

Keeping Up with New Legal Titles*

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

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* © Amy Atchison and Laura Cadra, 2007. The books reviewed in this issue were published between 2005 and 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.

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Bell, John. *Judiciaries within Europe: A Comparative Review*. Cambridge: Cambridge University Press, 2005. 399p. \$95.

Reviewed by John Wilson

¶1 Author John Bell has produced an impressive work of scholarship assessing the judiciaries of France, Germany, Spain, Sweden, and the United Kingdom. This is not a work on the separation of powers or the legitimacy of courts, but rather a study that places the judiciary within a legal culture. Bell models this culture as a series of concentric circles with the judiciary at the center; the next circle includes the legal community of academics, lawyers, and lay judges; and the outer circle represents a wider community that includes the political community and public opinion.

¶2 Bell examines each country's requirements for the training, selection, and promotion of its judges. In general, all judiciaries require law training at the university level, and some additionally require an internship; selection of judges may be determined by an examination, a recommendation of a judicial association, or a political appointment; and advancement may result from job mobility or evaluation through a civil service grading system. Bell notes that on the whole the profession is becoming more diverse but that women are still underrepresented at the senior levels.

¶3 For each country, Bell also considers the judiciary's relationship to the broader legal community. The countries that Bell investigates generally hold the judiciary in high regard, and judges play a part in the larger political system by advising on the constitutionality of proposed legislation, participating in law reform, and investigating the misconduct of governmental officials. With the rise of national and multinational law firms, however, students who would have pursued careers in the judiciary are now instead choosing careers as lawyers.

¶4 Each country, as Bell points out, has its own idiosyncracies in terms of how they value judges. Academics in Germany, for instance, garner more respect than the judiciary. Whereas in the United Kingdom, their influence is relatively weak, while judges are placed on a pedestal. In Spain, the public generally distrusts the impartiality of its judges.

¶5 History plays an important role in all of the countries studied. For example, Bell points to events from the Weimar Republic, the Nazi regime, and the unification of East and West Germany as influential to Germany's current judicial system construct, and Spain's transition from an authoritarian to a democratic government was, he notes, equally influential in shaping its judiciary.

¶6 Bell uses the term "judicial corps" to describe each judiciary's organizational structure. The judicial corps is influenced by its place in the wider context of diversity; its relationship to other social groups; and by education, training, socialization, hierarchy, and leadership (p.360). The judicial corps of the countries

studied differ as a result of geography (i.e., where judges are assigned), education, and the relationship of the bench and bar. For example, France has three distinct judicial corps or groups with each serving a different function or role.

¶7 Bell devotes substantial discussion to the concept of values as they relate to lawmaking creativity, judicial independence, and the overall perception of the judiciary as a public office or bureaucracy. He compares the English system, which readily accepts judicial creativity, to the more conservative continental courts, which view themselves as executors of the law. He notes, however, that the rise of new institutions, such as the Spanish Constitutional Court, and the outside influence of European Union law and the European Charter indicate a larger role for judicial creativity in these more conservative systems.

¶8 Judicial independence varies from country to country as well. Bell compares English judges, who have a good deal of personal independence, with continental judges, who function within the constraints of a bureaucratic institution. And while French and English political elites are resistant to judicial interference with their prerogatives, judges in Germany and Spain have more influence as a result of the historical misuse of executive power. Other differences among the countries surveyed include the political activity of judges outside of court and judicial accountability.

¶9 In sum, Bell has succeeded in executing a well-written, in-depth analysis of European judicial systems. *Judiciaries within Europe: A Comparative Review* is a worthy entry in the Cambridge Studies in International and Comparative Law series. In addition, the extensive footnotes and thorough index will aid librarians who collect materials on foreign courts in the original language and will be of use to readers interested in pursuing further research.

Gonzales-Day, Ken. *Lynching in the West, 1850–1935*. Durham, N.C.: Duke University Press, 2006. 332p. \$22.95.

