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PUBLICATIONS

I. BOOKS, MONOGRAPHS, BOOKS EDITED

THE WILSON ADMINISTRATION AND CIVIL LIBERTIES, 1917-1921 (Cornell
University Press, 1960). Moses Coit Tyler Prize.

UNITED STATES ECONOMIC HISTORY (Alfred A. Knopf, 1964). Editor.

OHIO CANAL ERA: A CASE STUDY OF GOVERNMENT AND THE ECONOMY,
1820-1861 (Ohio University Press, 1969).
(Choice, selection for outstanding scholarly books, 1969-70; Ohio University Press
Award for 1967-70.

OHIO CANAL ERA (ibid.), 1987 edition, with new preface by author.
Paperback edition, 1987.

THE OLD NORTHWEST: STUDIES IN REGIONAL HISTORY (University of
Nebraska Press, 1969). Editor and contributor.

"The Road to Munn: Eminent Domain and the Concept of Public Purpose in the State
Courts," PERSPECTIVES IN AMERICAN HISTORY, 5 (1971), 327-402.

"Federalism and the American Economic Order, 1789-1910," LAW AND SOCIETY
REVIEW, 10 (1975-6), 57-118.

AMERICAN ECONOMIC HISTORY (Harper & Row, 1976). Coauthor with Harold
Vatter and H. U. Faulkner.

AMERICAN LAW AND THE CONSTITUTIONAL ORDER (Harvard University
Press, 1978). Coeditor with Lawrence M. Friedman.

AMERICAN LAW AND THE CONSTITUTIONAL ORDER (ibid), expanded edition, Harvard University Press, 1988.

"American Federalism and the Diffusion of Power," UNIVERSITY OF TOLEDO LAW REV., symposium on federalism, 9 (1978), 619-80.

"Federalism and Legal Process: Historical and Contemporary Analysis of the American System," LAW & SOCIETY REV., 14 (1980), 501-560.

"Pacific Ocean Resources, Science, and Law of the Sea: Wilbert Chapman and the Pacific Fisheries, 1935-1970," ECOLOGY LAW QUARTERLY, 13 (1986), 381-534.

PERSPECTIVES ON FEDERALISM: PAPERS FROM THE FIRST BERKELEY SEMINAR ON FEDERALISM (Institute of Governmental Studies, UC Berkeley, 1987). Editor.

FEDERALISM: STUDIES IN HISTORY, LAW, AND POLICY. PAPERS FROM THE SECOND BERKELEY SEMINAR ON FEDERALISM (Institute of Governmental Studies, UC Berkeley, 1988). Editor.

"Origins of the 'Abstention' Doctrine in Ocean Law: Japanese-U.S. Relations and the Pacific Fisheries, 1937-52," ECOLOGY LAW QUARTERLY, 16 (1989), 23-99.

POWER DIVIDED: ESSAYS ON THE THEORY AND PRACTICE OF FEDERALISM (Papers from the Third Berkeley Seminar on Federalism) (Institute of Governmental Studies, UC Berkeley, 1989). Coeditor with M. Feeley.

FEDERALISM AND THE JUDICIAL MIND (IGS Press, UC Berkeley, 1992). Editor.

NORTH AMERICAN AND COMPARATIVE FEDERALISM: ESSAYS FOR THE NINETEIES (IGS Press, UC Berkeley, 1992). Editor.

OCEAN GOVERNANCE: ISSUES AND CHALLENGES (Ocean Governance Study Group, 1993). Coedited with David D. Caron and Chris Carr.

"Innovation, Resistance and Change; A History of Judicial Reform and the California Courts, 1960-1990," SOUTHERN CALIF. LAW REVIEW, 66:2049-2120 (1993).

LEGAL CULTURE AND THE LEGAL PROFESSION. Co-ed. with Lawrence m. Friedman. Westview, 1997.

"Bayonets in Paradise: A Half-Century Retrospect on Martial Law in Hawaii, 1941-1946," UNIV. OF HAWAII LAW REV. vol. 19, pp. 477-648 (1997, published 1998).

EMERGING ISSUES IN NATIONAL OCEAN AND COASTAL POLICY (Ocean Governance Study Group, 1999). Editor and contr. author.

THE STATE AND FREEDOM OF CONTRACT. Editor and contributing author.
Stanford University Press, 1998.

THE LAW OF THE SEA: THE COMMON HERITAGE AND EMERGING
CHALLENGES. The Hague: Kluwer Law International, Publishers, 2000.
Editor and contributing author.

