This is a big and important book that should prove invaluable reading for historians of both law and empire between the sixteenth and nineteenth centuries. The moral anger with which the introduction simmers is reminiscent of the best social history of the post-Second World War era. Likewise, the book’s basic objective—to compare and contrast the various adaptations, uses, and eventual abolition of master-servant legislation across the British Empire—is supremely suited to the volume-of-essays format. As publishers are increasingly reminding academics, this is not always the case; and it is refreshing to find the genre being deployed with such success. That it works so well despite a degree of editorial indulgence—some of the essays (most notably by the editors) are too long, and the footnoting is sometimes vague—is testimony to both the importance of the subject and its relative neglect by legal and imperial historians alike.

A dictum of the editors is that the “devil is in the detail.” The ambition of the book lies, in turn, in taking the minutiae of (the mostly statutory) legislation that regulated the relationship between masters and their employees and tracing changes and continuities in that legislation over time and across space. Chronology in this instance refers to the period stretching from the codification of labor law by the Elizabethan Statute of Artificers in 1562 to the politics of labor in West Africa in 1948. The geography is that of empire. The comparative framework allows chapters on early British America, Newfoundland, Canada; Australia, the British Caribbean, British Guiana, Hong Kong; India, Assam and the West Indies, West Africa, and Kenya. Additional chapters consider the business of the colonial office between 1820 and 1955 and examine the defeat of the Master and Servants Bill in 1844. At the same time, the manner in which legislation was variously appropriated and implemented is also stressed: just as different areas of the empire developed alternative legal and laboring cultures, so the moment of enforcement varied according to the discretion of the particular magistrate endowed with authority. The book narratives, in effect, how medieval laws shoring up working relationships in a small and relatively impoverished country—albeit experiencing profound social, economic, and political change—transmuted into a flexible instrument of economy, subordination, and occasionally freedom, across the largest empire on earth.

As this suggests, a further aim of the book is to demonstrate empirically the close relationship between law and socio-economic relationships on the one hand and—a much more difficult undertaking—and social change on the other. If the transition from national to imperial legislation is the overarching framework, then the essays on particular regions reveal the complexities, contradictions, and unexpected outcomes in practice. The quality of essays across the book is of a very high standard. The possibilities of illuminating comparisons are many. To give one example, Christopher Tomlins’s nuanced discussion of early British America reveals “not a generic legal regime enforcing a basic division between people who worked and people for whom they worked, but a variety of legal forms exhibiting a range of outcomes.” Prevailing influences were not so much “concurrent English law” as factors of “local status and work practice” (p. 119). He argues that, in America, it is “in racial slavery ... that one finally encounters ‘master and servant’ not as a temporary and essentially contained legal hierarchy but as an expansive polarity of freedom and its absence” (p. 150). In the British Caribbean, in
contrast, Mary Turner demonstrates how slavery developed as a flexible and adaptable culture based on "customs acknowledged by both owners and slaves." Used in conjunction with various strategies described by James Scott as "weapons of the weak," slave workers were able "to contest and shape the terms on which [their labor] was exacted." As a result, "the laws devised by the imperial government to dismantle the slave labour system and substitute forms of free labour between 1823 and 1838" also eradicated "customary law" and "labour bargaining practices." The introduction of statutory legislation marked, in effect, "the moment of articulation between one system of labour extraction and another: chattel into wage slavery" (pp. 303-305).

That the essays are nuanced and subtle means that, no matter the powerful line of interpretation established by the editors, the book has a supple and fluid feel to it. Nevertheless, a volume of essays is inevitably dominated by its editorial position—coherence and synchronicity require it—and it is with some queries regarding this position that this review concludes. The emergence of England as a modern, imperial nation lies at the heart of the book—a centrality reflected by the fact that Hay’s essay on “England, 1562-1875: the Law and its Uses” is the first and (by some distance) longest of the essays. This obscures the fact that the empire as it developed from the eighteenth century was British, and in some instances Irish, rather than English—in terms of its itinerants and migrants, but also in terms of its magistrates, landlords, businessmen, soldiers, and professionals. Despite this, Hay addresses the complicated and potentially crucial relationship between Scottish and English employment law in one sentence: “with some significant differences many [English laws] could also be found in Ireland (under different statutes) and Scotland (a partly civil regime)” (p. 68). Given that much research still needs to be done, this oversight is not necessarily his fault. It is damaging nonetheless, both in terms of the “devilish detail” upon which the book is supposedly predicated and, as significantly, the basis upon which different people—masters and servants, magistrates and constables—understood and experienced legal constructions of work and authority. This is precisely the concern of much recent work on eighteenth-century crime: namely the potential for agency and subjectivity among the criminal and criminalized. As importantly, historians like Robert Shoemaker and Tim Hitchcock at the “Proceedings of the Old Bailey” project have demonstrated the kind of sources through which a sense of how the law was used “from below” as well as “from above” might be recovered. With some exceptions (including the essays by Tomlins and Turner) the contributors are unwilling or unable to trace the complexities of motivation, experience, and understanding of the many different parties whose lives were structured by the law and its interpretation.

The Anglo-centrism and overt structuralism of the book lead to a final criticism. This is the apparent assumption of the editors—again qualified by some of the essays that follow—that in its creation, codification, and subsequent exportation abroad, the law of master and servant was the product of the (English) “state.” Masters, Servants and Magistrates makes little space for those semi-public, corporate bodies that have consistently eluded English historians working in a broadly Marxist tradition. The absence is crucial. It is well known, for example, that Elizabethan legislation like the Statute of Artificers was modeled on practices already developed locally in corporate towns and cities. That such practices became statutory was in large part due to the efforts of the representatives of these corporations in parliament. Likewise, it was companies, corporations, and societies that were at the forefront of British imperialism—profit-making institutions, like the East India Company, that governed as well as traded. These corporate or “civil” bodies were not only the vehicles of colonialism and its laws; they often provided legitimate contexts for its implementation. Indeed, a recurring theme of this ambitious book is that a defining characteristic of the law of master and servant was the power of “lay” magistrates—that is, householders or office-holders working with the jurisdiction of the central courts—to interpret and implement it. This may well appear anomalous, injudicious, and prejudicial; it is also entirely consistent with the law’s genesis and subsequent dispersion in and by the institutions of British “civil society.”

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