Reviewed by Hollie C. White

¶10 Race, photography, California history, lynching, racism, erasure, and art are all covered in *Lynching in the West, 1850–1935*. An artist and professor, author Ken Gonzales-Day looks at the erasure of race in the history of American lynching. To rediscover the multi-ethnic history and cultural racism behind lynching, he looks specifically at lynching that occurred in pre- and post-statehood California, examining it from different perspectives, including historical pictures, artistic recounts, and racial commentary.

¶11 While each chapter has a stated theme, such as the history of lynching or the purpose of representative democracy in a time of frontier justice, race is the central theme of *Lynching in the West*. Discussions include the introduction of flash photography and its impact on the ability to record nighttime lynching; and a detailed discourse on physiognomy—how a person's character is reflected in his or her appearance. Particularly interesting from a librarian's perspective is chapter three's consideration of the impact of photographic images on archives.

¶12 Clearly, author Gonzales-Day's artistic background influenced his choice of photographs included within the text. While some photos and descriptions of lynchings are quite graphic, all are used to emphasize the overarching message of the book. This said, I could not read large portions of the book at one time because many descriptions are realistically detailed to the point of disturbance.

¶13 While this is a tough topic, some parts of the text, unrelated to the subject matter, are of concern. First, the title, *Lynching in the West*, is misleading because rather than dealing with the "West," it only discusses California. As an Arizona law librarian, I was disappointed because I was hoping to gain a better understanding of the history of the American West. Also, the concept of erasure of race proves to be too broad a topic as the book ultimately lacks focus. The loose structure, which works in the introduction, inexplicably continues throughout the text. Too many thoughts and pieces of information are presented to make this one coherent, solid work.

¶14 Plus, while extensively footnoted and seemingly well-researched, not all of the documentation is clearly presented in the appendixes. For example, the beginning of appendix two reads "this selected list of legal and military executions was compiled by Kenneth R. Gonzales-Day, March 18, 2005, from an extensive number of sources. Some sources are listed in the individual chapter notes, but a full list of sources could not be included in this publication" (p.229). I found this statement puzzling. Why couldn't he include a full list of sources? Failing to provide a complete list calls into question the validity of the research presented, hinders future scholars from doing further research on the same topic, and takes away from the message of the text.

¶15 The goal of *Lynching in the West, 1850–1935* is admirable, and the broadening of ideas on lynching should have a place in academia. Unfortunately, this book lacks structure and fails to include information relevant to most law libraries. I recommend it only to those academic law libraries with special collections in racism, lynching, or the history of California.

Hart, Jonathan D. *Internet Law: A Field Guide*. Washington, D.C.: BNA Books, 2006. 669p. \$195, paper.

Reviewed by Kristin A. Henderson

¶16 *Internet Law: A Field Guide* is an excellent one-volume, paperback reference work on just about everything to do with the intersection of the law and the Internet. It is written by Jonathan D. Hart, a member of the Dow Lohnes law firm in Washington, D.C., where he specializes in the representation of media and technology companies. He is also on the faculty of Stanford Professional Publishing Courses, for which previous versions of this book were written.

¶17 The primary audience for *Internet Law* is Web publishers and their attorneys. However, it would serve well in an academic, court, county, or firm law library as a deskbook on Internet law. It is also a good case-finding tool for leading cases and current case law developments in the subject area.

¶18 Broad but not always deep, *Internet Law* surveys not only new areas of law that are at the core of Internet regulation (e.g., domain names), but also venerable areas of the law as they are applied to, or changed or challenged by, the Internet (e.g., the First Amendment, copyright, and trademark). It is divided into nine topical chapters, plus a tenth catchall chapter for material that does not fit elsewhere. Each chapter includes a detailed table of contents, which serves as a quick outline on the subject; a narrative on the broad topic and its subtopics; summaries of key cases and current developments; and a bullet-point summary at the end.