INTER-ALLIED CONFLICTS AND OCEAN LAW, 1945-53: THE OCCUPATION
COMMAND'S REVIVAL OF JAPANESE WHALING AND FISHERIES
(Institute of European and American Studies, Academia Sinica, Taiwan, in press,
2001).

BRINGING NEW LAW TO OCEAN WATERS (Contr.author and Co-editor with
David D. Caron). The Hague: Kluwer-Brill Publishing, 2005.

EMERGING CONCEPTS OF RIGHTS IN JAPANESE LAW (Co-editor with Laurent
Mayali, Comparative Studies Series, Robbins Collection, Boalt Hall School of Law,
2007)

EARL WARREN AND THE WARREN COURT: THE LEGACY IN AMERICAN
AND FOREIGN LAW. Editor. (Lexington Books, 2007). Editor and contrib..
author.

“Ocean Tuna Fisheries, “East Asian Rivalries, and International Regulation: Japanese
Policies and the Overcapacity/IUU Fishing Conundrum,” UNIVERSITY OF
HAWAII LAWREVIEW, 30. No. 1 (Winter 2007), 97-165. Coauthors Kathryn J.
Mengerink and Yann-huei Song;

In preparation: BAYONETS IN PARADISE: ARMY RULE AND THE CRISIS IN
CIVIL LIBERTIES IN HAWAII DURING WORLD WAR II.
Co-author, Jane L. Scheiber

In press: OCEANS IN THE NUCLEAR AGE (Brill/Nijhoff, scheduled 2009), Co-
edited with David D. Caron

II. OTHER WORK SEPARATELY PUBLISHED

THE CONDITION OF AMERICAN FEDERALISM: AN HISTORIAN'S VIEW (U.S.
Senate, Government Operations Committee print, 1966). Study paper.

LAW AND CALIFORNIA SOCIETY: ONE HUNDRED YEARS OF THE STATE
CONSTITUTION (UC San Diego and San Diego Union, 1980). Editor. Booklet
of essays.

CONGRESS AND THE NATION (UC San Diego and San Diego Union, 1981). Editor.
Booklet of Essays.

HISTORY OF AMERICAN ECONOMY (Johnson Reprint Corp., 1968-). Coeditor
with Wm. N. Parker. Series of reprints in economic history. 45 volumes.

THE NEW DEAL LEGACY AND THE CONSTITUTION: A HALF CENTURY
RETROSPECT, 1933-83 (Berkeley: Boalt Hall, 1984.) Boalt Hall School of Law
symposium [Coedited with Jane L. Scheiber.]

THE ABBOT DOWNING COMPANY AND THE CONCORD COACH (New
Hampshire Historical Society, 1989). (Booklet-form reissue, illustrated; see *infra*,
pt. IV)

OCEAN RESOURCES: INDUSTRIES AND RIVALRIES SINCE 1800 (UC
Intercampus Economic History Program and California Sea Grant College
Program) (UC Berkeley Center for the Study of Law and Society, 1991). Editor
and contr. author.

III. CONTRIBUTIONS TO BOOKS

"America in the World Economy: A Retrospect," AMERICA: PURPOSE AND POWER,
ed. Gene M. Lyons (Quadrangle, 1965), 50-104.

"The Ohio-Mississippi Flatboat Trade," THE FRONTIER IN AMERICAN
DEVELOPMENT, ed. David M. Ellis (Cornell Univ. Press, 1969), 277-298.

"The Wilson Administration and the Wartime Mobilization of Black Americans, 1917-18,"
BLACK LABOR IN AMERICA (Negro Universities Press, 1970), 111-136.
Coauthor with Jane Scheiber.

"The Road to Munn" (see I. *supra*), LAW IN AMERICAN HISTORY, ed. Bernard
Bailyn and Donald Fleming (Little, Brown, 1972), 327-402.

"Eminent Domain Law and Western Agriculture," AGRICULTURE IN THE
DEVELOPMENT OF THE FAR WEST, ed. Jas. Shideler (Agric. History Society,
1975), 112-130. Coauthor with C.W. McCurdy.

"Historical Perspectives on a Judicial Revolution," THE SUPREME COURT AND
INDIVIDUAL RIGHTS IN CONTEMPORARY SOCIETY, ed. Thomas Lyons
(Addison, Wesley, 1975), 7-39, 274-85.

