

McGinty's analysis of the treason charge leveled against Brown is similarly problematic. A sometime Midwesterner who had lived in Maryland while planning the raid, Brown was convicted of treason against the state of Virginia. This charge McGinty rightfully characterizes as "extraordinary" (110). Brown's prosecutors advanced an improbable theory of federal citizenship in charging Brown with this offense, relying on the Privileges and Immunities Clause of Article IV to contend that Brown owed a duty of allegiance to Virginia by virtue of his United States citizenship. McGinty takes this argument more seriously than is warranted, maintaining that "the federal system had created a unified whole out of separate states, tying them together with duties and protections, rights and obligations, that all Americans shared" (202).

But the proposition that the federal constitution created a kind of loosely interchangeable state citizenship with attached duties of loyalty would have been astonishing on the eve of the Civil War, had anyone taken it seriously. As other historians have argued, interstate comity had largely broken down by the eve of the Civil War and federal citizenship was generally thought to be derivative of state citizenship, and not the other way around. Most Americans, particularly white southerners, entertained a far less robust understanding of the bonds of Union than McGinty acknowledges, thereby signaling that the court's acceptance of national citizenship was born of expediency rather than ideological agreement.

In sum, McGinty's book will not fully satisfy serious scholars, but its engaging style and strong narrative will appeal to general readers and undergraduate students.

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M.H. Hoeflich, *Legal Publishing in Antebellum America*. New York: Cambridge University Press, 2010. Pp xiv + 190.
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Until recently, most legal histories have fallen into one or more straightforward categories: biographies of lawyers or jurists, histories of changing doctrines or constitutional interpretation, or tales of institutional development. Only recently has a group of scholars begun to consider law books as physical and cultural objects, thereby straying into the realm of book-history. Several historians—Michael Hoeflich; Daniel Coquillette and Neil Longley York; Karen Beck; and David I. Durham and this reviewer—have recently published

studies based on legal commonplace or letter books, thus advancing our understanding of the scribal culture that persisted beneath the proliferation of printed law books. Broad-gauged histories of legal publishing have been rare, the chief example being Erwin Surrency's comprehensive *History of American Law Publishing* (1990). Now comes Michael Hoefflich's *Legal Publishing in Antebellum America*, a more focused work rich in structural details and suggestions for further research in a field that he agrees (184) is far from fully cultivated. Hoefflich's book can profitably be read alongside James Raven's *The Business of Books: Booksellers and the English Book Trade, 1450–1850* (2007). Both place publishing in economic, cultural, and national contexts.

One of the most admirable features of Hoefflich's work is his ability to present the nexus of publishing-as-business and publishing-as-high-intellectual-endeavor. Early on, he embraces a thesis advanced in Daniel Hulsebosch's *Constituting Empire: New York and the Transformation of Constitutionalism in the Atlantic World* (2005). The thesis is that a group of elite lawyers, including the great law writers Joseph Story and James Kent, envisioned a Common Law, scientifically derived and unifying, whose principles would underlie "the local variations seen in the case law of the different states" (22). This Common Law would be preserved and presented in classic texts, its principles studied (and administered) by a learned bench and bar. Hoefflich, essentially, seeks to reveal what role legal publishers and booksellers had in the gradual triumph of that "federalist" vision.

To answer this question, he divides the history of the antebellum legal book trade into three periods, the first being a proto-national era (roughly from 1770 to 1820) in which American legal publishing was mostly limited to local manuals or official works such as acts of legislatures. Scholarly attorneys and students reading law looked to English books for authoritative guidance; most of the latter were imported through the major Atlantic ports. The landmark event of this phase was the 1770 advertisement by Robert Bell of Philadelphia of an American edition of Blackstone's *Commentaries*. This edition found more than 1500 purchasers throughout the North American colonies (26, 132–133), demonstrating the existence of a broader market for American publications.

Hoefflich demonstrates that the years from 1820 to 1851 saw the birth of a genuinely American legal publishing tradition. During this "golden age" Kent wrote (and published several editions) of his *Commentaries on American Law*, Story produced his oeuvre of treatises and commentaries on equitable, commercial, and constitutional law, and David Hoffman wrote his pioneering works of legal education. Alongside a number of less well-remembered colleagues, these authors worked to establish university-based legal education as a scientific alternative to the system of reading law (174). As their program gained acceptance, their works began to replace English books as educational and practice guides.

Legal bookseller/publishers such as Gould, Banks in New York and Little, Brown in Boston played an important role in promoting the “program” of this second antebellum period. Established booksellers knew that there was a ready market for works by Story and other luminaries. But Hoefflich reveals that they also commissioned works for particular markets, sometimes participating in cooperative publishing and marketing arrangements with firms that might otherwise have been their competitors. The major law publishers sought reliable transportation for their products; they bought and sold through agents, some of whom operated in foreign lands. Above all they developed marketing techniques. The latter included remarkable book-length catalogs, by means of which practitioners and students alike could fill their libraries with authoritative literature. It is a fact, if a somewhat ironic one, that an elitist agenda depended upon widespread acceptance of mass-produced books!

Prior to 1851 U.S. postal regulations had not allowed for safe delivery of books through the mail. In that year the government relented, to the great benefit of publishers of all kinds; in subsequent decades the expansion of railroads enhanced trade and communication in general. Thus began the mid-to-late nineteenth-century phase of legal publishing and book selling—an era in which treatises, textbooks, reports, and statutes could be shipped to the farthest frontier or the deepest backwater. Hoefflich shows that eastern companies continued to flourish, but so did firms in such westerly locations as Cincinnati and San Francisco. To prove that the new age of American legal publishing was truly national, Hoefflich introduces John Livingston of New York, whose ventures in the 1850s included the ambitious *United States Monthly Law Magazine*, a national directory of lawyers (*Livingston’s Register*), and biographical encyclopedias of notable attorneys. Livingston was also an organizer of both the “North American Legal Association” (1849) and the “Merchants’ Union Law Company” (1866). More than anyone of his day, perhaps, he understood that rapidly growing national markets for goods and services implied a corresponding market for legal services. Hoefflich calls Livingston “the first great lawyer-entrepreneur the United States had produced” (146).

Although *Legal Publishing in Antebellum America* is not a long book, it is full of useful details and insights, often so well presented that they trump (for enjoyment) any consideration of business trends or intellectual movements. Readers will cite Hoefflich’s scheme of periodization; but they will also remember the many inferences he can draw from a printed catalog or a list of subscribers.

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