¶19 In the preface, Hart notes that the book is not intended to be read cover-to-cover and, “admittedly, [is] not a page-turner.” It is, nonetheless, a highly readable, practical tool that will help readers answer many of their questions about Web publishing law. Cases are presented in concise, easy-to-understand, two- or three-paragraph summaries. The topics covered will appeal to a broad audience, not just to those in the field of Web publishing. At various points in my careers as librarian, lawyer, and teacher, I would have benefitted from this book’s discussion of the Digital Millennium Copyright Act,¹ online privacy, Web sites as places of public accommodation, the moratorium on Internet access taxation, and deep linking, to name a few.

¶20 The appendix lists the cases and statutes that are included on the CD accompanying *Internet Law: A Field Guide*. The CD contains only leading cases and a handful of statutes. The cases are slip opinions so are not in a citable format for courts, and the statutes lack complete citation information, so one wonders how current they are. The CD also includes a searchable PDF file of the book in its entirety with hyperlinked Internet addresses.

¶21 The book’s index refers to sections rather than page numbers. While this makes sense in a loose-leaf publication, it is irritating in a book. If I am looking for material on “do-not-mail” lists, I can more easily remember and locate a range of page numbers than a section reference, particularly one that contains Roman numerals (e.g., 8. IV. B). I have the same complaint about the book’s cross-references, which also are to section rather than page numbers.

¶22 This criticism aside, *Internet Law: A Field Guide* is a terrific reference work and good value for the money. Published in prior years under somewhat different titles and by a different publisher, the intent, according to the preface, is to update it annually by a replacement volume.

Herzberg, Bob. *The FBI and the Movies: A History of the Bureau on Screen and Behind the Scenes in Hollywood*. Jefferson, N.C.; London: McFarland & Company, Inc., 2007. 276p. \$35.

Reviewed by David Turkalo

¶23 The much-maligned J. Edgar Hoover possessed, in some ways at least, a savvy knowledge of the importance of public relations. Hollywood provided a powerful

1. Pub. L. No. 105-304, 112 Stat. 2860 (1998).

vehicle for presenting an iconic image of the FBI that influenced the public's perception of the agency for many years, roughly from when Hoover took charge of the agency on May 19, 1924, until his death in 1972, with the specter of Watergate churning in the background.

¶24 The tactics used by the FBI in its relationship with the motion picture industry are the main thrust of this fascinating book, *The FBI and the Movies: A History of the Bureau on Screen and Behind the Scenes in Hollywood*. Author Bob Herzberg, who is also a playwright, stand-up comedian, and actor, has deftly researched the Hollywood-FBI relationship. He presents its saga in a fast-paced, well-documented yet breezy manner, frequently referring to now declassified correspondence between Hollywood insiders and either Hoover or, more often, Louis Nichols, the assistant director in charge of the agency's Criminal Records Division.

¶25 The FBI's major challenge was to influence, without appearing to mandate, the agency's cinematic portrayal. Herzberg notes that Nichols, more than anyone, especially in the early days, was responsible for "selling" the Bureau to the nation. With both overt and covert sympathizers, if not outright informers and water-carriers, the FBI fashioned a philosophy that soft-peddled its influence while allowing it to steer the direction of its image even when the film versions and the facts were at odds. Herzberg's recounting of how gangster John Dillinger's saga was portrayed on film, versus the actual events, is an eye-opener.

¶26 Nichols, and by extension Hoover, had a constant flow of memos, scripts, and assorted other correspondence from Hollywood insiders coming across his desk. None of this was coerced, as Hollywood wanted the FBI's input. For its part, the agency seized the courting opportunity with the lustful glee of a plain Jane (or Joe) asked to dance by the best-looking guy or gal at the soiree. This dance went on for decades.