"The Transportation Revolution: Urban Dimensions," TOWARDS AN URBAN OHIO,
ed. John Wunder (Ohio Historical Society, 1977).

"Federalism and the Constitution: The Original Understanding," AMERICAN LAW AND THE CONSTITUTIONAL ORDER (supra), 85-94.

"Commerce," ENCYCLOPEDIA OF SOUTHERN HISTORY (LSU Press, 1979), 259-62.

"Law and Political Institutions," ENCYCLOPEDIA OF AMERICAN ECONOMIC HISTORY (Scribner's, 1980), II, 487-508.

"Resource Use under California's Constitution," LAW AND CALIFORNIA SOCIETY (supra, II), 10-12 (1980).

"Congress and the Modern Regulatory State," CONGRESS AND THE NATION (supra, II), 17-21 (1981).

"Government and the American Economy: Three Stages of Historical Development," PROCEEDINGS OF THE LOWELL INDUSTRIAL CONFERENCE, 1980-81 (Lowell, Mass., 1982).

"The Transportation Revolution and American Law: Constitutionalism and Public Policy," TRANSPORTATION AND THE EARLY NATION (Indiana Historical Society, 1982), 1-29.

"Law and the Forest," ENCYCLOPEDIA OF AMERICAN FOREST AND CONSERVATION HISTORY (New York: Macmillan, 1983), 336-343.

"Federalism, the Southern Regional Economy, and Public Policy Since 1865," AMBIVALENT LEGACY: A LEGAL HISTORY OF THE AMERICAN SOUTH, ed. D. Bodenhamer and R. Ely (University Press of Mississippi, 1984), 69-105.

"From the New Deal to the New Federalism," NEW DEAL LEGACY, supra, 1-10.

Testimony, in TWENTY-FIVE YEAR RECORD OF THE ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS, 98th Cong., 2nd Sess., Joint Hearing, S.Hrg. 98-1114, July 24, 1984 (Washington, 1984), pp. 62-69. (Invited testimony.)

"Some Realism about Federalism," EMERGING ISSUES IN AMERICAN FEDERALISM (U.S. Advisory Commission on Intergovernmental Relations, 1985), 41-63.

"American Federalism," in Laurence O'Toole, ed., AMERICAN INTERGOVERNMENTAL RELATIONS (Washington: Congressional Quarterly, 1985), pp. 51-58 (revised material from Condition of American Federalism and "Federalism and Legal Process," supra).

"Patterns of Public Enterprise in the USA: 1790 to the Present," in Vera Zamagni, ed., ORIGINS AND DEVELOPMENT OF PUBLICLY OWNED ENTERPRISES (9th Congress of the International Economic History Association, Berne, 1986, Research Topics, Sec. B-11), 60-65. (Conference version: summary)

Articles in THE ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION, ed. Levy et al. (New York, 1986)\, in addition to brief notes on other subjects:

"Affected with a Public Interest," 1:32-3.
"Common Carriers"
"Eminent Domain," 2:630-32.
"Federalism (History)," 2:697-703.
"The Police Power of the States," 3:1745-51.
"Public Purpose Doctrine," 3:1489-92.
"Vested Rights," 4: 1962-4.

UTILITY REGULATION IN FLUX: THE MONOPOLY FRANCHISE, PRIVATE SERVICE, AND THE PUBLIC INTEREST, FEB. 1986 (California Assembly Committee on Utilities and Commerce (Sacramento, 1987), 83-89. Invited expert testimony.

"The Structures of Liberty: Federalism and the Separation of Power," summary of paper, in CONSTITUTIONAL ROOTS, RIGHTS, AND RESPONSIBILITIES: 9th INTERNATIONAL SMITHSONIAN SYMPOSIUM (Washington: Smithsonian Institution, 1987).

"Technology and American Legal Development, 1789-1986," in TECHNOLOGY, THE ECONOMY, AND SOCIETY: THE AMERICAN EXPERIENCE, ed. Joel Colton and Stuart Bruchey. (Columbia University Press, 1987), pp. 83-125.

"Federalism, Intergovernmental Relations, and the American Constitutional System," in FEDERALISM IN PERSPECTIVE (1987), supra.

"The Bicentennial and the Rediscovery of Constitutional History" THE CONSTITUTION IN AMERICAN LIFE, ed. David Thelen (Cornell University Press, 1988). Reprinted from JAH, 1987.

"The Constitution in the School Curriculum: A Proposal for the 1987 Bicentennial," in HISTORY IN THE SCHOOLS, ed. Bernard R. Gifford (Macmillan, 1988), 162-175.

