

Keeping Up with New Legal Titles*

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

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* © Amy Atchison and Laura Cadra, 2008. The books reviewed in this issue were published in 2006, 2007, and 2008. We would like to thank Esther Cho, Reference/Government Documents Librarian, William M. Rains Law Library, Loyola Law School, Los Angeles, California, for her assistance in compiling this column. This is our last column for *Law Library Journal*; if you would like to review books for “Keeping Up with New Legal Titles,” please send an e-mail to the new editors, Annmarie Zell, annmarie.zell@nyu.edu, and Creighton J. Miller, Jr., cmiller@law.ua.edu.

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Adamson, Barry. *Freedom of Religion, the First Amendment, and the Supreme Court: How the Court Flunked History*. Gretna, La.: Pelican Publishing Company, 2008. 422p. \$25.95.

Reviewed by Christopher C. Dykes

¶1 In 1947, the United States Supreme Court in *Everson v. Board of Education*¹ used what it called a “wall of separation between church and State”² to ban prayer in school, thereby initiating a loud debate about the role that religion should play in society. In *Freedom of Religion, the First Amendment, and the Supreme Court*, author Barry Adamson investigates the reasoning behind this and subsequent court decisions restricting religious activities, and argues that these decisions unnecessarily limit religious freedom, because from a historical perspective this reasoning is fundamentally flawed.

1. 330 U.S. 1 (1947).

2. *Id.* at 16 (quoting *Reynolds v. United States*, 98 U.S. 145, 164 (1878)).

¶2 According to Adamson, the U.S. Supreme Court was mistaken in its view of the Establishment Clause, which states that “Congress shall make no law respecting an establishment of religion.”³ Does “establishment” refer to religion in general or to a religious institution sanctioned by the government? The author argues that at the time the First Amendment was drafted, “establishment” was defined as “a single dominant ecclesiastical institution . . . that enjoyed a government-preferred, government-sanctioned, government-financed, and government-protected status, and represented an indistinguishable union with government” (p.21). Hence, actions such as forcing attendance and paying taxes or tithes to a government-sponsored church were the concerns of those who constructed this amendment, rather than prayer in school or displaying the Ten Commandments on public property. Adamson discusses at length the anti-establishment movements that took place during the 1700s, especially in Virginia, and which were aimed at deposing a state-sponsored ecclesiastical institution. He then uses these events to demonstrate the type of establishment of religion he believes is forbidden by the First Amendment.

¶3 Adamson contends that the U.S. Supreme Court also erred with respect to its view of the wall of separation between church and state. He points out that this phrase was coined by Thomas Jefferson in a letter written in 1802 to the Danbury Baptists in Connecticut, who were concerned that the Congregationalist-dominated state government would persecute them.⁴

¶4 Adamson argues that this phrase was misconstrued by the U.S. Supreme Court on two major points. First, it was first used years after the Constitutional Convention and, given that Jefferson was out of the country (as an ambassador to France) from 1785 to 1789, it is doubtful that he was involved in framing the Establishment Clause. Second, another phrase in the same letter shows that the “wall of separation” was taken out of context. Adamson reproduces the text of the entire letter, including the phrase “that the legitimate powers of government reach action only, & not opinions” (p.179) and explains: “Whatever ‘wall’ Jefferson had in mind in his letter to the Danbury Baptists received mention solely within the context of a constitutional amendment *that functioned solely to limit government authority, but nothing more*” (p.189). Adamson believes that the U.S. Supreme Court would not have placed these restrictions on religion if the Court had understood the true meaning of “establishment” at the time the Bill of Rights was passed.

¶5 Adamson uses information obtained from reviewing numerous historical documents to support his positions about the Establishment Clause. In making his argument about Thomas Jefferson’s letter, he not only provides the text of the final

3. U.S. CONST. amend. I.

4. Letter from Thomas Jefferson to the Danbury Baptists (Jan. 1, 1802), *available at* <http://www.loc.gov/loc/icib/9806/danpre.html>.

draft, but also takes the reader through earlier drafts to show Jefferson's thought process. The 143 pages of notes and the bibliography at the end of the book show that this is not a mere diatribe about religious freedom, as the title might suggest, but instead is a product of serious and painstaking research. Charts throughout the book add emphasis to the major points. Overall, I would recommend *Freedom of Religion* because it offers a new perspective on the issue of church and state, regardless of whether, in the end, you agree with Adamson.

Cormack, Bradin. *A Power to Do Justice: Jurisdiction, English Literature, and the Rise of Common Law, 1509–1625*. Chicago: University of Chicago Press. 2007. 406p. \$35.