¶27 In four parts, Herzberg examines specific periods of this relationship: the 1930s gangster era; the Nazi spy chaser films of the war years (1939–45); the coldest of the Cold War years (1946–59), with the attendant communist machinations, such as *I Was a Communist for The FBI*,² *FBI Girl*,³ and *Pickup on South Street*;⁴ and the decline of the FBI's film fortunes in the 1960s and beyond.

¶28 The extremely detailed scene analyses from various movies is both a detriment and a strength. The nonspecialist will find himself peeking ahead to see how much of a recitation of, say, *The Street With No Name*,⁵ he will have to wade through. Between these film summaries, however, are lively historical accounts of what was going on at the FBI at the time. The nonspecialist will find these accounts most engaging.

2. I WAS A COMMUNIST FOR THE FBI (Warner Brothers 1951).

3. FBI GIRL (Lippert Pictures 1951).

4. PICKUP ON SOUTH STREET (Twentieth Century Fox 1953).

5. THE STREET WITH NO NAME (Twentieth Century Fox 1948).

¶29 A solid bibliography and a well-constructed index round out *The FBI and the Movies: A History of the Bureau on Screen and Behind the Scenes in Hollywood*. Its value to most academic law libraries depends in large part on faculty interest in the area (at my institution, for example, we have a professor who teaches a course on film and the law). In addition, if your institution stocks a leisure reading or general nonfiction section, this title is worth the relatively modest (by legal publishing pricing standards) thirty-five dollars.

Maddex, Robert L. *The Encyclopedia of Sexual Behavior and the Law*. Washington, D.C.: CQ Press, 2005. 368p. \$100.

Reviewed by Sara Sampson

¶30 The aim of *The Encyclopedia of Sexual Behavior and the Law* is to provide a one-volume resource about “concepts, laws, court decisions, people, organizations, and events” (p.ix) that have impacted the relationship between law and human sexual behavior. This goal has been met. Topics include both the expected—abortion, contraception, obscenity, and rape—and the unexpected—women’s suffrage, spousal abuse, marriage, and stem cell research. These unexpected topics aid in revealing the context and evolution of the relationship between law and sexual behavior in the United States.

¶31 As with any work that addresses the topic of human sexual behavior, some topics covered are controversial and emotionally charged (e.g., abortion and stem cell research). But the analysis provided by author Robert Maddex, an attorney and regular CQ Press contributor,⁶ is balanced and unbiased. For each topic, he presents both the historical and current state of the law, along with opposing viewpoints and legal arguments. Also included are biographies of notable people and organizations who helped shape the law and summaries of important cases, statutes, and legal concepts.

¶32 Written in plain English, for which readers will be thankful, most entries are one to two pages long, with some including contact information and Web site addresses for government or advocacy groups that can provide additional information. Photographs, political cartoons, advertisements, and other illustrations interspersed throughout the book illustrate how the relationship between law and sexual behavior has changed over time.

¶33 One particularly useful feature of the encyclopedia is the inclusion of fifty-state surveys. These include summaries of the laws regarding divorce, marriage requirements, breast-feeding in public, abortion, embryonic and fetal research, genetic privacy, sex education policies, statutory rape age limits, and hate crimes. Unfortunately, the surveys lack citations to legal authority.

6. See ROBERT L. MADDEX, INTERNATIONAL ENCYCLOPEDIA OF HUMAN RIGHTS: FREEDOMS, ABUSES, AND REMEDIES (2000); ROBERT L. MADDEX, CONSTITUTIONS OF THE WORLD (2d ed. 2001); ROBERT L. MADDEX, THE U.S. CONSTITUTION A–Z (2002); and ROBERT L. MADDEX, STATE CONSTITUTIONS OF THE UNITED STATES (2d ed. 2006).

¶34 In sum, *The Encyclopedia of Sexual Behavior and the Law* presents a unique collection of information on the regulation of sexual behavior and its impact on myriad legal issues. It is well suited for the reference collections of academic law libraries.

