossible for him not to notice the inaccuracies and mistakes in every legal movie, and he advises readers that pointing out these errors to nonlawyer friends and fellow moviegoers will not endear you to them.

¶61 Each chapter attempts to deliver, with wit and humor, a nugget of wisdom. In some of the chapters, the wisdom is obvious. For example, in chapter seven the author exposes readers briefly to case law, explaining that the role of an attorney is to research the available cases in order to make an argument for his or her client based on those cases. His hypothetical is actually kind of cute: Is a mule similar

20. LAUREL SEFTON MACDOWELL, *RENEGADE LAWYER: THE LIFE OF J. L. COHEN* (2001).

21. *THE VERDICT* (Twentieth Century-Fox Film Corp. 1982).

enough to a horse to be excluded from the park under a no horses in the park rule? Relying on cases that have addressed whether a zebra, a pony, and a stone statue of a horse should be allowed in the park under this rule, he then shows the reader how to apply rule of law from these cases to the mule scenario.

¶62 The intent of other chapters was not entirely clear to this reader. For example, chapter eight devotes several pages of discussion to the “Mint Milano Diet.” After multiple readings of this and the following chapter on avoiding law school burnout, I concluded that Zyla is encouraging law students not to become consumed by the study of law and to remember the basic necessities of life, such as healthy eating, exercise, and relationships with peers.

¶63 I attribute some of the difficulty I had in understanding the book to its numerous *intentional* grammatical errors. While Zyla explains that these errors in punctuation, spelling, and word choice are there for effect, I found them distracting, and they made it necessary for me to reread some sentences several times in order to understand them.

¶64 The author’s points, however, are well taken. *The Renegade Lawyer: Legal Humor for Law Students, Attorneys and Other Interested Third Parties* is not a serious book of substance; it is a witty, easy read. If you are looking to add law-related light reading to your collection or for a gentle reminder to students and lawyers not to get lost in the persona of the serious workaholic, your money will not be mis-spent adding this book to your library.