Keeping Up with New Legal Titles*

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 The books reviewed in this issue were published in 2004 and 2005. If you would like to review books for "Keeping Up with New Legal Titles," please send an e-mail message expressing your interest to either atchison@law.ucla.edu or halvorsengroup@aol.com.

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Goldsmith, Jack L., and Eric A. Posner. *The Limits of International Law.* Oxford; New York: Oxford University Press, 2005. 262p. $29.95.

Reviewed by John Wilson

¶1 In *The Limits of International Law*, Jack Goldsmith and Eric Posner, two established legal scholars,[1] have a produced a noteworthy work. Its general tone reflects the realist theory of international relations which posits that states operate in a self-interested way in an effort to maximize power. Realist theory, with some exceptions, does not accept that law plays a major part in international relations.[2] The authors, however, focus their study on the law, although, as the title of the book implies, they believe the law has limits. They conclude that "[i]nternational law is a real phenomenon, but international law scholars exaggerate its power and significance" (p.225).

¶2 Goldsmith and Posner frame much of their discussion of international law with rational choice theory,[3] which presupposes that states pursue their interests in a manner consistent with their power capabilities. The authors have structured the book in three parts and apply their theory to each section, challenging the current state of international law scholarship throughout. The first part examines customary international law, the second considers treaties, and the third is a consideration of rhetoric, morality, and international law. Their research is supported by a bibliography containing an impressive array of source material.

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1. Jack L. Goldsmith is a professor of law at the Harvard Law School. Eric A. Posner is the Kirkland and Ellis Professor of Law at the University of Chicago.
2. The founder of the realist theory of international relations was Hans J. Morgenthau. For a discussion of Morgenthau's view of the law, see CHRISTOPH FREI, HANS J. MORGENTHAU: AN INTELLECTUAL BIOGRAPHY (2001). For a recent discussion of the traditional theories of international relations, see Jack Snyder, *One World Rival Theories*, FOREIGN POL'Y, Nov.–Dec. 2004, at 52.
3. For an overview of rational choice theory, see Thomas S. Ulen, *Rational Choice Theory in Law and Economics*, *in* 1 ENCYCLOPEDIA OF LAW AND ECONOMICS 790 (Boudwijn Bockaert & Gerrit De Geest eds., 1999).

¶3 Goldsmith and Posner consistently assert that traditional understandings of international law are flawed. In their assessment of the decision in *The Paquete Habana*,[4] one of the leading cases relating to customary international law, they state that "[o]ur main goal here is to show that the famous customary international law analysis in *The Paquete Habana* is riddled with errors characteristic of the mainstream approach to customary international law" (p.67). The application of their theory to treaty law is less convincing, but the authors acknowledge that more work needs to be done on the topic.

¶4 In the final part of the book, Goldsmith and Posner conclude that although states invoke international law in their discourse, in reality the invocation is a disguise for the pursuit of self-interest as well as a means to "control the consequences of their announcements" (p.184). They also believe that there is no moral obligation to follow international law in contrast with the way that moral obligation relates to domestic law. Significant discussion of cosmopolitan theory, which "argues that states have a duty in crafting international law to act on the basis of global rather than state welfare" (p.14), follows, and Goldsmith and Posner assert that the emphasis in cosmopolitan theory on liberal democracy overlooks the fact that liberal democracies tend to pursue the interests of their own citizens.

¶5 *The Limits of International Law* is of interest to legal scholars and political scientists. It is recommended for research and academic law libraries. The authors hope their book "will help put international law and international law scholarship on a more solid foundation" (p.226). At the very least, it should engender a debate among scholars about how to analyze international law.

Greenawalt, Kent. *Does God Belong in Public Schools?* Princeton, N.J.: Princeton University Press, 2005. 261p. $29.95.

Reviewed by James Wirrell

¶6 Reading *Does God Belong in Public Schools?* brought to mind my childhood experiences with religion and education. Every morning at my public elementary school in Canada in the 1970s, the day began with a recitation of the Lord's Prayer and a reading from the King James version of the Bible. This was the complete extent, however, of the role of religion in the classroom. My high school experience was very different—religion influenced all aspects of the curriculum. This contrast between whether religion is an accessory that can be removed without seriously affecting the underlying education or something that pervades all aspects of a sound education is an issue that permeates this book.

¶7 Author Kent Greenawalt has been a member of the faculty at Columbia Law School since 1965. He clerked for United States Supreme Court Justice John M. Harlan and served as deputy solicitor general of the United States. He has written other works dealing with religion and public life.[5]

4. 175 U.S. 677 (1900).
5. *E.g.*, Kent Greenawalt, Private Consciences and Public Rooms (1995); Kent Greenawalt, Religious Convictions and Political Choice (1988).