"U.S. Pacific Ocean Research, The Revolution in Oceanography, and the Role of Wilbert Chapman, 1945-55," in NATURE IN ITS GREATEST EXTENT: WESTERN SCIENCE IN THE PACIFIC, ed. Roy MacLeod and Philip Rehbock (University of Hawaii Press, 1988).

"Economic Liberty and the Constitution," in *ESSAYS IN THE HISTORY OF LIBERTY: THE SEAVER LECTURES* (The Henry E. Huntington Library, San Marino, 1989), 75-100.

"Postwar Fishery Regimes of the Pacific: Ocean Law, International Rivalry, and Japanese Economic Expansion After 1945," in *OCEAN RESOURCES: INDUSTRIES AND RIVALRIES SINCE 1800*, supra, 1991, pp. 66-81.

"Occupation Policy and Economic Planning in Postwar Japan," *ECONOMIC PLANNING IN THE POST-1945 PERIOD*, eds. E. Aerts and A. Milward (University of Leuven Press, Belgium, 1990), pp. 100-109. Coauthor, A. Watanabe.

"The Jurisprudence--and Mythology--of Eminent Domain in American Legal History," in *LIBERTY, PROPERTY, AND GOVERNMENT: CONSTITUTIONAL INTERPRETATION BEFORE THE NEW DEAL*, ed. Ellen Paul and H. Dickman (Albany: State University of New York Press, 1989).

"The Takings Clause of the Fifth Amendment: Original Intent and Significance in American Legal Development," *THE BILL OF RIGHTS*, ed. Wm. Hickock (University Press of Virginia, 1991), 233-49.

"U.S. Pacific Fishery Studies, 1945 to 1970: Oceanography, Geopolitics, and Marine Fisheries Expansion," *OCEAN SCIENCES: THEIR HISTORY AND RELATION TO MAN*, ed. Walter Lenz and Margaret Deacon (Hamburg, Germany, 1990), 417-21.

"Constitutional Structure and the Protection of Rights," in Smithsonian Institution, *CONSTITUTIONAL RIGHTS*, ed. A. E. Dick Howard, University Press of Virginia, 1992.

Articles in *OXFORD COMPANION TO THE U.S. SUPREME COURT*, 1992:

"Federalism;"

"Dual Federalism;"

"Police Power"

"Common Carriers"

"The New Deal and the Constitution," *ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION: SUPPLEMENT* (New York: Macmillan, 1992).

"Since the Stratton Commission Report: Policy Studies in Ocean Governance," in *OCEAN GOVERNANCE: A NEW VISION*, ed. B. Cicin-Sain (University of Delaware, 1992), 19-22.

"International Economic Policies and the State Role in U.S. Federalism: A Process Revolution?" in *STATES AND PROVINCES IN THE INTERNATIONAL ECONOMY*, ed. D. Brown and E. Fry (Berkeley: Institute of Governmental Studies Press, 1993), pp. 65-91.

- "Legislatures and Economic Development," in *ENCYCLOPEDIA OF AMERICAN LEGISLATURES*, ed. Joel Silbey, Macmillan, 1992l.
- "Scientific Advising and Oceans Policy: The California Experience, 1945-75," in *National Academy of Sciences/National Research Council, REPORT ON SCIENCE-POLICY INTERACTIONS IN OCEAN STUDIES*. Washington, NAS Press. (Also available in *Ocean Law and Policy Working Papers*, UC Berkeley, 1992.)
- "The Expanding Economy, 1815-48," chapter in a multi-author American history textbook co-sponsored by Indiana University and the Polish university presses for publication in Polish and other East European languages. (Published in Polish, 1997)
- "Introduction," *THE LAW OF NATIONS OR THE PRINCIPLES OF NATURAL LAW BY E. DE VATTEL* (Legal Classics Library edition, 1993), 3-22.
- "Modern U.S. Pacific Oceanography and the Legacy of British and Northern European Science," in *MAN AND THE MARINE ENVIRONMENT (EXETER MARITIME STUDIES*, ed. Stephen Fisher, Vol. 9) (Exeter University Press, UK, 1994), 36-79.
- "The Magnuson Fisheries Conservation Act," *MOVING AHEAD IN OCEAN GOVERNANCE* (Ocean Governance Study Group, 1994). Coauthor, Chris Carr.
- "The Limited Entry Concept and Pre-History of the ITQ Movement in Fisheries Management," *SOCIAL IMPLICATIONS OF QUOTA SYSTEMS IN FISHERIES*, ed. Palsson and Petursdottir (Nordic Council of Ministers, 1997) 235-260. Co-au. Chris Carr.
- "Economic Liberty and the Modern State," in *THE STATE AND FREEDOM OF CONTRACT*, *supra*.
- "The Stratton Commission: A Historical Perspective on Policy Studies in Ocean Governance, 1969 and 1998," in *THE STRATTON COMMISSION: LOOKING BACK, LOOKING FORWARD – LESSONS FROM THE 1969 COMMISSION ON MARINE SCIENCES, ENGINEERING AND RESOURCES* (NOAA and OGSF, 1998), 31-38.
- "Seventy-five Years of American Law," *AMERICAN LAW INSTITUTE, 75TH ANNUAL MEETING, PROCEEDINGS* (ALI, 1998). (ALI anniversary address.)
- "The Biodiversity Convention and Access to Genetic Materials in Ocean Law," in *ORDER FOR THE OCEANS AT THE TURN OF THE CENTURY*, ed. Daore Vidas and Willy Østreng (The Hague: Kluwer Law International, 1999), 187-201.

