In This Issue

This issue of *Law and History Review* begins with three articles on French legal history, arranged in reverse chronological order. The first, by James Donovan, compares debates over the death penalty in France in 1908 and 1981, to explore the question of why efforts to abolish the death penalty in that country failed at the start of the twentieth century only to succeed at its end. Reconsidering the link between democracy and the death penalty, Donovan argues that the history of death penalty debates in twentieth century France confirms David Garland's conclusions about death penalty debates in the United States: the death penalty is retained in democratic countries where the nation's justice system is very sensitive to public opinion.

Donovan's article used the example of twentieth century France to reexamine the relationship between the death penalty and democracy. The next article, by Erika Vause, unpacks the debates over debtors prison in France at the turn of the nineteenth century, to reconsider the relationship between notions of debt and the civilizing process. Against scholars who argued that the restoration of debtors prison in 1797 reflected the Directory's rejection of modern capitalism and embrace of early modern notions of commerce, Vause suggests that the proponents of debtors prison in postrevolutionary France saw it as a way to control mobile wealth in order to restore commercial confidence in the government. Viewed from that perspective, she argues, debtors prison was an attempt to enable capitalism by modernizing financial institutions.

Our look at French legal history closes with a study by Sara McDougall that considers at how and why the law of adultery changed in medieval France. Against the assumption that prosecutions for adultery always and everywhere targeted wives, rather than husbands, Brown offers tantalizing evidence that jurists in Northern France in the fifteenth century took the

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idea that neither husbands or wives should commit adultery so seriously they prosecuted men more frequently than women. Her study considers why that attitude could, even briefly, prevail, and how it came to an end.

The three articles by Donovan, Vause, and McDougall are set in France, but explore a general issue that transcends national boundaries: how penal laws help us understand relations between a people and a polity. The next article, by Griet Vermeesch, invites us to consider that dynamic from the perspective of civil litigation. Vermeesch's research suggests that notwithstanding repeated claims in the early modern era that the poor had a "right" to legal claims and services, the reality was much different in the eighteenth century Low Countries. There, legal aid was granted provisionally and increasingly favored the "deserving poor," a result that Vermeesch argues had a significant impact on the place of law in society when the legal system became more formalized at century's end.

That article is followed by three that re-examine the application of English law in the United States in the early republican period. The first, by Derek Webb, invites us to reconsider our understanding of the role that *Somerset v. Stewart* played in in slavery litigation. Webb's close reading of the case law reveal that Mansfield's opinion was read differently by lawyers and judges depending upon which school of thought on slavery they adhered to. Not surprisingly, Webb's analysis shows that radical abolitionists understood the decision differently than did proslavery advocates; but his study demonstrates that moderate abolitionists and Garrisonians also had their own distinctive takes on what *Somerset* should mean.

The next article, by Kate Brown, provides a new perspective on *People v. Croswell*, a criminal libel case decided in 1803. Brown argues that Alexander Hamilton's arguments in *Croswell* should be read as something more than a statement about the importance of freedom of the press. She suggests that Hamilton's claims on behalf of his client set out an expansive view of the scope of English common law, and was part of a larger effort to define the role of English law in the emerging American constitutional order.

The last article in this issue, by John Gordan, shows how issues of legal borrowing intersected with the problem of slavery. Gordan's study traces the way legal publishing practices influenced the American reception of Sir William Scott's admiralty judgments in the first half of the nineteenth. The article explores a transnational republic of letters that allowed Scott's opinions to influence American maritime law. In the process of revealing that jurisprudential public sphere, Gordan also demonstrates how it increasingly was shaped by the problems of slavery and the slave trade.

This issue concludes with a selection of book reviews. We invite readers to also consider American Society for Legal History's electronic discussion

list, H-Law, and visit the Society's website at http://www.legalhistorian.org/. Readers may also be interested in viewing the journal online, at http://journals.cambridge.org/LHR, where they may read and search issues of the journal.

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