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A Legal History of the Civil War and Reconstruction: A Nation of Rights by Laura F. Edwards

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Mr. Madison

He says that one ground of complaint, at the beginning of the revolution, was, that a standing army was quartered upon us. This was not the whole complaint. We complained because it was done without the local authority of this country—without the consent of the people of America (p.322).

This exchange gives the researcher access to the discussions that accompanied the writing of the Bill of Rights and its clauses. The “Newspapers and Pamphlets” sections include contemporary articles that portray the opinions of the media and selections from the general public. These materials provide the researcher with valuable insight that can further enrich an understanding of this fundamental text.

¶43 Consider the immortal importance of the Bill of Rights with this quotation taken from a letter written by Thomas Jefferson to James Madison on December 20, 1787: “Let me add that a bill of rights is what the people are entitled to against every government on earth, general or particular, and what no just government should refuse, or rest on inference” (p.1063).

¶44 Ultimately, this book would fit nicely in academic law libraries (or other academic libraries) and public libraries. It is a repository (in one volume) of the basic texts that researchers need to interpret and critically analyze the Bill of Rights. It will satisfy both the serious researcher with its dense content and the casual reader with its ease of use and readability.

Edwards, Laura F. *A Legal History of the Civil War and Reconstruction: A Nation of Rights*. New York: Cambridge University Press, 2015. 212p. \$80.

*Reviewed by Jennifer L. Laws**

¶45 The “Nation of Rights” described by Laura F. Edwards in *A Legal History of the Civil War and Reconstruction: A Nation of Rights* is remarkable for its broad rhetoric about rights (perhaps best represented in Abraham Lincoln’s description of the United States as “conceived in liberty and dedicated to the proposition that all men are created equal”) and for its extraordinarily narrow legal interpretation and application of those rights. Edwards takes the reader from the halls of the U.S. Congress to Civil War battlefields and the postwar fields of Granville County, North Carolina, in an effort to shed light on what the U.S. Civil War and Reconstruction did to the relationship between Americans and the law, including their perceptions of their rights, their governing bodies, and the law as a whole.

¶46 Though the legal interpretation of rights after the Civil War continued for many decades along the granular, hyper-individual lines of earlier precedent, the war-changed popular perception of rights as tied to a broader and more generous definition of the public good could not be undone. The author’s analysis of the dramatic legal changes that came about transcends the focus on federal policy typical of Civil War legal history and reaches for a kind of synthesis that is a welcome addition to the historical literature of the Civil War and Reconstruction. As Edwards states in her introduction, “This book argues that historians have tended to underestimate the extent of change because they have not brought legal history

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into dialogue with the scholarship of other historical fields”—fields that focus on class, race, and gender (p.7).

¶47 The book is organized roughly chronologically, with the first three chapters devoted to the Civil War and the second three devoted to Reconstruction. When Edwards examines legal change during the war years, she emphasizes how wartime policies in both the Union and the Confederacy increased federal power and altered the way Americans perceived and related to the law and legal institutions. Edwards demonstrates that the changes brought by Reconstruction “unsettled the nation’s entire legal order” (p.13). Her analysis emphasizes that change flowed from both the top down and from the bottom up, in complicated ways. The real excitement of Edwards’s analysis emerges in chapters 5 (“The Possibilities of Rights”) and 6 (“The Power of Law and the Limits of Rights”). In these two final chapters, her synthesis of ideas from newer historical work and fields beyond legal history really shines.

¶48 As a reader I found the structure of the book challenging. Perhaps due to its origins in her essay on the same topic for *The Cambridge History of Law in America*, the structure is minimal, with only six chapters. Within the main text’s relatively short length of 176 pages, Edwards demands much from the reader. New historical constructions abound, and legal analysis is enmeshed with discussions of social and economic changes. The reader must take time to process new information following each page or two. Proportionally huge quantities of useful information appear in this book, and it is not a title that most will read from cover to cover. Additional chapter or subchapter divisions could assist the student reader (in particular) to prioritize and pace his or her efforts.