¶8 The focus of *Does God Belong in Public Schools?* is on the place of religion in public schools, and so consequently it does not consider government support of private schools. Greenawalt limits himself in this way on the ground that for the foreseeable future the vast majority of children will be educated in the public school system. This helps to keep the book more concise and manageable.

¶9 The book is divided into four parts. In the first part, Greenawalt sets out the historical development of public schools as it relates to religion. In this section, he also briefly discusses leading cases and the evolution of constitutional doctrine in this area. In part 2, he examines religious practices, devotions, and the use of school facilities by religious clubs. In the third part, Greenawalt discusses what can be taught about religion. Here he explores the thorny question of what might be taught in a science class regarding evolution, creationism, and intelligent design. In the final part, the author considers what rights students have relative to religious expression in the classroom and the rights of parents to have children opt out of educational programs on religious grounds. Following the text, Greenawalt includes almost seventy pages of endnotes where he not only documents his arguments but also continues with some tangential discussion. A useful index is included.

¶10 Greenawalt avoids a simplistic analysis of the issues, raising some very good questions. His analysis typically considers what constitutes sound educational policy within the limits of what is constitutionally permissible. This book is best suited for academic libraries as the author considers not only what is, but also what should be. In a good deal of the book Greenawalt describes what he believes is the best educational policy in light of the governing constitutional boundaries. Basically he contends that students should learn about religion to the greatest extent possible without being taught religion per se.

¶11 A good example of applying sound analysis to a difficult problem is Greenawalt's consideration of teaching the intelligent design theory in science class. Conceding that there are legitimate concerns about Darwinian evolutionary theory, Greenawalt questions whether intelligent design should be taught in science class, since it does not constitute a scientific explanation. Intelligent design may be a legitimate theory, but it cannot be measured, observed, or studied by way of the scientific method. Greenawalt's solution is that the problems with evolutionary theory be presented and intelligent design mentioned as one possible explanation. In setting forth this solution, Greenawalt considers what is constitutionally permitted and what he believes is the best educational policy.

¶12 Greenawalt's analyses of the questions raised are occasionally less than satisfactory. For example, when considering whether schools may teach religious propositions, he considers several possible definitions of religion. He dismisses some of them simply because they would pose too great a challenge to the provision of "ordinary moral and political education" (p.67). In the end, Greenawalt decides that religion should be defined as anything that answers questions about God, immortality, and worship. This limited definition of religion, in an otherwise

well-argued book, is a glaring weakness that undercuts his analysis of several important issues.

¶13 Despite its occasionally weak analysis, *Does God Belong in Public Schools?* successfully lays out the constitutional and educational issues and asks very insightful questions. Greenawalt's approach of blending constitutional and educational analysis adds some badly needed context to this subject and is a welcome change from the strictly legal analysis found in most constitutional law treatises. If an attorney is looking for a practice guide dealing with the Establishment Clause and public education, then this book is not the best choice. If one wants a book setting constitutional doctrine in its real-world context, however, then this is an excellent source. This book would make a very useful addition to any academic library.

Helewitz, Jeffrey A. *Cyberlaw: Legal Principles of Emerging Technologies*. Upper Saddle River, N.J.: Pearson/Prentice Hall, 2005. 230p. $41.40.

Reviewed by Eric Gilson

¶14 *Cyberlaw: Legal Principles of Emerging Technologies* explores various legal principles relating to computer technology and the Internet. The text addresses five major areas relating to cyberlaw, specifically jurisdiction, United States constitutional issues, e-business, property rights, and criminal activity. Before delving into these topics, an introductory chapter is provided which discusses technology and current regulation relating to cyberspace. The topics covered in this initial chapter include the Internet, information systems, and computer software.

¶15 Chapter 2 shifts the focus to jurisdiction. It includes an examination of the jurisdictional doctrines applied domestically and internationally to cyberspace. It also includes a discussion of the jurisdictional distinctions between passive and interactive Web sites. Chapter 3 then focuses on United States constitutional law, particularly the right to privacy, obscenity, and defamation. Online business operations are examined in chapter 4, including such topics as electronic signatures, contracts for protecting a Web site, outsourcing contracts, and franchise agreements. Chapter 4 also covers financing and taxation issues related to e-businesses.

¶16 Intellectual property law issues and cybercrime are covered in chapters 5 and 6, respectively. Chapter 5 addresses copyrights, trademarks, and patents in cyberspace. Encryption, MP3, and deeplinking are included in the copyright discussion. In discussing copyright notice, author Helewitz indicates that a work must include a copyright mark to protect copyright. However, an optional copyright notice provision has been in effect since March 1, 1989.[6] A brief history on the copyright notice requirement, including this change, could have added clarity to the notice discussion. Chapter 6 shifts the focus to cybercrimes and covers such

6. 17 U.S.C. § 401(a) (2000).

topics as solicitation, conspiracy, fraud, cyberstalking, embezzlement, forgery, hacking, and cyberpiracy.