“Ocean Law and the Constitution,” ENCYCL. OF THE AMERICAN CONSTITUTION, 2nd edition (New York, 2000).

“Federalism and Devolution,” ENCYCL. OF THE AMERICAN CONST., *ibid.*

“Direct Democracy,” ENCYCL. OF THE AMERICAN CONST., *ibid.*

“American Federalism as a Model,” THE NEW FEDERALISM: STRUCTURES AND INFRASTRUCTURES, ed. Kjell A. Modeer (FRN, Sweden, 2000), 31-55.

"Federalism in the United States and the New European Designs," FEDERALISM AND DECENTRALIZATION IN CENTRAL AND WESTERN EUROPE, ed. Johann Trout (George Marshall Institute, Germany, 2002).

“Bringing the Community Back In: The Next Step in Fisheries Management,” MANAGING MARINE FISHERIES IN THE UNITED STATES (Pew Oceans Commission, Workshop on Marine Fishery Management) (2002).30-34.

“The Roles of Lawyers in a Civil Liberties Crisis,” in CONSTITUTIONALISM AND AMERICAN CULTURE, ed. Sandra Van Burkleo, University of Kansas Press, 2002. Coauthor Jane L. Scheiber

“The Law of the Sea,” ENCYCLOPEDIA OF INTERNATIONAL ENVIRONMENTAL LAW, 2004.

“American Canals,” DICTIONARY OF AMERICAN HISTORY, ed. S. Kutler

“Federalism,” OXFORD COMPANION TO THE SUPREME COURT, revised edn.

“Foreword,” in Benjamin Field, ROGER B. TRAYNOR AND CREATIVE JUDICIAL ACTIVISM (Berkeley: IGS Press for the California Supreme Court Historical Society, 2003).

“Dealing with a Resource Crisis: Globalization and the Management of the Marine Fisheries,” chapter in THE DYNAMICS OF REGULATORY CHANGE: HOW GLOBALIZATION AFFECTS NATIONAL REGULATORY POLICIES (ed. Kagan and Vogel, University of California Press, 2003). Coauthor, Christopher Carr.

“U.S. Policy, the Pacific Tuna Economy, and Ocean Law Innovation: The Post-World War II Era, 1945-70,” Chapter 3 in BRINGING NEW LAW TO OCEAN WATERS (Brill/Kluwer Law), *supra*. 25 pp.

V. ARTICLES IN JOURNALS AND PROCEEDINGS:

"The Confederate Civil Service," Journal of Southern History, 25 (1959), 448-470.
Coauthor, Paul P. Van Riper.

"The Pay of Troops and Confederate Morale in the Trans- Mississippi West," Arkansas Historical Quarterly (1960), 16pp.

"The Ohio Canal Movement, 1820-1825," Ohio Historical Quarterly, 69 (1960), 231-256.

"Rate-Making Power of the State in the Canal Era," Political Science Quarterly, 77 (1962), 397-413.

"George Bancroft and the Bank of Michigan," Michigan History, 44 (1960), 82-90.

"Urban Rivalry and Internal Improvements in the Old Northwest," Ohio History, 71 (1962), 227-239, 290-92.

(Reprinted in A. Callow, ed., AMERICAN URBAN HISTORY (Oxford UP), 1st, 2nd, 3rd editions.)