Orth, John V. *How Many Judges Does It Take to Make a Supreme Court? And Other Essays on Law and the Constitution*. Lawrence, Kan.: University Press of Kansas, 2006. 134p. \$25.

Reviewed by Jason R. Sowards

¶35 *How Many Judges Does It Take to Make a Supreme Court? And Other Essays on Law and the Constitution* successfully explores topics that should be incorporated into the law school curriculum but do not fit comfortably within traditional substantive law courses. Containing six succinct, enlightening, and thoroughly researched essays, yet designed to be read “above the line” (making footnote references unnecessary), this title is an invaluable addition to academic legal collections.

¶36 Author John Orth assumes that the reader already possesses a basic understanding of common law. With this book, he intends to extend that knowledge through an historical analysis of its development, as well as a thorough discussion of how it coexists with statutes and constitutions. While Orth provides some background information for a selection of landmark cases, such as *Marbury vs. Madison*,⁷ the treatment is cursory and assumes prior exposure not only to the case but also its importance in the grander legal context. I hesitate, therefore, to recommend this book to first-year law students, but second- and third-year students should read it before they graduate.

¶37 As an example of the topics covered, one essay (the namesake of the collection) discusses the evolution of the odd-numbered appellate court. While it is obvious today why this court structure is necessary, historically it was not so clear. For quite some time, appellate courts were run by an even number of judges. Other topics include the evolution and necessity of official and accurate case law reporters, a brief history of the common law, and whether common law can be found unconstitutional.

¶38 I have a few complaints, but they are more a matter of grammar and style than of actual content and analysis. First, the writing is sometimes difficult to follow, resulting in the need to repeatedly reexamine a particular passage to understand the author’s point. Second, in most of the essays, Orth saves the gist of his thesis until the last few paragraphs, like the prize at the bottom of the Cracker Jack box that, while satisfying to receive, takes some crunching to get to.

7. 5 U.S. (1 Cranch) 137 (1803).

¶39 Overall, though, *How Many Judges Does It Take to Make a Supreme Court? And Other Essays on Law and the Constitution* is a scholarly yet accessible work that answered several questions about the law that I have had since my law school days. It is wonderful armchair reading for anyone interested in understanding the evolution of our legal system.

Polikoff, Alexander. *Waiting for Gautreaux: A Story of Segregation, Housing, and the Black Ghetto*. Evanston, Ill.: Northwestern University Press, 2006. \$29.95.

Reviewed by Ann Pascoe

¶40 Dorothy Gautreaux was a poor black woman who lived in a Chicago ghetto apartment. She wanted to move from her apartment into public housing. The Chicago Housing Authority (CHA) only offered her entrance into black neighborhoods as poor as her own. Ms. Gautreaux took action. She and five others, allied with American Civil Liberties Union lawyers, sued the CHA for discrimination. It took ten years to resolve the case, and Dorothy died before it was over. Her action, however, made it possible for others to have the opportunity for a choice in housing.

¶41 Author Alexander Pollikoff argued the case before the United States Supreme Court.⁸ *Waiting for Gautreaux: A Story of Segregation, Housing, and the Black Ghetto* is the story of this case. Argued in 1976, and following *Brown vs. Board of Education*⁹ and *Roe v. Wade*,¹⁰ it should be considered in the context of the civil rights battle.

¶42 In 1966, when Polikoff first became affiliated with the action, he had no prior experience with the issue of segregation. At the time, real estate agents were encouraged to promote a dual housing market: one for blacks and one for whites. As a result, blacks were living in substandard housing in poor neighborhoods. Attempts to move into white neighborhoods were met with hostility and violence.

¶43 The suit, filed in the federal district court in Chicago, advanced the position that the CHA and the U.S. Department of Housing and Urban Development had violated both the United States Constitution and the Civil Rights Act of 1964.¹¹ The case was assigned to Judge Richard B. Austin, who was pro law and order and a crony of then Chicago Mayor Richard Joseph Daley. Mayor Daley, a “big city boss,” dominated civic matters in Chicago. A child of immigrants, the mayor denied the existence of a black ghetto in his city, asserting that blacks were just like any other immigrants in that they lived in poor areas initially but then moved up.