Reviewed by Jennifer Locke Davitt

¶6 *A Power to Do Justice* by Bradin Cormack is a scholarly work offering a critical examination of several sixteenth-century literary texts. Cormack shows how those texts reflect a shifting understanding of the legal concept of jurisdiction during that period.

¶7 The sixteenth century is generally recognized as a watershed century denoting the end of the medieval period and the beginning of the early modern period in England. It was marked by a consolidation of power in the monarchy and a corresponding reduction in the influence and power of the aristocracy and the Roman Catholic Church. A centralized governing bureaucracy emerged and, with it, a more unified legal system. Prior to the seventeenth century, English common law was seen as “fractured and inconsistent.”⁵ Law was drawn from a number of sources, including customary and canon law, and administered by a variety of courts, often with overlapping jurisdiction.⁶ Cormack therefore views the sixteenth and early seventeenth centuries as a “transitional moment in the development of a national law and a rationalized legal discourse” (p. 27).

¶8 It is against this backdrop that Cormack sets his study. The book is divided into three parts: the centralization of legal authority in England; the concept of English jurisdiction and English legal identity, as defined by and in relation to the jurisdictions of Ireland and France; and the formalization of the law that began in the early seventeenth century. Cormack focuses on the works of John Skelton, Sir Thomas More, Edmund Spenser, and William Shakespeare to “help . . . track for a particular historical moment the cultural usefulness of the discovery that law is constituted . . . as the processing of an unruliness it cannot quite put in order” (p. 21).

¶9 The major works examined by Cormack provide only a basic backbone for the book. Some of the book's more interesting elements are in the form of substantial asides, delving into lesser works to elaborate on the concepts being discussed.

5. Richard T. Ford, *Law's Territory (A History of Jurisdiction)*, 97 MICH. L. REV. 843, 881 (1999).

6. *Id.*

For example, the fifth chapter discussing Shakespeare's plays *Cymbeline* and *Pericles* includes a wonderful examination of maps and their symbols and explores generally the idea of royal legal authority and its "geographical, political [and] ontological limits" (p. 291). In another aside, Cormack expands upon *Pericles*'s concern with the sea and the limits of sovereign authority by examining an early-seventeenth-century view of the ocean as expressed in maps. Through a series of reproduced maps, Cormack describes and shows the "transformation of a mariner's cartographic tool into a symbol of imperial sovereignty" (p. 274). Another particularly interesting aside includes a study of law French and its implications for English identity (chapter 4).

¶10 Cormack is Professor of English at the University of Chicago, and the book, while dissecting a legal concept, is a work of literary criticism. For someone not trained in literary criticism or theory, this was not an easy book to read.⁷ The language is dense, and many of the passages presume familiarity with the texts being discussed and the scope of each author's work. In addition, Cormack quotes liberally from the original texts, thus necessitating a facility with the vernacular.

¶11 Beyond the acknowledged hindrance of my own deficiencies, the book has some difficulties of its own. Chapters read more like independent essays than building blocks to a complete understanding of a central thesis. The structure of many of the chapters was also loose, and I often found myself ten to fifteen pages into a chapter before understanding its theme or purpose.

¶12 Despite its limitations, this book would be a worthwhile addition to academic law library collections. It brings together in an informed and well-researched package two disciplines that have much to learn from each other. While not a book to consult for the basics of the development of English law and jurisdiction, *A Power to Do Justice* nonetheless illuminates new dimensions of the law of this period for the already knowledgeable reader.

Ewing, Charles Patrick. *Insanity: Murder, Madness, and the Law*. New York: Oxford University Press, 2008. 224p. \$35.

Reviewed by Jill Fukunaga

¶13 In 1969, thirty-year-old George Fitzsimmons karate-chopped his parents to death in their suburban home in Buffalo, New York. Following a bench trial, the judge found Fitzsimmons not guilty by reason of insanity and ordered him committed to an institution until he no longer posed a danger to himself or others. After spending just thirty-four months in the Buffalo State Hospital, he was released. Within months, Fitzsimmons was arrested for aggravated assault and battery of his new wife and, while awaiting sentencing for his conviction, stabbed his elderly uncle and aunt to death in an argument over a television program.

7. More accessible works on this period are available in C.J. Sansom's Matthew Shardlake mystery series, which offers insight into the practice of law in Tudor England. See, e.g., C.J. SANSOM, DISSOLUTION (2003).

¶14 So begins *Insanity: Murder, Madness, and the Law*, Charles Patrick Ewing's insightful new study of the insanity defense and its application in American courtrooms. Ewing, a forensic psychologist and professor of law at SUNY-Buffalo, opens with an account of the Fitzsimmons case in part to illustrate some of the myths surrounding the insanity defense, including the widespread belief that criminal defendants who plead insanity get off relatively easily, only to be released into society to commit further heinous crimes. According to Ewing, the Fitzsimmons case is an anomaly; in reality, "the insanity defense is rarely used and rarely successful when it is used" (p.161).

