

Missouri Law and the American Conscience: Historical Rights and Wrongs

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Missouri Law and the American Conscience: Historical Rights and Wrongs, edited by Kenneth H. Winn. Columbia: University of Missouri Press, 2016. vi, 288 pp. Notes, index. \$55.00 hardcover and e-book.

Reviewer John W. McKerley is a research associate at the University of Iowa Labor Center. His dissertation (University of Iowa, 2008) was "Citizens and Strangers: The Politics of Race in Missouri from Slavery to the Era of Jim Crow."

While many scholars continue to publish books and articles on the Midwest, broadly defined, they struggle to construct a sense of region that is at once coherent, compelling, and capable of illustrating an enduring relationship to the whole of American history. Missouri is a powerful case in point. Like much of the Midwest, the state reflects a "confluence" of other regional influences, so much so that it often seems at once indistinguishable and unique. *Missouri Law and the American Conscience* attempts to place the state's history in context through a focus on Missourians' relationship and contributions to U.S. law over two centuries.

The first two chapters focus on the law's application in frontier Missouri. In chapter one, historian William E. Foley follows the rise and fall of Native American influence in Missouri courts. First articulating a theme that carries through much of the volume, he connects the rise of political democracy for white men (expressed, in his case, particularly through land dispossession) with the denial of procedural justice (for example, white jurors' "rare and universally unsuccessful" attempts to prosecute other whites for killing Native peoples [19]). In chapter two, former Missouri State Archivist Kenneth H. Winn punctuates Foley's broad story with a close analysis of a breach of promise suit that played out against the backdrop of Anglo- and Francophone competition along the frontier.

The next three chapters deal broadly with the period most often associated with Missouri's legal history—the Civil War and Reconstruction. In chapter three, distinguished legal historian Paul Finkelman reexamines Dred and Harriet Scott's long legal battle for emancipation. He focuses particular attention on the Missouri Supreme Court decision that sent the Scotts' case to the U.S. Supreme Court. By comparing the state court's decisions regarding similar freedom suits before and after Missouri's shift from appointing to electing its justices, he argues that the Missouri court reflected proslavery politics more than established legal precedent. In chapter four, historian Dennis W. Belcher extends this critique into Reconstruction through an analysis of Missouri Republicans' replacement of one political judiciary (perceived as proslavery and thus pro-rebellion) with one committed to remaking Missouri into an unambiguously "free" state. In chapter

five, historian Bonnie Stepenoff considers the longer-term implications of Reconstruction-era battles over enfranchisement through the story of Virginia and Francis Minor, St. Louisans who took the fight for woman suffrage as a “natural right” to the U.S. Supreme Court during the early 1870s.

In chapters six and seven, the volume shifts from exploring the ways in which national and regional trends moved through Missouri law to demonstrating the ways Missouri shaped those trends during the early twentieth century. Law professor Douglas E. Abrams describes the state’s transition from one of the worst offenders in juvenile justice to a national model through a 1970s-era innovation, the Division of Youth Services. Next, Winn relates the story of Laurance M. Hyde, a Republican attorney and jurist who fought against the political influence of Kansas City’s Democratic machine over the state’s judicial system, eventually producing a nonpartisan court plan that became the envy of anti-boss liberal reformers across the nation.

Taken together, the last three chapters touch on the broad outlines of the “rights revolution” of the second half of the twentieth century. In chapter eight, Missouri administrative hearing commissioner Karen Anderson Winn recovers Missouri women’s activism around jury service in the period between enfranchisement and the 1960s. In chapter nine, James R. Devine, late dean and law professor at the University of Missouri, recounts famed St. Louis Cardinal Curt Flood’s battle against the reserve clause in professional baseball. Finally, in chapter ten, former Missouri Supreme Court Justice Edward “Chip” Robertson Jr. combines history and memoir to describe the “right-to-die” proceedings regarding Nancy Cruzan, a Missouri woman left in a vegetative state after a car accident. Robertson wrote the majority opinion for the Missouri court, which was later affirmed by the U.S. Supreme Court.

Taken as a whole, the volume makes a convincing case for the importance of Missouri in American legal history. That case could have been strengthened by more attention to placing Missouri law within its shifting regional and national contexts. Although several contributors include descriptions of related legal proceedings in other states, the volume as a whole could have gone farther to show how the law has contributed to the making and remaking of region over time. Moreover, given the volume’s treatment of one state’s law over time, it missed an opportunity to more critically assess its key contradiction—that the best law is that which holds fast to established principles rather than current politics, while recognizing that those same established principles were shaped by the politics of the past.