¶49 Edwards provides students of legal history with excellent historiographical context for their research. Her introduction includes a five-page section placing her work in the context of the historiography of the Civil War and Reconstruction. By doing so, she makes her work accessible and understandable to new students of the legal history of the era. The author also includes a thirteen-page bibliographic essay following her conclusion. In it she provides a high level of detail about the sources she used in her work, placing them into the historiographical context provided in the introduction. These two sections, combined with her fourteen-page bibliography, provide a wealth of material for researchers to pursue specific areas in greater depth.

¶50 Edwards deftly incorporates historical information about the impacts of the legal changes of this era on many segments of the U.S. population. Moving beyond a traditional emphasis on the social categories of white and black, the author provides valuable context about the impacts of the era’s legal changes on women in general (both black and white), workers in the expanding industrial sector, and Native Americans. Edwards also offers her readers an alternative to the dominant North-South “axis” of the historiography of Reconstruction. Traditionally the changes wrought by Reconstruction have been framed by a North-South structure, one limited to the eastern part of the United States and largely focused on the former Confederacy and the status of African Americans. Newer work has begun to incorporate the fuller picture of the Republican vision of the United States, including policies related to westward expansion in the dynamic of Reconstruction, recognizing them each as elements of a single vision of “national unity” (p.92). Examining national attitudes and laws about property rights and measures that might

have improved the economic status of recently freed slaves becomes far more complete when the denial of property rights of Native Americans in the West is considered at the same time.

¶51 The brevity of Edwards's book has at least one notable consequence: only a small number of case studies of individual Americans' or communities' participation with these dynamics of legal change appear in her book. The quotes from a petition from African American citizens of Lincoln County, Tennessee, in 1865 to the Freedman's Bureau, and the description of Bella Newton's 1869 litigation in defense of her family and a changed social order, tease the reader with the wealth of case studies that may exist in primary source documents. Linking individual or small community stories to the powerful currents of change described in Edwards's book would more powerfully connect the reader to her ideas.

¶52 Edwards's book leads the reader from the nineteenth century into the twentieth, tracing how the tension between war-changed perceptions of rights and the hyper-individual judicial interpretation of rights profoundly altered the law of the United States and Americans' perceptions of it. Stephen C. Neff's book *Justice in Blue and Gray: A Legal History of the Civil War* (2010) takes the reader on a journey from the legal warfare issues of the Civil War to the legal issues of the War on Terror. I am not surprised that Edwards makes no reference to Neff's work. *A Legal History of the Civil War and Reconstruction* stands on its own and merits inclusion in any collection that already contains Neff's book. Any library that collects in the areas of legal history, constitutional history, or civil rights would be well served by the addition of this title.

Magraw, Daniel Barstow, Andrea Martinez, and Roy E. Brownell II. *Magna Carta and the Rule of Law*. Chicago: American Bar Association, 2014. 476p. \$69.95.

*Reviewed by Andrew Dorchak**

¶53 The multiple authors of *Magna Carta and the Rule of Law* offer an erudite, historical overview of Magna Carta's influence throughout the world over eight centuries. The authors identify five common themes: the ability of a written document to bind everyone (including the sovereign) to the law of the land, the "dynamism and adaptability" of Magna Carta, the myth of Magna Carta, "resilience in the face of varying treatment," and the "enduring relevance and persuasiveness" of Magna Carta to the rule of law (pp.14–16). Several chapters note the role of Edward Coke (and William Blackstone), who worked to associate Magna Carta, rather more specifically than historical accuracy might dictate, to concepts such as habeas corpus and due process. In addition to such advocacy, the authors discuss alternative sources of legal concepts often attributed to Magna Carta, such as an 1199 reference to habeas corpus, the English Bill of Rights, and the Fourth Lateran Council's ban on trial by ordeal.

¶54 The multitude of cases cited in the book treat Magna Carta in various ways: reverential, inspirational, vague, dismissive, and irrelevant. Chapters 5 and 10 describe the "largely symbolic" role of Magna Carta in helping to inspire the Con-

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