¶15 Ewing has chosen ten notorious and controversial murder cases in which the defendants—some famous, some not—entered a plea of insanity at trial. As a result of extensive research, he is able to provide vivid descriptions about the mental health histories of the accused killers, details about the killings, and the intricacies of the expert testimony on which these trials hinged.

¶16 Ewing deliberately selected cases where the circumstances of the accused and application of the insanity defense varied widely. For example, Jacob Rubenstein (a.k.a. Jack Ruby), the man who shot and killed Lee Harvey Oswald, had no prior history of mental illness or disturbance, yet his attorney, Melvin Belli, aggressively pursued the insanity defense at trial. In contrast, Andrew Goldstein, who in 1999 pushed a woman to her death from a New York City subway platform for no apparent reason, had been in and out of psychiatric facilities for years for treatment of paranoid schizophrenia and psychotic behavior. Despite clear evidence that Goldstein suffered from severe mental illness, his insanity plea did not succeed, and he eventually pleaded guilty to manslaughter. Other profiles include David Berkowitz ("Son of Sam"), John Wayne Gacy, and Andrea Yates, the mother who drowned her five children in a bathtub in 2001.

¶17 Ewing does not set out to glamorize the use of the insanity defense. Rather, his objectives are to promote the understanding of the defense and demonstrate the problems with and inconsistencies in its application. His writing is clear and concise, and he artfully blends factual detail with the legal and psychological facets to make for a powerful and thought-provoking read.

Falkoff, Marc, ed. *Poems from Guantánamo: The Detainees Speak*. Iowa City: University of Iowa Press, 2007. 72p. \$13.95.

Reviewed by Dennis Kim-Prieto

¶18 It is unusual to find a volume of poetry reviewed in "Keeping Up with New Legal Titles." In fact, a search of *Law Library Journal* in the HeinOnline database for the word 'poem' or 'poetry' within the text of articles bearing the title "Keeping Up with New Legal Titles" returns zero matches. But *Poems from Guantánamo: The Detainees Speak* is a most unusual volume. It may be the first volume of poetry ever cleared for publication by the Pentagon (pp.3–5). It is definitely an extraordinary peek into the quotidian reality, if not outright agony, of the isolation that many

associate with the detention practices and facilities at the Guantánamo Bay Naval Base. It is also a volume that is likely to fascinate more than one law librarian.

¶19 Among those familiar with the conventions of poetry, it is almost a cliché to note that poetry “is born of suffering,” as Flagg Miller recounts in his introductory notes on “Forms of Suffering in Muslim Prison Poetry” (preface). Those who are less familiar with the conventions of North American poetry may be surprised to learn of the general influence that Islamic forms of poetry, and the *ghazal* in particular, have wielded upon contemporary poets as diverse as Lucille Clifton, Billy Collins, Joy Harjo, Jane Miller, and Robert Haas.

¶20 Consider one brief piece that has been featured in other reviews of this remarkable tome,⁸ Shaikh Abdurraheem Muslim Dost’s “Cup Poem I”:

What kind of spring is this,
Where there are no flowers and
The air is filled with a miserable smell? (p.35)

Despite critical treatments of this verse in other reviews,⁹ it is worthwhile to note the elements that transcend translation in this one-stanza poem: the synæsthetic juxtaposition of the adjective “miserable” with the concrete noun “smell,” not to mention the general bewilderment at the notion of a spring without flowers. But the skill of the translator is as apparent as the skill of the poet in this sample; witness the extraordinary, yet simple enjambment at the end of the second line, where the “and” that dangles off the end of the line simultaneously stops and propels the reader into an ominous, if not terrifying resolution.

¶21 Equally moving is the context that Falkoff’s introduction provides to the poem above; he observes that

some [detainees] would draft short poems on Styrofoam cups they had retrieved from their lunch and dinner trays. Lacking writing instruments, they would inscribe their words with pebbles or trace out letters with small dabs of toothpaste, then pass the ‘cup poems’ from cell to cell. The cups would inevitably be collected with the day’s trash, the poetic inscriptions consigned to the bottom of a rubbish bin (p.3).

¶22 Falkoff goes on to note that Dost’s poem was among these consigned to the dust heap of historical literature in the detention center, and that the poet reconstructed this work from memory for inclusion in this volume. Such reconstructive work allows *Poems from Guantánamo* to move beyond the realm of the merely poetic, and into a realm dear to many readers of this journal: the archival.