"The Pet Banks in Jacksonian Politics and Finance, 1833-41," Journal of Economic History, 23 (1963), 196-214.

"Entrepreneurship and Western Development: The Case of Micajah T. Williams," Business History Review, 38 (1963), 345-368.

"A Jacksonian as Banker and Lobbyist: New Light on George Bancroft," New England Quarterly, 37 (1964), 363-372.

"The Thirteenth Amendment and Freedom of Choice in Personal Service Occupations," Cornell Law Quarterly, 49 (1964), 508-14.

"State Policy and the Public Domain: The Ohio Canal Lands," Journal of Economic History, 25 (1965), 86-113.

"Economic Change in the Civil War Era," Civil War History, 11 (1965), 296-311.

Reprinted in Bobbs Merrill Reprint Series;

Reprinted in THE AMERICAN CIVIL WAR, ed. Wm. Parrish (1973).

"Coach, Wagon, and Motor-truck Manufacture: The Abbot-Downing Company," Historical New Hampshire, 20 (1965), 3-25. (See also Part II supra, reissue, illustrated booklet form, 1989.)

"The Commercial Bank of Lake Erie, 1831-1843," Business History Review, 40 (1966), 47-65.

"The California Textbook Fight," Atlantic Monthly, Nov. 1967, pp. 38-47.

"The New Economic History--and Its Limitations," Agricultural History, 41 (1967), 383-95.
(Reprinted in Bobbs-Merrill Reprint Series)

Symposium contribution, to "Slavery as an Obstacle to Economic Growth," Journal of Economic History, 27 (1967).
(Reprinted in Bobbs-Merrill Reprint Series)

"The Pay of Troops and Problems of Demoralization: A Case Study of Administrative Failure," Civil War History, 15 (1969), 226-237.
(Reprinted in BATTLES WON AND LOST, ed. J. Hubbell
(Greenwood Press, 1976).)

"Turner's Legacy and the Search for a Reorientation of Western History," New Mexico Historical Review, 44 (1969), 23-248.

"Public Canal Finance and State Banking in Ohio, 1825-1837," Indiana Magazine of History, 65 (1969), 119-132.

"World War I as Entrepreneurial Opportunity: Willard Straight and the American International Corporation," Political Science Quarterly, 84 (1969), 486-511.

"The Wilson Administration and the Mobilization of Black Americans" Labor History, 10 (1969), 433-58. Coauthor Jane L. Scheiber.

"At the Borderland of Law and Economic History: The Contributions of Willard Hurst," American Historical Review, 75 (1970), 743-756.

(Reprinted in MAIN THEMES IN UNITED STATES LEGAL-
CONSTITUTIONAL HISTORY, ed. K. Hall (1988))

"Amasa Delano," Dartmouth College Library Bulletin, 11 (1969/70), 2-16.

"Public Policy, Constitutional Principle, and the Granger Laws" [review essay], Stanford Law Review, 23 (1971), 1029-37.

"Government and the Economy: Studies of the 'Commonwealth Policy' in 19th-Century America," Journal of Interdisciplinary History, 3 (1972), 135-151.

"Property Law, Expropriation, and Resource Allocation by Government: The United States, 1789-1910," Journal of Economic History, 33 (1973), 232-251.

(Reprinted in LAND LAW AND REAL PROPERTY IN AMERICAN

HISTORY, ed. K. Hall (1988); and in AMERICAN LAW AND
THE CONSTITUTIONAL ORDER)