8. *Hills v. Gautreaux*, 425 U.S. 284 (1976).

9. 347 U.S. 483 (1954).

10. 410 U.S. 113 (1973).

11. Pub. L. No. 88-352, 78 Stat. 241 (codified in scattered sections and titles of the U.S.C.).

¶44 The opposition attorneys attempted from the start to thwart the case. Arguing that the plaintiffs had opted to live where they lived as indicated by their “location preferences” stated in their applications for public housing, they filed a motion to dismiss and a motion for summary judgment. Polikoff and his colleagues responded with research. Polikoff went to New York to speak with the supervisor of tenant selection at the CHA and found that housing applications by blacks were “coded.” Blacks were encouraged by CHA staff to apply for one of the black neighborhoods as these requests were processed with more speed. The workers were not to mention the “white” neighborhoods to the black applicants.

¶45 In the book, Polikoff discusses the case, the plaintiffs, and his fellow attorneys. Details are plenty, and some are superfluous, such as information about Polikoff’s family and their vacation plans. I found *Waiting for Gautreaux: A Story of Segregation, Housing, and the Black Ghetto*, nonetheless, to be a fascinating, great read. I highly recommend it to academic law libraries.

Sze, Julie. *Noxious New York: The Racial Politics of Urban Health and Environmental Justice*. Cambridge, Mass.: MIT Press, 2007. 282p. Paper, \$24.

Reviewed by Emilie A. Benoit

¶46 In *Noxious New York: The Racial Politics of Urban Health and Environmental Justice*, author Julie Sze presents an excellent study of contemporary environmental justice activism in four New York City neighborhoods—West Harlem, Sunset Park, Williamsburg, and the South Bronx. These are low-income, racial minority neighborhoods, with “strong community based organizations” whose members consider environmental justice at the “core” of their identities (p.23).

¶47 A worthwhile read for anyone involved or contemplating involvement in environmental justice activism, *Noxious New York* is filled with memorable descriptions of environmental justice activists, neighborhoods, and campaigns. Mainly gleaned from Sze’s long involvement in an environmental justice organization, including regular attendance at demonstrations, public hearings, and community meetings, she also draws on field work, people’s stories as told at community meetings, and personal interviews (p.24). Sze’s knowledge of and passion for her subject are evident throughout the study.

¶48 In chapter 1, after providing a historical overview of the environmental justice movement nationally, Sze expertly tracks neighborhood local environmental justice history and demonstrates through urban planning and public health history a link between “urban place and disease” (p.48). This sets the stage for the environmental narratives in the subsequent chapters.

¶49 Chapter 2 considers four campaigns whose goals were to close the Bronx-Lebanon medical waste incinerator, to prevent or delay the construction of the Sunset Park sludge treatment plant and the Brooklyn Navy Yard incinerator, and to remediate pollution from the North River sewage treatment plant (p.51). In each

instance, Sze focuses on community-based organizations that promoted the idea that environmental racism was the reason that garbage facilities were actually located in or proposed for their neighborhood.

¶50 These campaigns, whose common thread was this notion of environmental racism, illustrate what Sze describes as “a brief golden age of environmental activism” in New York City (p.88). She correctly observes that lessons may be learned from examining these environmental justice campaigns as a group rather than looking at them in isolation. This group examination of many environmental justice campaigns contributes to this treatise’s importance and value.

¶51 Chapter 3 concerns environmental justice asthma activism, focusing on how childhood asthma in New York City served as a huge motivating factor in each of the campaigns considered. Included are personal statements from individuals living near in-town diesel garbage truck facilities, some describing how garbage trucks left idling would fill their apartments with engine fumes and smoke which then blackened their window screens (p.106). Also cited are health research projects concerning how exposure to outdoor pollution affects low-income urban children (p.107).