¶23 While this volume is remarkable on many different levels, it is of particular interest to law librarians for its succinct and compelling expressions of the thoughts and the emotions of the detainee. As detention becomes a common practice in

8. See, e.g., Dan Chiasson, *Notes on Prison Camp*, N.Y. TIMES, Aug. 19, 2007, § 7 (Book Review), at 6.

9. *Id.*

immigration enforcement and other areas of security law, the ability for advocates to understand and convey detainees' thoughts and feelings to judges, juries, and other finders of fact will become more critical. Both private and academic law librarians who serve lawyers and clinics that deal with habeas corpus issues will do well to examine this slim volume, precisely for the extraordinary documentation that it provides: a spotlight into the otherwise inaccessible world of detainees' mental and emotional conditions.

Fletcher, George P., and Jens David Ohlin. *Defending Humanity: When Force is Justified and Why*. New York: Oxford University Press, 2008. 268p. \$27.95.

Reviewed by John Wilson

¶24 With *Defending Humanity*, authors George Fletcher, Cardozo Professor of Jurisprudence, and Jens David Ohlin, Associate-in-Law, both at Columbia Law School, demonstrate their deep knowledge of criminal law, comparative criminal law, and philosophy in an impressive work of scholarship. In it, they seek to develop the idea of legitimate defense and apply it to the use-of-force doctrine in international law.

¶25 Fletcher and Ohlin's concept of legitimate defense derives from a reading of the French version of the United Nations Charter. They consider the French text an authentic text on par with the English version for the purpose of interpreting the Charter, saying, "The French-language version of the United Nations Charter . . . uses the phrase *droit naturel de legitime defense* to refer to what is termed in the English version 'the inherent right of self-defense'" (p.64). Legitimate defense is included in the Charter as an inherent right, but the authors note that the concept existed prior to the development of the Charter. It can be found in the domestic criminal law of France and Germany, as well as in the literature of international law.

¶26 Legitimate defense allows an individual or nation to respond to an illegal attack or to have an individual or group provide assistance during an attack. Applying the doctrine to the law of international humanitarian intervention, for instance, would provide the North Atlantic Treaty Organization's intervention in Kosovo, considered illegal under current international law, with a legal basis.¹⁰

¶27 *Defending Humanity* articulates three considerations in the use of force by states: reciprocity, publicity, and collective guilt. Reciprocity offers a state subject to the use of force the right to reciprocate with its own use of force. Publicity requires that the use of force be justified by an open accounting of the reasons for the use of force. Collective guilt regulates the use of force by assigning liability for illegal acts of war. The authors make a case for collective responsibility that

10. For a general discussion of the legality of NATO's intervention in Kosovo, see *Editorial Comments: NATO's Kosovo Intervention: Kosovo and the Law of "Humanitarian Intervention,"* 93 AM. J. INT'L L. 824 (1999).

extends to the army and the nation, including its citizens, for violations of the law of war. The authors note that “if the nation has the right to live and govern itself, then it arguably has the duty to stand collectively responsible for crimes committed in its name” (p.208).

¶28 *Defending Humanity* is a well-argued and well-researched book which should have a place in any discussion on the use of force under international law.

Gerstmann, Evan. *Same-Sex Marriage and the Constitution*. 2nd ed. New York: Cambridge University Press, 2008. 248p. \$23.99.

Reviewed by A. Hays Butler

¶29 Same-sex marriage, one of the major issues of our time, has deeply divided American society. The primary forums where this battle has been fought in recent years are state legislatures and state courts. Professor Evan Gerstmann’s *Same-Sex Marriage and the Constitution* focuses on the battle in state courts and the application of equal protection to this issue. The question is whether a refusal to allow gays and lesbians access to the institution of marriage is inconsistent with equal protection clauses in state constitutions or the U.S. Constitution. As *Same-Sex Marriage and the Constitution* makes clear, this question poses very challenging and difficult issues for the courts.

¶30 Very few courts have found that prohibiting same-sex marriage merits strict scrutiny review. Courts have been reluctant to find that gays and lesbians constitute a “suspect class.”¹¹ As Professor Gerstmann notes, “In order to qualify for [strict scrutiny], gays and lesbians would have to establish they meet each of the following criteria: (1) they have suffered from a history of discrimination; (2) they are defined by an immutable characteristic; (3) they are politically powerless and they need extra judicial protection” (p.68). Professor Gerstmann notes that some courts have, however, voided same-sex marriage bans by applying equal protection analysis.

