Keeping Up with New Legal Titles

Compiled by Benjamin J. Keele* and Nick Sexton**

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* The books reviewed in this issue were published in 2012 and 2013. If you would like to review books for “Keeping Up with New Legal Titles,” please send an e-mail to bkeele@indiana.edu and nsexton@email.unc.edu.

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Despite technical weaknesses, the book is valuable if only because of its quirky subject matter. The text has a peculiar and narrow focus, yet it remains accessible to the reader. The author refuses to take for granted any aspect of parking—on its face an ordinary, albeit universal, subject—and delivers a thought-provoking text. Overall, Marusek succeeds in using the overarching theme of parking to engage the reader in discussion of social and legal policy.

Politics of Parking is appropriate, but not essential, for academic law libraries. The ideas and specific examples in the book are well suited to sparking discussion in first-year and upper-level law classes. Many of the examples are drawn from Massachusetts and Hawaii, so the book may be especially useful in those states. It may also be useful to scholars of constitutive legal theory.


Reviewed by Franklin L. Runge

In exercising his unalienable rights to “Life, Liberty and the pursuit of Happiness,” Aaron Burr concocted a land-and-gold-grabbing scheme to conquer parts of Mexico. Upon learning of Burr’s machinations, Thomas Jefferson, then President of the United States, painted Burr as a traitor and moved heaven and earth to have him hanged. This melodrama spilled into John Marshall’s trial court in Richmond, Virginia. Marshall set out an interpretation of the law of treason that would last for the next two centuries, fortified the common law rules regarding relevant evidence, and laid the foundation for the rule of law in the United States. The story of Burr’s western adventure, as captured in R. Kent Newmyer’s book, The Treason Trial of Aaron Burr: Law, Politics, and the Character Wars of the New Nation, is rich in dramatic episodes, ironic twists, and thought-provoking jurisprudential concepts.

How could the national political scene find itself with the President desperately wanting to execute his former vice president? As Newmyer astutely notes, “[c]ontext as always is the starting point of interpretation” (p.15). The book effectively paints a picture of what it meant to live in a brand-new nation. The Southwest was largely ungoverned and subject to disputes between the United States and Spain. Looking westward, many Americans (including Burr) saw the possibility of gold and glory. This ambitious spirit successfully expanded national borders, but a quest motivated by vanity and avarice also produced casualties. Additionally, after defeating the British in the Revolutionary War, Americans were obsessed with loyalty to the new nation and the crime of treason. These realities crafted the political environment in which Burr, who had distinguished himself as a combat officer in the Continental Army, would stand trial for treason against the country he fought to create.

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10. THE DECLARATION OF INDEPENDENCE para. 2 (U.S. 1776).
On January 22, 1807, Jefferson declared Burr guilty of treason in an address to Congress. Through this pronouncement, Jefferson “usurped the role of both the grand jury and the trial jury” (p.177). Instead of marching victorious with a band of hearty soldiers through the Southwest and Mexico, in February 1807 Burr was arrested in the Mississippi Territory. He did not stand trial where his alleged crime took place; he was whisked to Richmond, Virginia, by armed guards. The subsequent trial, United States v. Burr,11 generated a series of curious dichotomies in which Newmyer revels. Jefferson's party, the Democratic-Republicans, opposed an overbearing executive branch, yet here was Jefferson directing Burr's prosecution from Washington, D.C.; attempting to suspend the writ of habeas corpus; manipulating witnesses with the promise of pardons; and ensuring that Burr did not receive a fair trial by enflaming the partisan press. As a Federalist, Marshall had his own prejudices and intellectual obstacles to overcome. First and foremost, Marshall greatly respected Alexander Hamilton, a Federalist leader whom Burr had killed in a duel. Marshall's decision defined treason in a manner that limited the government's prosecutorial reach and, in a very Jeffersonian move, rejected the English common law on this crime.

In addition to recounting one of the most important trials of the nineteenth century, this book offers up jurisprudential meditations on treason, evidence, and the rule of law. Marshall's writing style “made no effort to placate the ordinary reader” (p.206); fortunately, that is where Newmyer ably steps in. I was consistently impressed by Newmyer's ability to transition from historical details to larger issues that reverberated through our legal system over the next two hundred years. The trial was political theater, but it also set this country on a path on which the crime of treason could not be used by political powers to snuff out dissent, defendants would not be tried on their character but on the evidence presented, and the President of the United States was not above the law when it came to a subpoena duces tecum issued by a court of competent jurisdiction.

As a practical matter, this book is well constructed with useful footnotes, helpful illustrations, and an engaging tone. It should be considered for acquisition by academic libraries (both law and general), especially if they serve patrons who focus on early American trials, lawyers, or federalism.


Reviewed by Michelle M. Botek*

Music & Copyright in America: Toward the Celestial Jukebox is intellectual property attorney Kevin Parks's debut book. As much a history of American music as a legal resource, the work chronicles the evolution of music and copyright law over the last two hundred years. The work is divided into seven parts, which, like orchestral movements, thematically and temporally build off one another. The


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