¶52 Chapter 4 considers environmental justice garbage activism and how the garbage-handling infrastructure’s effect on local health spawned this activism (p.115). Chapter 5 discusses environmental justice energy activism regarding the location of power plants. Included is a chronology of the development of electricity generation, regulation, and later deregulation, and a discussion of the relationship between race, pollution, and power plant siting (p.155).

¶53 Chapter 6, the final chapter, considers the emergence and future of community-based environmental justice initiatives. Sze concludes with several examples of how the environmental justice activism described in *Noxious New York* has resulted in “better policy and environmental conditions” (p.208), not just for New York City but for everyone.

¶54 *Noxious New York: The Racial Politics of Urban Health and Environmental Justice* is a well-written resource on environmental justice activism in New York City; its thorough documentation includes numerous endnotes, an extensive bibliography, and a thorough index. I recommend it to academic law libraries and other libraries with an environmental law or environmental justice collection. Julie Sze’s important study will contribute significantly to a better understanding of the essential role of community-based environmental justice activism—both historically and in the future.

Taslitz, Andrew E. *Reconstructing the Fourth Amendment*. New York: New York University Press, 2006. 363p. \$50.

Reviewed by Deborah Dennison

¶55 *Reconstructing the Fourth Amendment*, an erudite analysis of the historical development of search and seizure, begins with a compelling introduction relating

author Andrew Taslitz's early personal experiences that helped spark his lifelong interest in law and justice and the ways in which they are metered. As one might imagine, how a suspect is caught and evidence is obtained is often a contentious matter between opposing sides in criminal law. In many cases, "the public image for an individual's constitutional protections are seen as just a way to free the guilty on a technicality" (p.viii).

¶56 Such observations and experiences in criminal procedure have led Taslitz to question societal commitment to honor the original (1791) Fourth Amendment's intent regarding search and seizure and what he terms the "mutated Fourth Amendment" (i.e., the Fourteenth Amendment from 1868). His objective is to promote a better understanding of and vigilance for legitimate applications of such constitutional "rights," and he has created a fascinating study in his attempt to do so. By analyzing various threads of historical intent, Taslitz articulates a modern understanding of the subject.

¶57 Taslitz, who began his legal career as a district attorney in a large urban area, is a criminal procedure expert. He currently teaches law at Howard University School of Law and has authored several books and many articles on criminal procedure, constitutional law, and evidence.

¶58 In an engaging preface, Taslitz discusses his motivations for writing this book, explaining why he cares about the subject and why others might as well. He has a "zeal for public safety, both from street predators, and government ones" (p.viii). Ideals taught to him in high school continue to resonate strongly: "History taught me that security and freedom were complementary, not contradictory" (p.viii). In light of current events, this is something we all need to consider.

¶59 Taslitz begins by placing the search and seizure concept within its historical context. The development of Fourth Amendment concerns are discussed in light of liberal Lockean and republican social models put forth by framers of the Constitution. In both models it is understood that police violence (i.e., state-supported violence) may be used to support the laws. Simply put, citizens invest institutions or governments with the power to enforce the laws to protect the citizenry. The Fourth Amendment's requirement of probable cause serves to protect against abuse of this power.

¶60 He then delves into the historical analysis of the Fourth Amendment. The protection from unreasonable searches and seizures, as originally written, was a reaction to the British use of search and seizure as a means to suppress political opposition. This historical treatment culminates in an analysis of modern implications, described more fully in the book's final chapter.

¶61 As a modern practitioner, Taslitz questions the inequalities in criminal procedure, and empathizes with the "rage some minorities feel against search and seizure activities in their community" (p.6). This question is central to the second part of the book, in which Taslitz discusses the institution of slavery and reconstruction. "Understanding the communicative violence of slavery," he asserts, "sets the stage for understanding the search and seizure practices that were at slavery's heart"

(p.95). Taslitz concludes by exploring the implications from historical search and seizure actions relevant to contemporary applications and offers suggestions that would honor original protections.

