

bomb against Japan. But no collection, of course, will include every document or topic of interest of every teacher, and this collection is so broad as to leave relatively few gaps.

Evaluation of these two volumes must note three key omissions or weaknesses. First, Chester's collection does *not* include any commentary or debate by other historians, and he provides only a relatively brief narrative introduction to each document. Students using the collection must depend almost entirely upon the teacher and textbook to place the documents into any meaningful perspective. Second, the author frequently cites the source for a document without specifically identifying it. To provide only one example, the student will read an 1871 document in which Secretary of State Hamilton Fish specifically charges that Senator Charles Sumner is insane. The author cites Allan Nevins's *Hamilton Fish* as the source but does not indicate if the document is from a letter, a speech, or a diary, nor does Chester indicate the original audience for the document. Third, Chester's aversion to including treaties in his collection (because, he asserts, students find them "boring") seems—to say the least—idiosyncratic.

Yet other characteristics render this a very appealing collection. The Third World focus does, in fact, effectively supplement the more traditional material and enhance the value of both volumes. In reading the documents, students will clearly see the long-standing conflict between realism and idealism in America's foreign policy. Thus, numerous speeches, editorials, letters, and statements of public and private policy reflect our concern for promoting and protecting America's commercial interests around the world. To many diplomats and businessmen alike, this was a legitimate promotion of our national interest, though to today's eyes a tendency toward economic exploitation and cultural or racial bias may seem distressingly common. Other documents, however, reflect America's idealistic (some would say "moralistic") commitment to advancing the cause of freedom—at least as we understand it—throughout the world. Those teachers who stress the complexities and paradoxes within American foreign policy will thus find Chester's collection to be appealing.

On balance, then, these two volumes are noteworthy primarily for the breadth of topics, documents, and perspectives included. For at least some teachers, that will make them an attractive alternative to such collections as Thomas Paterson's *Major Problems in American Foreign Policy*.

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**Kermit L. Hall, William M. Wiecek, and Paul Finkelman. *American Legal History: Cases and Materials*. New York: Oxford University Press, 1991. Pp. xxiv, 589. \$49.95. Includes Teacher's Manual.**

This book brings together approximately 200 documents covering the span of American history from 1620 to the 1980s. Much of this material is heavily excerpted. Types of documents presented include colonial and state constitutions and laws, Federalists and anti-Federalist papers, political platforms and speeches, Supreme Court decisions and dissents, presidential veto messages, parts of legal treatises (Cesare Beccaria, John Cobb, Thomas M. Cooley, Christopher G. Tiedemann, O. W. Holmes), Black Codes, and more. The material is classified into chapters covering fairly broad historical periods, e.g., colonial (beginnings to 1760), revolutionary (1760-1815), antebellum (1812-1860), and so on. Two chapters, organized thematically, are devoted to "Nineteenth Century Law and Society, 1800-1900," and "Bench, Bar and Legal Reform in the Nineteenth Century." Types of law presented include constitutional and criminal law; the law of slavery, contracts, and torts; labor, civil rights, and family law; women's law; and jurisprudence. There is an Index of Cases but no general index and no



bibliography. "Suggested Readings" in the Teacher's Manual fall short of providing an adequate substitute.

*American Legal History*, its authors tell us, "is designed to serve undergraduate as well as graduate courses in departments of history and political science;" its aim is "to let the documents of legal history speak for themselves." This aim may only be imperfectly realized in a work where many documents are so drastically cut. For a book, too, of this scope and technicality a more extensive comment than is now provided would appear to be a necessity. *American Legal History*, in any event, should find a place on the instructor's shelf as a source of ideas and classroom approaches.

*American Legal History* was published in 1991, the bicentennial of the ratification of the Bill of Rights. Yet it has little to say directly about the struggle over the Bill of Rights that broke out even before the draft constitution was signed in 1787, and that continued unabated till the passage of the Fifteenth Amendment in 1870. Chapter 4, "Slavery, the Civil War and Reconstruction," falls short of presenting the African-American people's struggle against slavery and for their freedom in the broad sweep of the movement for the Bill of Rights. Yet it was this black struggle that ended by transforming the Bill of Rights into a federal charter guaranteeing the life and liberty of every man, woman, and child in the United States irrespective of the state in which they resided.

The authors' failure to link the Bill of Rights directly to the African-American struggle is strange. Hall is the editor of a series "Bicentennial Essays on the Bill of Rights." He and his co-authors are specialists in the law of slavery or the constitutional jurisprudence of the antislavery movement. They might well have handled the story of the Bill of Rights and the black freedom struggle thematically, in a chapter rather longer than the present one. It might cover, perhaps, fully a hundred years from the drafting of the constitution in 1787 to the nadir of black rights at the end of the nineteenth century. This theme would be announced with the battle George Mason launched in 1787 when he refused to sign the Constitution, and won the ratification of the first Ten Amendments in 1791. But Congress, in approving Madison's draft, rejected the proposal that the Bill of Rights should bind the States as well as the Federal Government; this position was sustained by Marshall's *Barron v. Baltimore* decision in 1833 (the authors accord barely twenty lines to this critically important case). The Civil War, in which tens of thousands of black abolitionists in uniform played a decisive role, won the passage of the Thirteenth Amendment in 1865. As a result *Barron v. Baltimore* and *Dred Scott* were swept away and the Bill of Rights was transformed into a truly national document. *Magna Carta*, with its guarantee to freemen of due process under law, now received its incomparable American form: freedom under law to all *people* in the United States. This great achievement, together with the laws that flowed from it, was overthrown during the 1870s and early 1880s by a counter-revolution in the South. The new situation was then legitimized by sweeping changes in the federal law associated primarily with the names of Justices Samuel Miller and Joseph Philo Bradley. Abandoned by the Republican Party, black people were relegated to a regime of oppression more terrible in some respects than the bondage from which they had recently been emancipated.

"We look forward," the authors write, "to the suggestions [and] criticisms . . . of our colleagues who use this book." The thoughts offered here are prompted by this remark. The authors have made a valuable contribution to the teaching of legal history and to the debate about the different ways in which this may be done.