¶31 *Same-Sex Marriage and the Constitution* is an excellent analysis of the legal issues raised when courts find that same-sex marriage bans are inconsistent with either state or federal equal protection clauses. Professor Gerstmann addresses all the traditional arguments against same-sex marriage—that marriage is, by definition, between a man and a woman; that marriage is based on procreation; that dual-gender marriage provides a sounder environment for raising children—and reveals the flaws in each. He also explains why applying strict scrutiny to marriage bans is difficult given our current case law.

¶32 Two aspects of Gerstmann’s analysis are particularly compelling. First, he explains that same-sex marriage bans are not a form of gender discrimination because, and I am reducing his analysis to its essentials, same-sex marriage bans

11. See *Baker v. State*, 744 A.2d 864, 878 (Vt. 1999), n.10, and cases cited therein.

do not really discriminate between the two genders; rather, they discriminate against gays and lesbians. Second, he explains why marriage is a fundamental right. Gerstmann passionately argues that this is soundest argument in favor of strict scrutiny review. Although he is persuasive, Gerstmann does not adequately acknowledge the difficulty of persuading courts to reach this conclusion, as many judges assert that extending fundamental rights to marriage oversteps the judiciary's power and violates the separation of powers.¹²

¶33 *Same-Sex Marriage and the Constitution* is an excellent introduction to the principles underlying equal protection law and would be a valuable addition to academic law libraries.

Herrera, Tamara S. *Arizona Legal Research*. Durham, N.C.: Carolina Academic Press, 2008. 156p. \$22.

Reviewed by Catherine Fitzpatrick Halvorsen

¶34 *Arizona Legal Research* is one of eighteen titles in the Carolina Academic Press Legal Research Series—a collection intended to provide readers with both a general and a state-specific overview of the legal research process and associated research tools and resources.¹³

¶35 Impressed with the credentials of the author Tamara Herrera, Clinical Professor of Law at the Sandra Day O'Connor College of Law at Arizona State University and former practitioner, and encouraged by the title and scope of coverage suggested in the table of contents, I hoped to prospect a gem of an Arizona legal research guide. Unfortunately, despite the inclusion of a number of helpful research tips and an adequate overview of legal research fundamentals, Herrera's work is far more generic than jurisdictional in coverage. Less than half of the content is actually dedicated to sources of Arizona state law and state-specific legal research resources.

¶36 Significant focus on primary Arizona authority is evident in only three of the ten substantive chapters. The first of the three, chapter 5: "Researching Legislative History" is succinct, but satisfactory. Herrera briefly describes the organizational and operational structures of the Arizona legislature and then proffers a formula for researching first Arizona legislative history, and then federal legislative history. The outline for researching legislative history includes the use of both electronic and print resources. Although Herrera's treatment of Arizona legislative history is not nearly as exhaustive as that contained in Shimpock and Alcorn's *Arizona Legal Research Guide*,¹⁴ she does provide the reader with sufficient background information and a legislative history checklist.

12. See, e.g., *In Re Marriage Cases*, 183 P.3d 384, 458 (Cal. 2008) (Baxter, J. concurring and dissenting).

13. Several of the eighteen titles continue to be characterized as "forthcoming." Carolina Academic Press, Legal Research Series Titles, <http://www.cap-press.com/subjects/ms/148> (last visited July 30, 2008).

14. KATHY SHIMPOCK-VIEWEG & MARIANNE SIDORSKI ALCORN, *ARIZONA LEGAL RESEARCH GUIDE* (1992).

¶37 These same comments are applicable to the material contained in chapter 8, titled “Researching Administrative Law.” Here, the author supplies a satisfactory introduction to and explanation of the topic and corresponding research processes. A useful, step-by-step outline of the process is included as table 8-1. Once again, Herrera follows the state-specific content with a discussion of the federal administrative law research process. An extremely brief introduction to researching tribal law, with a focus on Arizona tribal law, is included in chapter 9. Appendix 9-1 “Arizona Tribal Court Information” (pp.106–08) provides a comprehensive list of tribal courts in Arizona, as well as their respective contact information—including web site addresses where practicable.

¶38 The balance of the chapters devote mere sentences or just a paragraph or two to Arizona law and resources. The chapter on researching secondary sources is particularly disappointing. The general discussion, in chapter 2, of secondary sources such as encyclopedias, treatises, and dictionaries is sufficient, as is the more detailed description of *American Law Reports* (A.L.R.) and *Restatements of Law*. Herrera is, however, remiss in her treatment of jurisdictional secondary sources—the depth and scope of coverage in *Arizona Legal Research* is lacking, as she fails to introduce, let alone discuss, any Arizona practice guide or treatise titles. Instead, she limits her discussion of jurisdictional secondary sources to continuing legal education materials and handbooks, jury instructions, and legal forms.