¶62 *Reconstructing the Fourth Amendment* is well researched, lucid, articulate, and also a novel approach to the subject. While both parts of the book might exist independently, Taslitz expertly ties them together and in so doing conveys the brilliance and importance of this fundamental constitutional right. I hope this work encourages further debate on this topic. I recommend *Reconstructing the Fourth Amendment* to law, academic, and larger public libraries.

Wilson, Robin Fretwell, ed. *Reconceiving the Family: Critique on the American Law Institute's Principles of the Law of Family Dissolution*. Cambridge; New York: Cambridge University Press, 2006. 542p. \$95.

Reviewed by Beth Williams

¶63 To loosely paraphrase Tolstoy: Like most families, family law is messy. Anyone who has experienced divorce in this country during the past thirty years will likely agree that the increasingly urgent need for solutions is rarely met by the current system of domestic relations law. As a former family law practitioner, I can attest to the volume and frequency of frustrations openly expressed by attorneys and judges alike at the blunt tool the law often provides for solving the complex problems faced by today's families.

¶64 How should custody agreements be crafted to allow for both the predictability needed between frequently hostile parties and the flexibility sufficient to meet the changing needs of a growing child, while minimizing the harm to children over time who are caught in the cycle of conflict? Can the current, formulaic approach to child support lead to just awards? Should adults who care for children be given decision-making rights equal to those of legal parents? Should courts allocate property division when stable, cohabitating relationships between unmarried persons end, and, if so, how should such allocations be made? These are just a small sampling of the questions that the American Law Institute (ALI) attempted to resolve in its landmark ten-year study of American family law, culminating in 2000 with the adoption and promulgation of the *Principles of the Law of Family Dissolution*.¹² Robin Wilson's *Reconceiving the Family: Critique on the American Law Institute's Principles of the Law of Family Dissolution* is intended to be a scholarly companion piece to the ALI's *Principles*.

¶65 Essentially mirroring the organization of the *Principles*, *Reconceiving the Family* presents twenty articles by leading family law scholars from the United States that analyze and evaluate the ALI's approach to concepts of fault; custody; child support; property division; spousal support; domestic partnership; and pre-

12. AM. LAW INSTITUTE, PRINCIPLES OF THE LAW OF FAMILY DISSOLUTION: ANALYSIS AND RECOMMENDATIONS (2002).

marital, marital, and separation agreements. Also included are three pieces by scholars from the United Kingdom, Europe, and Australia, providing an international perspective, and two significant contributions from one former and one current American judge.

¶66 Excising the political element within policy recommendations concerning issues like same-sex marriage and de facto parentage is a difficult task of questionable utility. Although it is not avowedly a political response to the ALI's *Principles*, *Reconceiving the Family* includes the work of many prominent legal scholars whose conclusions might serve to buttress the right end of the political spectrum when confronted with such controversial issues. Moreover, the tone of the articles in this volume is almost uniformly critical of the recommendations found within the *Principles*. However, the methodological approach makes this work an interesting and valuable resource for any scholar, legislator, judge, or practitioner interested in exploring the theories underlying the *Principles*' policy recommendations, with a special emphasis on the logical and practical consequences of its more controversial doctrines.

¶67 With the exception of an index, a short foreword, an introduction, and an afterword, *Reconceiving the Family* merely contains these discrete, but thematically linked, articles. The existence of a lengthy index is gratifying—particularly in a volume of collected works—but it is almost certainly a machine-generated product: even a short examination reveals the type of errors and omissions rarely found in indexes produced by professionals. This volume certainly belongs on the shelves of academic law libraries and any other law library seeking to maintain an *au courant* collection of family law scholarship.