

against the public, as Shaw would have us believe, but are often striving to reform the law better to serve the public's need, sometimes even enjoying a bit of success in the pursuit of this altruism.

Halliday's goal, however, is more ambitious. He has carefully gathered many data from the records of the Chicago Bar Association for the period 1950–1970 and surveyed staff and leaders of many other lawyer organizations. He presents his data not merely to confirm the occasional altruism of these organizations but as partial confirmation of the hypothesis of the great theoretical sociologist Max Weber, who observed in the evolution of Western society a process of rationalization manifested in, among other ways, the direction of law reform. Halliday's thesis is that the Chicago Bar marshaled the energies and resources of its members, created a moral authority based on their technical expertise, and brought the pressure of those resources and authority to bear on political institutions effectively to advance the cause of rationalization (in a Weberian sense) in Illinois from 1950 to 1970.

A limitation on the effectiveness of the presentation to achieve this larger ambition is the imprecision of Weber's observation. Although elaborate and carefully derived from close analysis of law and law reform in Germany and England in the 19th century, Weber's theory was presented in the large. Weber was not, it seems, one to find God in the details. As a result, the link between

Halliday's data and Weber's theory is often open to question.

Moreover, as Halliday points out, Weber recognized that the phenomenon he observed is not representable as a straight line on a graph but retreats and advances "as it emerges from the clash of interests and classes, from the tension of tradition and charisma." Weber's hypothesis might thus be viewed as a more rigorous kin to Thomas Carlyle's dictum that the arc of history is long but points toward justice. An effort to quantify such a cosmic trend has some of the aspects of "nailing jelly to a tree."

Seemingly in order to make this demonstration persuasive to a scientific audience, Halliday may have seriously understated the charismatic dimension of his subject. He carefully calls attention to the methods by which the elite of the Chicago Bar enhance the effectiveness of their leadership, but he is equally careful never to mention them by name or to disclose any of their thoughts as individuals. This may reveal a sociologists' trained incapacity to take an interest in such matters. In any case, Halliday never acknowledges that particular activities or inactivities of the organization are traceable to individual leaders and their strengths, weaknesses, and choices. To one somewhat familiar with bar politics, this leaves a curiously incomplete picture of the process, because bar politics is a universe in which individual energy and initiative count for a lot. By means that Halliday recounts, a handful of

lawyers can make a big difference in the direction taken by a bar organization, especially one functioning at the municipal level.

This reviewer assumes that an acknowledgment of this role of human wills in matters under study would be antiscientific, that science must begin with the assumption that events are controlled by natural forces. If this is so and science cannot treat matters that are the result of individual human choice, the reader confronts in Halliday's book a limit to the value of scientific inquiry. Science must perhaps be mixed with poetry to gain a full understanding of the Chicago Bar.

One reason this is so is that the claims to technical competency of lawyers, which afford a basis for the moral authority asserted by the bar, are dependent on a shared act of faith—the supposition that judges can in the exercise of free will understand and obey the law and apply it to facts that may be in dispute. While one may measure the rise and decline of a religious faith, and perhaps many other aspects of its existence, such measurements reveal much less than the whole of their subject; and so it is with the law-reform efforts of the organized bar, which are expressions of a secular faith. Moreover, given that one dimension of the law's faith is a belief in the rationality of individuals, it may be perverse to attempt to validate the process of rationalization without regard for acts of reason or unreason committed by individual leaders. Perhaps if Weber is right science alone can never tell us so.

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Chicago Bar Association Orchestra members "gather early for some informal conversations and some impromptu playing before rehearsal begins." Since the players "do not have their own concert hall (yet), and since their principal cellist is also a judge, they use her courtroom." [From E. H. Cameron, "Sound legal advice," *CBA Record*, March 1988; photograph by Bill Richert]

Struggles over Education

Law and the Shaping of Public Education, 1785–1954. DAVID TYACK, THOMAS JAMES, and AARON BENAVID. University of Wisconsin Press, Madison, WI, 1987. xii, 259 pp. \$25.

After a generation of scholarship energized by the faith that with persistence and imagination historians could uncover the lived experience of married women, workers, slaves, schoolteachers, and schoolchildren, of private lives hidden by traditional scholarly emphases on politics and power, the wheel has turned again and "bringing the state back in" is all the rage in historical work. Today historians "know" that without an understanding of the political and legal contexts within which such people lived their lives not much of significance can be known about their histories.

Law and the Shaping of Public Education brings the state back in in two ways. First of all, it shares with much recent historical scholarship a desire to right the balance of the history it deals with, correcting the recent overemphasis on explanatory frameworks (primarily cultural) that ignore the power and significance of public institutions and public values. Second, it argues that the states, that is, state governments within the federal system of the United States, were central actors in the shaping of American education. The latter claim would have seemed obvious to the first generation of educational historians, who thought their job was to explain the evolution of American educational institutions. It is not at all so after the birth and development of a social history of American education.