¶39 Herrera cites the existence of state-specific secondary sources, but the compilation of a list of continuing legal education subject areas and reference to the State Bar of Arizona web site is just not that helpful to the reader. The State Bar of Arizona is merely one of a number of publishers of jurisdictional materials, some of which might prove extremely valuable to a novice researcher. A sampling of Arizona practice guides and treatises, which Herrera should have included, at least nominally, is available on the Sandra Day O’Connor College of Law web site.¹⁵ Both the reference and practical value of *Arizona Legal Research* might be enhanced if such a list of practice materials and treatises, or a reference to this or other comparable web sites, were included.

¶40 Also curious is Herrera’s recommendation to use jury instructions or legal forms for “starting legal research” (p.21). One necessarily assumes Herrera has experienced some level of success with this strategy—why offer it otherwise? However, under most circumstances, I would be reluctant to direct an inexperienced legal researcher to either resource as an initial reference or starting point, particularly if a topically relevant practice guide or treatise were available.

¶41 Despite these criticisms, *Arizona Legal Research* is a respectable, albeit very basic, overview of legal research processes and resources. Both the discussion

15. See Alison Ewing, *Arizona Legal Materials: A Research Guide*, <http://www.law.asu.edu/?id=8554> (last visited Aug. 6, 2008).

in chapter 7 on researching cases in print digests and using electronic media and the citation formatting guidelines contained in Appendix A are comprehensive and well written.

¶42 Critically important in any legal research title, and nicely incorporated by Herrera, is an emphasis on the critical and ongoing need to update legal research. In addition to the inclusion of a discrete chapter on updating legal research, references to updating the law, updating services, and pocket parts appear in nearly every section. Herrera also seems appropriately concerned with, and therefore promotes, cost-effective research practices—no doubt a function of her experience as a practicing attorney. She specifically addresses the issue of cost-effective research strategies early on, and continues to stress cost-consciousness and provide cost-effective research tips throughout the title.

¶43 *Arizona Legal Research* satisfies its intended goal of providing researchers with a “field guide” (p.4) to Arizona legal research. The Carolina Academic Press Legal Research Series Titles web site indicates that a 2008 Teacher’s Manual to *Arizona Legal Research* is forthcoming.¹⁶ Reserving final judgment until a review of the teacher’s manual can be completed, *Arizona Legal Research* may be useful as a companion, but probably not as the primary text, for a first-year legal research course or program. It is best suited, given its brevity and overview format, for instructional use in a paralegal training curriculum or for use in an undergraduate legal research course. Public law libraries may wish to include the title in the ready-reference section for public patron use. It is not, however, sufficiently sophisticated, practice-oriented, or detailed for use by practicing attorneys or inclusion in a law firm library collection.

Jasper, Margaret C. *The Law of Adoption* (Oceana’s Legal Almanac Series: Law for the Layperson). New York: Oceana, 2008. 224p. \$39.95.

Reviewed by Jessica Wimer

¶44 *The Law of Adoption* is just one of many titles that make up Oceana’s Law for the Layperson Legal Almanac series. Written in a straightforward and easy-to-understand style, this slim volume highlights many of the legal considerations that arise during the process of adoption. Consistent with all of the Law for the Layperson series titles, this volume does not attempt to comprehensively cover the topic. Rather, the reader will find a general overview of adoption-related legal issues that also includes some nuanced details that pertain to adoption.

¶45 After reading *The Law of Adoption*, the reader should feel that he or she has a good working knowledge of the legal aspects of adoption and will understand that jurisdiction largely determines the way adoptions are handled. Clearly labeled charts and tables provide a general introduction to each state’s adoption laws.

16. Carolina Academic Press, Author Information: Tamara S. Herrera, <http://www.cap-press.com/authors/871> (last visited July 30, 2008).

¶46 Seven substantive chapters comprise a mere sixty-seven pages. The remainder of the book is devoted to the appendixes. For some readers the appendixes may be the most beneficial portion of the book, because they provide references to state adoption laws and web sites. In addition, a glossary includes terms commonly encountered when researching or discussing issues of adoption.

¶47 Overall, *The Law of Adoption* is suited more to the layperson than attorneys. Attorneys, as well as scholars, will quickly notice its lack of detail and will be better served by consulting a treatise, practice guide, or other more exhaustive source. Additionally, laypersons with a real need for in-depth guidance on the necessary steps required in the adoption process will soon find they need to consult other resources to obtain a complete understanding of the many legal issues in adoption law. Nevertheless, those readers who simply want an easy-to-understand, concise introduction to the topic will benefit by consulting this book. *The Law of Adoption* is thus best suited for public and academic libraries.

