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Book Review of Private Law and Social Inequality in the Industrial Age

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WILLIBALD STEINMETZ ED., *Private Law and Social Inequality in the Industrial Age*. New York: Oxford University Press, 2000. xii, 565 pp. \$115.00.

This volume of essays by legal and social historians examines the inequitable legal power distribution in English, French, German, and United States societies during their respective industrial periods. Comparing aspects of these nations' legal cultures, the book makes a significant contribution to the fields of legal and social history by encouraging future dialogue. On their own, most of the individual essays are top-notch. Collectively, they offer exceptional insight into the various imbalances in law and society during periods of industrialization. Compiling this scholarship, which was originally presented at a conference he convened in 1995, was a labor of love for Willibald Steinmetz, and it shows.

The book is divided into five sections: Landowners, Peasants, and Laborers; Husbands and Wives; Employers and Employees; Landlords and Tenants; and Producers and Consumers. Thematically, the first two sections discuss legal distinctions caused by the different "estates" into which people were born (p. 8); the latter three sections address disparities created by market forces (p. 10). In general, each contributor examines aspects of legal culture within a single country, leaving readers to develop their own comparative conclusions. Exceptions from this rule include Steinmetz's inductive overview (pp. 1-41), and Spiros Simitis's piece on elements common to the employment relationship (pp. 181-202).

Disjuncture between the individual essays contributed by a broad array of scholars is neither unexpected nor disappointing in an introductory enterprise, especially one aimed at fostering comparative study; the volume achieves its main objective by piquing readers' interests. Nevertheless, the lack of integration, paradoxically, causes parallels and dissimilarities to be more readily apparent within the context of a single nation's legal system. For instance, Douglas Hay's superb contribution, "Master and Servant in England: Using the Law in the Eighteenth

and Nineteenth Centuries" (pp. 227-64), dovetails nicely with Paul Johnson's equally impressive work on "Creditors, Debtors, and the Law in Victorian and Edwardian England" (pp. 485-504), in detailing how different social classes of individuals were treated by particular types of courts, and to what ends.

Culled from a larger research project,¹ Hay's paper examines the use of summary justice levied against wayward servants by magistrates from 1750 to 1850. Definite trends include a striking rise in the per capita rate of penal sanctions against insubordinate servants, an increase in the length of those sentences, and a greater likelihood that convicted servants would be confined to newly created prisons and jails. At the same time, there is little evidence of servants successfully asserting claims against their masters.

Johnson recounts and then analyzes four explanations for why Victorian England saw small debtors in county courts treated more harshly than bankrupts in bankruptcy courts. This income, and also enforcing those claims by threats of incarceration for non-payment. Explore in turn differences in (i) the legislative bases of the debt recovery systems, (ii) their procedures, (iii) the debtors' economic situations, and (iv) their social standing. Johnson concludes that the unequal treatment originated from an unsubstantiated judicial presumption that small debtors lacked the "desire and intention to honor debts they had willingly entered into (p. 504)."²

Whether and how one should extrapolate this English-centered research to other national contexts is unclear. For example, how great a connection should the reader make from the dissimilar treatment described by Hay and Johnson in the contexts of master/servant and creditor/debtor, to the power relationships played out in New York landlord-tenant courts (pp. 411-34), or Prussian patrimonial courts (pp. 69-88)? Because the possibility of connection is intriguing, this book serves an important function as an invitation to cross-cultural legal examinations.

Finally, special praise is owed to Angela Davies, Jane Rafferty, and Jim Underwood for their first-rate translation of the French essays, as well as some of the German into English.

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1. Among the publications originating from the Master and Servant Project at York University are Paul Craven & Douglas Hay, "The Criminalization of "Free" Labour: Master and Servant in Comparative Perspective," *Slavery and Abolition* 15 (1994):71; and Douglas Hay & Paul Craven, "Master and Servant in England and the Empire: A Comparative Study," *Labour/Le Travail* 31 (1993):175.

2. As with Hay, Johnson's work is part of a larger research scheme. See Paul Johnson, "Small Debts and Economic Distress in England and Wales, 1857-1913," *Economic History Review* 46 (1993):67; Paul Johnson, "Class Law in Victorian England," *Past and Present* 141 (1993):147.