

multiple employment. Education thus could have been impeded. Also, the age of fathers receives no consideration, although homeownership as well as occupational classification tend to be associated with age. One can frame an age-related hypothesis that undercuts the simple claim of suburban entrapment. Young fathers picked up in the sample may not have realized their maximum occupational status or homeownership; naturally their sons seem to have gained ground over sons of fathers who entered the sample at a greater age and thus at a higher status and as homeowners. The improved occupational or class ranking of sons (in 1910) relative to fathers (1880-1910?) may reflect partly the incompleteness of cross-sectional analysis. The broader point is that ownership and economic or occupational fortunes may be associated coincidentally. Real explanatory confidence can emerge only through the analysis of many more variables. No one can do everything perfectly. Yet that affords no excuse in this instance. The authors owed their readers frankness and fewer assertive claims about their arguments constituting reality.

The publishers tout the book as sophisticated, compelling, and exhaustive. Like the authors they have exaggerated. *Shaky Palaces* is exasperating, unwieldy, and incomplete.

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MICHAEL GROSSBERG — *Governing the Hearth: Law and the Family in Nineteenth-Century America*. Chapel Hill: University of North Carolina Press, 1985. Pp. xiv, 417.

Governing the Hearth is a study of the history of family law (or the law of domestic relations, to use the contemporary term) in nineteenth-century United States. It is based primarily on an exhaustive study of the reported decisions from all states and on the considerable amount of legal writing in the period.

Michael Grossberg argues that in the early 1800s the American judiciary created an extensive body of law in defence of the "Republican Family". The American Revolutionary attack on patriarchy and the parallel quest for self-government and individual liberty fuelled a domestic revolution regarding family law. This legal revolution, Grossberg asserts, was led and controlled by a judiciary that self-consciously set out to define and protect the Republican Family and that sternly resisted most efforts of legislatures to influence developments in this area.

To develop these ideas, the author employs six case studies; he does not claim to have examined all areas of family law, but the issues he selects for investigation are both interesting and revealing. Three issues involve matrimonial subjects, and three deal with parenting. These individual studies are presented in a particularly able manner. Grossberg's selection of a few leading cases that capture the essence of the law and the judicial attitudes save the reader from becoming mired in a mass of material, but with no apparent loss of insight or effectiveness.

A chapter on courtship focuses on suits for breach-of-promise. After firmly securing this judicial scrutiny of courtship early in the nineteenth century, American jurists refined the law over the century to reflect the prescriptive gender roles and the contemporary expectations related to social class. Societal and legislative attempts to weaken the suit in the interest of more stable marriages were largely resisted.

The judicial regulation of weddings is discussed primarily in terms of the judicially-created idea of 'common-law marriage'. Viewed in terms of the private law of contract, self-regulated marriage was upheld as part of the Republican ideal, involving individual liberty, self-government and freedom from state control. Such state regulatory mechanisms as licensing were undermined by the forceful adoption and application of the common-law presumption of marriage. Later nine-

teenth-century concerns to assert some state control over marriage in the interests of family stability had only limited impact on jurisprudence.

One area of considerable legislative activity, however, was that of matrimonial limitations. Again, concern particularly in the second half of the nineteenth century regarding the rising number of divorces led reformers and legislators to act to restrict access to marriage. Bars relating to age, sexual capacity, race, and mental and physical fitness all received both judicial and legislative support across the various states.

Grossberg's discussion of the law of contraception and abortion recounts what is now a somewhat familiar story. Early judicial support for abortions before 'quickening' was weakened by later legislative drives to eliminate both abortion and artificial birth control as private means to control family size. So strong was this legislative and reform thrust that the judiciary was moved to alter its stand so as to support these new perceptions of such practices.

The laws of bastardy and of child custody, each in a separate chapter, are effective expositions of how both Republican ideals and nineteenth century familial attitudes affected family law. The strengthened legal status of the illegitimate child reflected the growing respect for individual rights, though always restrained by the strong sense of morality in the period. Custody law revealed the declining power of the father and the strong new perceptions of the maternal role; equally the new judicial concept of the "best interests of the child" disclosed not only the respect for the individual but the changing place of children in the family and in society.

The "judicial patriarchy" which articulated and defended this family law not only facilitated the flowering of new familial relationships, but also limited the possibilities of reform. Since the judiciary rather than the legislatures controlled family law, social reformers often encountered repeated frustration in their attempts to employ the law to implement their own designs. The judiciary thus operated as the major institutional obstacle to the rise of the therapeutic approach to the family. This judicial control of domestic relations Grossberg calls "a distinctive American method of governing the home (p. 304)."