Meyerson, Michael I. *Liberty's Blueprint: How Madison and Hamilton Wrote The Federalist, Defined the Constitution, and Made Democracy Safe for the World*. New York: Basic Books, 2008. 309p. \$26.95.

Reviewed by Amy Tomaszewski

¶48 In law school, I applied for a summer externship with a federal magistrate judge. Sitting across from me at the long wooden table in his chambers, he scanned my resumé with his forefinger, looking up to ask, "What's the American Constitution Society?" As prepared as I was to defend my skills, my work history, and my grades, I was momentarily at a loss on how to describe this organization, of which I was a member, in a politically correct fashion. Instinct, not caution, took over, and I responded in a most partisan way: "Uh, it's kinda the *opposite* of the Federalist Society."

¶49 The judge laughed. "Well, I'm a Republican."¹⁷

¶50 In today's politically charged atmosphere, a mention of *The Federalist* often invokes the conservative legal society whose membership includes Justice Antonin Scalia and UCLA law professor and blogger Eugene Volokh. In fact, the Federalist Society took its name from the famous *Federalist Papers* (more properly known as *The Federalist*), a compilation of essays written in 1787 and 1788 by founding fathers James Madison, Alexander Hamilton, and John Jay, urging the ratification of the U.S. Constitution.

¶51 But Michael I. Meyerson, author of *Liberty's Blueprint: How Madison and Hamilton Wrote The Federalist, Defined the Constitution, and Made Democracy Safe for the World*, wants readers to understand that federalism, and *The Federalist*, is not about liberalism or conservatism, although both sides conveniently cite its

17. Inexplicably, even with my hilarious *faux pas*, I got the externship and spent a very pleasant summer working in the Central District of Illinois.

essays. “Commentators,” writes Meyerson, “and even Supreme Court justices, have been known to quote only those statements which support the outcome they desire, while ignoring or discounting those which point in the opposite direction” (p.197). However, Meyerson argues, because *The Federalist* is a series of essays, written by three different authors, there is something for everyone.

¶52 *Liberty’s Blueprint* does not intend, then, to attach a partisan label to *The Federalist*. Rather, Meyerson asks that we not only approach the essays as bases for constitutional analysis, but also read them as a historical guide for constitutional language. He attempts to reconcile the conflict between the originalist and non-originalist philosophies of constitutional interpretation, arguing that, even for originalists who decry any sort of interpretation,¹⁸ *The Federalist*, because of its contemporaneity, can aid in determining the original textual meaning of the Constitution. Perhaps. More convincingly, the author, a professor of constitutional law at the University of Baltimore School of Law, depicts the intricate influence these essays had on the political history of the United States and reminds me why I loved constitutional law so much in law school. “Reading *The Federalist*,” Meyerson writes, “is like having a private meeting with the savviest political and legal minds America has ever produced” (p.xi).

¶53 *Liberty’s Blueprint* is more fun as a history of the relationship between Madison and Hamilton, and all the political jockeying amidst the creation of a new government, than as a tract on constitutional interpretation. These two very different, brilliant men were at the center of the battle for the ratification of our Constitution. It was Hamilton’s idea to write what became *The Federalist*. Initially conceived in the autumn of 1787 to be a series of anonymously authored essays covering the myriad of topics at issue in the constitutional debate, the project ultimately materialized into a book, published in March (volume 1) and May (volume 2) 1788. The struggle for ratification continued throughout the spring until, finally, enough states voted to ratify the document in July 1788. A nation was born.

¶54 Then the Madison-Hamilton story gets really interesting. While the political entity they helped create thrived, their relationship eventually disintegrated and they ended up on opposite ideological sides.

¶55 *Liberty’s Blueprint* will interest anyone who enjoys American political history. While the book details the many philosophies brewing throughout our nation’s political conception, the “story” is really about people—not only Hamilton and Madison but Washington, Jefferson, and yes, Scalia and Breyer too. This is not a textbook; *Liberty’s Blueprint* is for the law library that has a recreational reading collection focused on mainstream legal nonfiction. Part I covers the writing of *The Federalist*; in Part II Meyerson explains why *The Federalist* is still a meaningful

18. Justice Scalia describes his concept of originalism this way: “What I look for in the Constitution is precisely what I look for in a statute: the original meaning of the text, not what the original draftsmen intended” (p.149).

commentary on today's political battlefields, and suggests ways we can still learn from its brand of federalism. There is also an extensive "Notes" section and a list of noted publications of *The Federalist* since its initial debut. All in all, *Liberty's Blueprint* will be attractive to the casual constitutional historian, as well as law students interested in the drama behind the document.

