

coax unprecedented numbers of “lower income” whites out of the Democratic Party and into the GOP; a move that Reagan augmented by skillfully exploiting tensions between Mexican-Americans and Blacks (220). Adopting the Spanish slogan “Ya Basta” (we’ve had enough), Reagan cleverly embraced “bilingualism” to fight busing, stop desegregation, and “break up coalitions of minority people” (219, 229, 248). By 1978, such moves culminated in a new rights paradigm, a move away from antidiscrimination and toward the celebration of cultural and racial “diversity,” as endorsed by the Supreme Court in *Regents v. Bakke*, a California case brought by a white applicant to the UC Davis School of Medicine (257).

Although some have tried to reconcile *Bakke* with *Brown*, Brilliant does a convincing job of showing how the ruling was in fact destructive of early civil rights aims, more aligned with fracture than with unity. However, it is precisely the fracturing of rights politics in California that makes Brilliant’s book compelling, both as a counterpoint to the “civil rights movement river” that swept through the United States South for much of the 1950s and 1960s, and as a vital referent for understanding challenges to rights reform today. Here, Brilliant’s work takes into account not simply a long civil rights movement, to borrow from Jacquelyn Dowd Hall, but also a “wide” one (14). Historians assigned to teach civil rights will find Brilliant’s book a provocative addition to their standard southern-focused syllabi, as will scholars covering courses on race, rights, and reform generally in the twentieth century United States.

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Barbara Babcock, *Woman Lawyer: The Trials of Clara Foltz*, Stanford: Stanford University Press, 2011. Pp. 392. \$45.00 (ISBN 978-0-8047-4358-7) doi:10.1017/S0738248011000721

Clara Foltz (1849–1934), the first woman admitted to the California Bar, creator of the role of public defender, the first woman to argue a motion in a New York City courtroom, the first woman to serve in a statewide office in California, the first California deputy prosecuting attorney, the first woman notary public in the state, the first woman on the California Board of Charities and Corrections, and a lifelong fighter for equal rights, was largely forgotten until the revival of the women’s movement in the 1970s. Even today, outside of California, she is much less well known than her feminist sisters Susan B. Anthony, Elizabeth Cady Stanton, and Lucy Stone. A new biography, *Woman Lawyer: The Trials of Clara Foltz*, by Barbara Babcock,

Judge John Crown Professor of Law Emerita at Stanford Law School and the first woman appointed to the regular Stanford law faculty, does much to remedy that obscurity. A lively, detailed and thorough account of Foltz's life, it will appeal to both legal historians and general readers interested in the history of United States feminism.

Born Carrie Shortridge in 1849 in Mount Pleasant, Indiana, a town settled by reformers, Foltz attended Howe Academy, whose founder and principal, Samuel Howe, was a reformer and suffragist. In this atmosphere, her intellect was recognized and encouraged, but in 1864, at the age of 15, she eloped with a Union soldier named Jeremiah Foltz, with whom she had five children. When he deserted her in 1878, leaving her with no means to support her family, she decided to become a lawyer. At the time, fewer than fifty women practiced law in the United States, and the California Code of Civil Procedure directed that only "a white male citizen" could become a member of the bar (8). At the same time, Foltz launched a successful career as a public lecturer, a popular profession at the time that was, unlike many other contemporary public fora, open, indeed welcoming, to women. At various points in her life, Foltz would also be a real estate speculator, lobbyist, and daily newspaper publisher.

The entry to legal practice at the time involved apprenticeship with an established lawyer followed by an oral exam; Foltz began her apprenticeship with her father and his partner, simultaneously working with others to pass a bill allowing women to be admitted to the state bar. Shortly thereafter, she was sworn in as the first woman lawyer on the Pacific coast and set up office in San Jose, where she handled mostly divorce, stolen baggage, and indigent criminal cases. Such a practice, however, failed to satisfy her ambitions, and, determined to deepen her knowledge, she applied to Hastings Law School. Mercilessly hazed, she soon received a letter from the registrar informing her that women were not allowed at the school; one of the reasons given was that the rustling of their skirts bothered the other students. Finally, Foltz sued the school and won. After some years in California, she moved to New York to try to start a legal practice, but spent the last 30 years of her life in Los Angeles.

Foltz never established a lucrative practice, but made her mark in many other arenas: as a public thinker, suffrage leader, and founder of the public defender movement, she left "a lasting impression on the law" (65). The idea of the public defender seems to have evolved in Foltz's mind though her defense of her "poor and sick and despairing clients" (89), often indigent criminal defendants. She said that the law "should be a shield as well as a sword" (288), and decried the injustice of appointed defense counsels "wholly unequipped either in ability, skill or preparation to cope with the man hired by the state" (288). Instead, she envisioned an office of public defender, with resources equal to the prosecutor and paid out of the same funds. Largely

because of her efforts, Los Angeles, in 1912, established the first public defender office in the country.

Foltz offers an entertaining portrait of quintessentially American self-invention and inexhaustible self-aggrandizement. She made her life story up as she went along, turning her desertion by her husband into widowhood, telling a reporter that she had been “uniformly successful” in her New York practice, handling “several leading cases” when in fact she had had little success there, and then in later years leaving her New York experience out of her life story completely, and switching political parties as it suited her goals. The book has flaws. The occasional sentence is confusing and needs editing; every detail of Foltz’s life receives equal importance, depriving the narrative of a dramatic arc; frustratingly, the book’s index is available only on an external website. Nonetheless, it is well researched, informative, and enjoyable, and brings Foltz into the limelight she deserves.

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Ellen Holmes Pearson, *Remaking Custom, Law and Identity in the Early American Republic*, Charlottesville: University of Virginia Press, 2011. Pp. 272. \$42.50 cloth (ISBN 978-0-8139-3078-7).
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American independence presented a legal puzzle: On the one hand, having broken away from the mother country after years of bitter political and ideological conflict, many Americans instinctively rejected all things British, including the “aristocratic” common law. The sentiment ran particularly strong among laymen such as Boston firebrand Benjamin Austin, Jr. and his activist disciples, the Shaysites, but it also trickled up to members of de-professionalized state judiciaries and, in the 1790s, to Jeffersonian-leaning members of the professional legal elite. A hard practical reality, however, pressed up against these anti-British impulses: Eighteenth-century Anglicization had produced a colonial legal system predicated largely on the English model. No immediately workable “American” alternative leapt to peoples’ minds, even as Paine purported to make “law” the nation’s king. Indeed, parts of the English tradition – for example, trial by jury – Americans considered inviolate. That Blackstone’s “honied” *Commentaries* remained the only intelligible treatise available to American lawyers only complicated matters, subtly introducing additional intellectual dependencies on the English framework.

Remaking Custom explores this puzzle through the eyes of oft-forgotten early national legal writers. The Litchfield founding professors, James