- "Charles Fairman, *History of the Supreme Court*," review essay, in American
Amer. Journal of Legal History, 17 (1973), 303-308. Coauthor Michael E. Parrish.
- "A Keen Sense of History and the Need to Act: Reflections on Richard Hofstadter and the
American Political Tradition," Reviews in American History, 2 (1974), 445-452.
- "Black Is Computable," American Scholar, 44 (1975), 656-673 [review essay on *Time on the
Cross* and the critical literature].
- "Eminent Domain and Western Agriculture" (as in III, supra), Agricultural History, 49
(1975), 112-30. Co-author Charles W. McCurdy.
- "Land Reform, Speculation, and Governmental Failure: The Administration of Ohio's
State Canal Lands, 1836-60," Prologue: Journal of the U.S. National Archives, 7
(1975), 85-98.
- "Instrumentalism and Property Rights," Wisconsin Law Review, 1975 Vol., pp. 1-18.
Reprinted in LAND LAW AND REAL PROPERTY IN AMERICAN
HISTORY, ed. K. Hall (1988)
- "Poetry, Prosaism, and Analysis in American Agricultural History," Journal of Economic
History, 36 (1976), 919-927 [rev. essay]
- "Reflections on George Rogers Taylor and The Transportation Revolution," Business
History Review, 51 (1977), 79-89. Coauthor Stephen Salisbury.
- "Back to 'The Legal Mind'? Doctrinal Analysis and the History of Law" [rev. essay],
Reviews in American History 5 (1977), 458-466.
- "Law and American Agricultural Development," Agricultural History, 52 (1978), 439-457.
Presidential address, Agricultural History Society..
- "Property Rights and Public Purpose in American Property Law," Procdgs. of the
International Economic History Association, 7th Congress (Edinburgh University
Press, 1978), I. 233-240.
- "Alfred Kelley and the Ohio Business Elite," Ohio History, 87 (1978), 365-392. Ohio
Canal Sesquicentennial Lecture.
- "Legal History" [rev. essay], American Journal of Comparative Law, 26 (1978), 350-364.
- "Recapturing a Usable Past: Knowledge and Skills in the High School American History
Curriculum," History Teacher, 12 (1979), 481-492.

- "United States Federalism: Constitutional Doctrine and Historic Institutional Change, 1978-1979," Comité International des Sciences Historiques, XVe Congrès International, Rapports (Bucharest, 1980), Vol. I, 323-333.
- "Public Economic Policy and the American Legal System," Wisconsin Law Review, 1980 Vol., pp. 1159-1189.
Reprinted in THE LAW OF BUSINESS AND COMMERCE, ed. K. Hall (1988)
- "Centralization of Power and Development of the American Federal System, 1789-1979," Czasopismo Prawno-Historyczne [Jnl. of Legal History, Poland], 32 (1980), 156-183.
- "The Pennsylvania & Ohio Canal: Transport Innovation, Mixed Enterprise, and Urban Commercial Rivalry," Old Northwest, 6 (1980), 105-136.
- "The Economic Historian as Realist and as Keeper of Democratic Ideals: Paul W. Gates's Studies of American Land Policy," Journal of Economic History, 40 (1980), 585-593.
- "American Constitutional History and the New Legal History: Complementary Themes in Two Modes," Journal of American History (1981)

Reprinted in MAIN THEMES IN UNITED STATES CONSTITUTIONAL-LEGAL HISTORY, ed. K. Hall (1988)
- "Regulation, Property Rights, and Definition of 'The Market': Law and the American Economy," Journal of Economic History, 41 (1981), 103-10.

Reprinted in THE LAW OF BUSINESS AND COMMERCE, ed. K. Hall (1988)
- "The Frontier and Legal Culture: Market Values on the Overland Trail," New York University Law Review, 57 (1982), 303-21.
- "Xenophobia and Parochialism in the History of American Legal Process: From the Jacksonian Era to the Sagebrush Rebellion," William & Mary Law Review, 23 (1982), 625-61.
- "Law and the Imperatives of Progress: Private Rights and Public Values in American Legal History," Nomos, xxiv: Ethics, Economics, and the Law (1982), 303-20.
- "Scientists, Entrepreneurs, and the Policy Process: A Study of the Post-1945 California Sardine Depletion," Journal of Economic History, 44 (1984), 393-406 (coauthor A. McEvoy).
- "Doctrinal Legacies and Institutional Innovation: Law and the Economy in American History," Law in Context, 2 (1984), 50-72.

Public Rights and the Rule of Law in American Legal History," California Law Review, 72 (1984), 217-251.

"The American Telephone Industry," Science, 232: 1016-18 (review essay). (1986).

"State Law and 'Industrial Policy' in American Development", California Law Review, 75 (1987), 415-44.

"Patterns of Public Enterprise: Government Intervention and the American Economy, 1790 to the Present," Annali di Storia dell' Impresa (Italy), III (1987), symposium issue on public enterprise and economic development, published 1988.

"The Bicentennial and the Rediscovery of Constitutional History," Journal of American History, 74: Dec. 1987 (introductory essay for Bicentennial issue).

"Federalism, Intergovernmental Relations, and the American Constitutional System," Public Affairs Report (Inst. of Governmental Studies, UC Berkeley), 29 (May 1988), 1-4. (Also published in FEDERALISM IN PERSPECTIVE, 1988, *supra*.)