The goal of Tyack, James, and Benavot is to show that the contours of American public education have been determined by usually unresolved legislative and judicial conflicts over the meanings of central but ambiguously phrased public values. The book has two parts. In the first part, the authors show how the desire to establish and maintain republican governments led to particular demands for free, public education, toward a conceptualization of education as a publicly financed public good, and to a continued but often unsuccessful desire by state officials to destroy local prerogatives. Yet notions of republican citizenship also watered the soil of local autonomy, fiscal austerity, and parental rights, all of which cut against the centralizers' vision of republican education.

In the second part of the book, the authors argue that an expanded conception of equal citizenship, which is the Civil War's primary contribution to our public life (through the Fourteenth Amendment), has become the most important source of modern educational conflict. For 125 years, equality has remained a contested and uncertain educational value, precisely because of a broad public consensus both that access to the public schools was a prerequisite to citizenship and that the schools served as producers of American citizens. Thus, ex-slaves knew that gaining publicly financed education was crucial to recognition of their citizenship, just as southern white leaders knew that excluding or, later, segregating them was important for reestablishing racial hegemony. Similarly, in the 1920s members of the Ku Klux Klan swore allegiance to "Free Public Schools" as the "cornerstone of good government," and in Oregon the Klan pressed successfully for legislation that required all children to attend public schools. They did so because they "knew" that the (primarily Catholic) products of private

schools were, by definition, unworthy of citizenship.

Although *Law and the Shaping of Public Education* is enriched by an original analysis of appellate case law and by limited forays into the institutional histories of California, Michigan, Oregon, and the post-Civil War South, it is not for the most part based on original research. Rather, it is a creative example of scholarly boundary-crossing. It synthesizes work in educational history, legal history, and political history, building in particular on the work of such scholars as Willard Hurst, Karl Kaestle, and Morton Keller. It draws on a rich and diverse literature to suggest why education has been such a central concern in American public life.

At the same time, there is much in *Law and the Shaping of Public Education* to carp about. The narrative is often muddy. Crucial themes are raised but never fully developed. For example, much is said about the financing of public education, about the efforts of numbers of centralizing reformers to legislate education into a public good to be funded through general revenues (usually the property tax). The text describes the frequent frustrations of these reformers. The reader never learns, however, when or how it came to be that the public financing of public education did become, as it still is today, an accepted and generally unquestioned feature of American public life. Similar complaints could be made of the authors' treatment of struggles over compulsory education, school consolidation, and even racial segregation. These contests appear and dis-

appear in the text. It is often difficult to know what claims the struggles are meant to exemplify or, indeed, whether they signify anything more than the continued status of schooling as contested terrain. Yet the authors also indicate at the outset that they "believe that there is much to be learned from examining how the legal system shaped public schools by giving them direction and permanence as institutions."

It is, of course, wrong for a reviewer to take authors to task for not having written a different book. It remains, nevertheless, a mystery to me how a book on the institutional history of education with only a footnote on the significance of gender could be written today. Gender may not have been a public feature of official school policy, yet it is important to recognize and explore the paradox that educational policy became a crucial articulation of (male) republican values at the same time that the teaching profession itself was feminized. It would be a pity if one consequence of bringing the state back into educational history were to take women out.

Carping has its place, but recognition is a more important duty. *Law and the Shaping of Public Education* is a significant study that exemplifies recent efforts to join institutional history to the history of social struggles. It deserves to be read in a wide variety of scholarly communities.

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An Enterprise of Social Science

Survey Research in the United States. Roots and Emergence, 1890–1960. JEAN M. CONVERSE. University of California Press, Berkeley, 1987. xvi, 564 pp., illus. \$50.

Within some important self-imposed constraints Converse in this book presents an important historical perspective on the development and use of sample surveys in the United States.

Two major constraints are that she reviews the field almost solely with respect to surveys in social science and almost solely from the viewpoint of the academic investigator. Moreover, the kinds of surveys described here are primarily surveys of attitudes and opinions; surveys that gather "facts" get little attention. Not treated are the wide range of government surveys on employment and unemployment, housing, crime, health, income, and a host of other

topics or the hundreds of business surveys that tell us about such matters as shipments of products, value of retail sales, inventory levels, money spent on government services, and the amount and value of crops raised. These surveys have important non-academic constituencies, such as government policymakers, business people, medical specialists, and consumer groups. Many of these groups are major funders of surveys as well as innovators in methodology, and such surveys also have interesting and important intellectual dimensions. The concepts involved are hard to define, and the data are often used to develop theories about market performance or the state of the economy and economic models.

Election forecasting is discussed mainly with reference to the tensions between commercial pollsters involved in these forecasts and academic surveyors, who have tended to