Rosenblatt, Albert M., ed. *The Judges of the New York Court of Appeals: A Biographical History*. New York: Fordham Univ. Press, 2007. 1046p. \$150.

Reviewed by Tracy Timmons

¶56 The New York Court of Appeals, created in 1847, is the state's highest court. The court consists of seven judges: one chief judge and six associate judges appointed by the governor to terms of fourteen years.

¶57 The authoritative research in *The Judges of the New York Court of Appeals: A Biographical History* covers over 160 years of legal history. The biographies are of 106 chief justices and associates. Each entry gives a personal and professional history of the judge's life, and discusses landmark cases and opinions. Noted judges include the current Chief Judge Judith S. Kaye, the first Chief Judge Freeborn G. Jewitt, and noted scholars Benjamin Cardozo and Irving Lehman.

¶58 In addition, the book features hundreds of illustrations and full case citations. There are two indexes of the chief judges and associates, listing them in chronological and alphabetical order. The chapter "Justices of the Supreme Court: Colonial Period and After Statehood" also includes a history of New York's highest court. This is a great reference resource that should be continued as a series for the highest court of every state. The only disappointment is that there is no listing of judges by gender or race/ethnicity.

¶59 Editor Judge Albert M. Rosenblatt has a long history of serving the state of New York in various capacities as judge and district attorney. He has created a well-written, in-depth biography of judges of the New York Court of Appeals. The extensive indexing will be appreciated by historians and librarians. I recommend this book for all academic law libraries.

Whisner, Mary. *Practicing Reference: Thoughts for Librarians and Legal Researchers*. Buffalo, N.Y.: William S. Hein & Co., 2006. 295p. \$27.50.

Reviewed by Shawn G. Nevers

¶60 When my copy of *Law Library Journal* arrives, I often flip straight to the back to find Mary Whisner's *Practicing Reference* column. Her pieces are crisp, witty, and insightful—a delight to read. I often feel as if she and I are having a brief conversation on an issue important to each of us. As a newer law librarian, her column has taught me many things and has been a part of my professional development. Now, in what I think is a natural progression, Whisner has compiled twenty-seven of her *Practicing Reference* essays into one handy volume titled *Practicing Reference: Thoughts for Librarians and Legal Researchers*.

¶61 Publishing her essays as a book has allowed Whisner to group her essays by topic, a great benefit to many readers. In Part One, “The Reference Interaction,” Whisner examines topics ranging from reference interviews to writing memos. Among other things, readers learn how saying “I don’t know” can benefit patrons, as well as why many patrons do not ask for help and how to remedy that problem.

¶62 Part Two, “Developing, Growing, and Coping as a Reference Librarian,” is the most diverse of the group and a personal favorite. Many of the essays included in this section encourage reference librarians to look inward and evaluate their professional selves. “On Having a Bad Day” reminds readers that we all have bad days and offers tips for coping with them, reducing their frequency, and lessening their impact. “Reference Librarians Do Not Work in Steel” examines the fact that while a librarian’s work rarely produces a visual reminder of what has been accomplished, the work is still valuable. Other essays treat topics such as learning to research a specialized area of law (in this case foreign and international law) and the duties of a reference librarian (in the cleverly titled, “What Do You *Do* All Day?”).

¶63 *Practicing Reference*’s final part, “Research Techniques and Sources,” is extremely practical. My favorite essays are those in which Whisner answers an interesting research question while allowing readers to accompany her on the research journey. In “When Judges Scold Lawyers,” for example, Whisner walks readers through her approach to finding cases in which judges criticize lawyers for poor writing or research. Not only do readers observe the research process of an expert, they are treated to the often amusing cases that result.

¶64 In another such essay, “What’s in a Statute Name?” Whisner poses a question I have often pondered myself: “When did Congress start using acronyms that spelled out words suggestive of the meaning of a statute?” (p.211). Whisner provides a well-researched answer, as well as a research trail worthy of emulation.

¶65 One of the greatest strengths of *Practicing Reference* is its basis in real-life experiences. “What Do You *Do* All Day?” was written based on a patron’s misunderstanding of Whisner’s job. Whisner researched and wrote “*Bouvier’s, Black’s, and Tinkerbell*” because a patron told her that *Bouvier’s*, not *Black’s*, was the legal dictionary of legal dictionaries. “Researching in an Imperfect World” was written because a usually reliable resource didn’t have the information it should have. Such grounding in the day-to-day life of a reference librarian makes these essays extremely relevant to the lives of all reference librarians.

¶66 My only regret is that since the book’s publication in 2006 Whisner has written several more *Practicing Reference* columns worthy of inclusion. Hopefully we will see a new edition in the near future.