"Original Intent, History, and Doctrine: The Constitution and Economic Liberty," American Economic Association, AEA Papers and Proceedings, 78:2 (May 1988), 140-44.

"Preface: Japan, the United States and Pacific Ocean Resources," Ecology Law Quarterly, 16 (1989), 1-6 (symposium introduction).

"Race, Radicalism, and Reform: Historical Perspective on the 1879 California Constitution," Hastings Constitutional Law Quarterly, 17:35-80 (1989).

"Western Legal History," symposium, Western Legal History, 3:132-36 (1990).

"Symposium on Global Change," contributor, Calif. Cooperative Oceanic Fisheries Investigations Reports, 31 (1990).Panel comment.

"California Marine Research and the Founding of Modern Fisheries Oceanography: CalCOFI's Early Years, 1947-64," Calif. Cooperative Oceanic Fisheries Investigations Reports, 31 (1990), 63-83.

"Constitutional Liberty in World War II: Army Rule and Martial Law in Hawaii, 1941-46," Western Legal History (1991), 341-78. Co-author, Jane L. Scheiber

"Constitutionalism and the Territorial Sea: An Historical Study," Territorial Sea Journal, 2 (1992), 67-90. Coauthor, Chris Carr.

"Redesigning the Architecture of Federalism—An American Tradition," Yale Law and Policy Review/Yale Jnl. of Regulation, Symposium Issue 1996:227-296.

- "Private Rights and Public Power: Law, Capitalism, and the Republican Polity in 19th Century America," review essay, Yale Law Journal, 107:823-861 (1997).
- "The Direct Ballot and State Constitutionalism," Rutgers Law Jnl., 28 (1997), 787-823.
(Excerpted in Robt. Williams, STATE CONSTITUTIONAL LAW, 2000)
- "From Science to Law to Management: The Ecosystem Management Concept in Historical Perspective," Ecology Law Quarterly, 24: 631-52 (1997).
- "Historical Memory, Cultural Claims, and Environmental Ethics in the Jurisprudence of Whaling Regulation," Ocean and Coastal Management, 38 (1998), pp. 5-40.
- "From Extended Jurisdiction to Privatization: International Law, Biology and Economics in the Marine Fisheries Debates, 1937-1976," Berkeley Journal of International Law, 16 (1999) : 201-245. Coauthor Chris Carr.
- "The 1953 International North Pacific Fisheries Convention: Half-Century Anniversary of a New Departure in Ocean Law," Sandbar: Legal Reporter for the National Sea Grant Program 2 (2003).
- "Federalism and the Processes of Governance in Hurst's Legal History," Law and History Review, 18 (2000), 207-14.
- "Ocean Governance and the Marine Fisheries Crisis: Two Decades of Innovation -- and Frustration," Virginia Environmental Law Journal, 20 (2001), 119-130.
- "Dealing with a Resource Crisis: Globalization and the Management of the Marine Fisheries," Stanford Environmental Law Journal, 21: 45-79 (2002).
Coauthor Chris Carr. (Also cited supra, Chapters in Books)
- "California: Laboratory of Legal Innovation," Experience: Magazine of the Senior Lawyers Division, American Bar Association, 11(2) 4-7 (2001).
- "Legal Norms, Technology, and Regulation," Hokkaido University Law Review, Winter 2002. (In Japanese.)
- "Historical and Social-Scientific Studies in Legal Education," Yamagata University Humanities Research Journal (Japan), Fall 2001. (In Japanese)
- Id. in English: "Historical and Social Science Studies In Relation To the Law Curriculum: The American Experience - and the JSP Program at the University of California, Berkeley" (May 21, 2001). *Center for the Study of Law and Society Jurisprudence and Social Policy Program. JSP/Center for the Study of Law and Society Faculty Working Papers*. Paper 7.
<<http://repositories.cdlib.org/csls/fwp/>>

“Taking Liberties: Martial Law and the Constitutional Crisis in Hawaii, 1941-45,”
Legal Affairs, May-June 2003. Co-author Jane L. Scheiber.
http://www.legalaffairs.org/issues/May-June-2003/review_scheiber_mayjun03.html

“Japan, the North Atlantic Triangle, and the Pacific Fisheries: A Perspective on the Origins
of Modern Ocean Law,” San Diego International Law Journal vol -- (2004) -----.

“Legal Realism Goes Offshore: Joseph Walter Bingham and the Reform of Ocean Law”
Law and History Review, Nov. 2008, Vol --: pp ---