As a study of the history of legal doctrine *Governing the Hearth* has great merit. It would be interesting to know to what extent and in what ways the lower benches of the various states applied this law during the nineteenth-century — it is important to emphasize that Grossberg examines here the reported law, not the law as reflected in the vast number of individual cases held now in judicial archives. But it was not the author's aim to conduct any such archival study.

One major characteristic of this book as legal history concerns me. The author fails to articulate any philosophy of law. Implicitly there seems to be a functionalist perspective throughout most of the book: this law evolves as a reflection of middle-class values and attitudes, as perceived by the judiciary. But this is not explicitly articulated, much less is it employed as an explanation as to the process involved, though Grossberg does remind us that at least some of this judiciary was elected. Just why the judiciary reflected the middle-class consensus and legislators did not is not explained. While the manipulative character of family law is recognised and presented, it is not confronted directly nor analysed. While the gender- and class-based bias of this law is presented to the reader, the latter in particular receives little attention and even less examination. In short, Grossberg does not directly address some of the very significant issues now currently under debate among legal and family historians: authority, power, ideology and, most vitally, law and family as social constructs.

Grossberg is conscious of the need to relate his material to the current literature of family history, but as family history *Governing the Hearth* is less successful. While answering several questions, just as many are stimulated and beg for further research and analysis. To what extent was this manipulative and intrusive law actually applied to nineteenth century American families? What was the relationship between the familial ideals and norms defended in American family law on the one hand and the actual familial relationships and practices on the other? How was deviant family behaviour affected? These questions are outside the scope of Grossberg's study, but it is hoped that

this excellent book encourages others to pursue further investigation into this fascinating subject matter.

Michael Grossberg is to be congratulated for a thoughtful, perceptive and well-crafted analysis.

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YVONNE YAZBECK HADDAD and ELLISON BANKS FINDLY, eds. — *Women, Religion and Social Change*. Albany: State University of New York Press, 1985. Pp. 508.

Scholarship on women and religion has passed through several stages since its initial emergence in the late sixties. Early work tended to focus upon scriptural and theological bases of women's low status in Judaism and Christianity, and often was done with express political intent. The misogyny of western religious tradition was to be exposed, then transformed. In time, this attention to traditional prescriptive literature was superseded by a concern for what women actually did historically within whatever boundaries their cultural environment established. Often these studies tended to the hagiographic; "great women" were to be lifted up as exemplary foremothers. While both these enterprises — establishing the status of women in religious tradition and identifying women who triumphed over its limitations — remain important and valuable, they tend to reinforce a notion of religion which is static, institutional and conservative, and an understanding of women as primarily passive victims of male history.

Women, Religion and Social Change stands as a refreshing and stimulating challenge to these assumptions. In this exploratory volume, which emerged out of the Hartford Symposium on Women, Religion and Social Change, the contributors address the question of religion as an agent for, rather than as an impediment to, social transformation. Further, they consider the complex and often surprising contribution of women, as historical actors, to that process.

The first two sections competently engage the concerns of earlier scholarship, namely, the formation of religious tradition and the role of women in traditional institutions. Although little new ground is broken conceptually, Judith Baskin's use of anthropological material from Sherry Ortner and Michelle Zimbalist Rosaldo in "The Separation of Women in Rabbinic Judaism" is a welcome exception, and helps locate the discussion beyond the realm of apologetic or invective. Jane Smith's "Women, Religion and Social Change in Early Islam" is likewise recommended for its careful, nuanced exploration of the foundations of Muslim tradition. Less successful are essays by Ellison Banks Findly ("Gargi at the King's Court: Women and Philosophic Innovation in Ancient India"), Nancy Schuster ("Striking a Balance: Women and Images of Women in Early Chinese Buddhism"), and Sandra Robinson ("Hindu Paradigms of Women: Images and Values"). All contain uncritical and/or apologetic elements uncharacteristic of the volume as a whole. For example, Findly speaks of a "new fashion in child marriage" being "in vogue" (p. 40) as if it were simply a question of changing tastes, but does not inquire further into the socio-political or historical factors leading to this development. Likewise, Robinson notes that a central rite in Indian women's popular piety is now often performed by men, with no further explanation (p. 209). It is precisely these sorts of changes in the actual structure of women's lives which should be central to the study of women, religion and social change, but which the study of "images" alone tends to obscure.

The text makes its most unique and exciting contribution to scholarship in Section III, "Women, Religion and Revolution in the Modern World." Essays by Yvonne Haddad and William Darrow explore the crucial question of women's role in the revolutions of the Middle East; Haddad is particularly insightful in her treatment of the differing status and roles accorded women in liberal nationalist, socialist, and Islamist revolutionary programs. As Darrow's contribution shows, a very