¶17 *Cyberlaw: Legal Principles of Emerging Technologies* contains a number of valuable features. For instance, chapter overviews are provided at the beginning of the chapters, and key terms are defined in the discussion. A cumulative list of chapter key terms is also included along with chapter summaries. In addition, the chapter discussion is supplemented with edited cases. For example, in chapter 2, which addresses jurisdiction, the inclusion of *Zippo Manufacturing Co. v. Zippo Dot Com, Inc.*[7] "underscores the problem of acquiring jurisdiction over a defendant" (p.34). Questions, exercises, and related Web sites follow the cases. Italicized examples are also inserted throughout the text to illustrate various points. For instance, following the discussion of *in rem* jurisdiction, an example involving a dispute between two people and the ownership of a domain name is included. The appendixes also include treaty and federal legislative material, including excerpts from the USA PATRIOT Act.[8]

¶18 The back cover of *Cyberlaw: Legal Principles of Emerging Technologies* describes it as "an excellent supplement" for a variety of courses, including those covering introductory law, legal research, constitutional law, intellectual property, and business law. The topics it covers may be of interest in a variety of library settings, including community college libraries, public libraries, academic law libraries, and academic libraries serving undergraduate and graduate students.

Hutchinson, Allan C. *Evolution and the Common Law*. Cambridge, UK; New York: Cambridge University Press, 2005. 294p. Paper, $34.99.

Reviewed by Melinda J. Kent

¶19 Allan Hutchinson of the Osgoode Hall School of Law at York University is a widely published[9] legal theorist. In his most recent book, *Evolution and the Common Law*, he advances a new theory of the development of the common law and attempts to "account for stability in a process that is marked by its dynamism and organic quality" (p.2). He does so through the central metaphor of the intellectual struggle over Charles Darwin's theory of evolution. The result is an interesting combination of scientific history and legal theory.

¶20 In his introduction, Hutchinson outlines the purpose of the book. It is his intent to challenge the conventional understanding of how the common law develops

7. 952 F. Supp. 1119 (W.D. Pa. 1997).
8. Pub. L. No. 107-56, 115 Stat. 272 (2001).
9. *E.g.,* Allan C. Hutchinson, *Making Progress? Change and the Common Law*, 4 HIBERNIAN L.J. 25 (2003); Allan C. Hutchinson, *The Role of Judges in Legal Theory and the Role of Legal Theorists in Judging (Or "Don't Let The Bastaraches Grind You Down")*, 39 ALBERTA L. REV. 657 (2001); Allan C. Hutchinson, *Of Bulldogs and Soapy Sams: The Common Law and Evolutionary Theory*, 54 CURRENT LEGAL PROBS. 19 (2001); ALLAN C. HUTCHINSON, IT'S ALL IN THE GAME: A NONFOUNDATIONALIST ACCOUNT OF LAW AND ADJUDICATION (2000); ALLAN C. HUTCHINSON, LEGAL ETHICS AND PROFESSIONAL RESPONSIBILITY (1999).

and to address perceived fallacies related to the common law. His goal is to redirect the study and understanding of the common law as "a work-in-progress that not only is never complete, or finished, but is always situated inside and among, not outside and beyond, the ideological forces at work in society" (p.18).

¶21 Throughout the book, Hutchinson looks to the history of Darwin's theory of evolution as a useful metaphor for scholarship on the common law. In the first three substantive chapters, he briefly reviews Darwin's theory and its reception among nineteenth- and twentieth-century thinkers. He draws parallels between the competing schools of thought on evolution and the competing methods of understanding the common law.

¶22 In the first half of the book, Hutchinson discusses three ways in which scientists and thinkers have approached evolution and the way that such thinking is reflected in legal scholarship. First he discusses Darwin's theory, which he characterizes as a descriptive, historically based understanding of the development of life. In his view, this kind of descriptive realism is also the appropriate way to understand the common law. Hutchinson argues that the developments of case law, like developments in biology, are best understood as a series of local adaptations with no overarching purpose or direction. Hutchinson next describes creationist theory, which views biology as evidence of the directing hand of God. He compares this view to the legal scholarship of Ronald Dworkin and other scholars who claim that the common law is a coherent system that ultimately "works itself pure" (p.70). Finally, he discusses Social Darwinists, who took Darwin's theory too far and mistook the description of what exists in nature for a prescriptive statement of what ought to be. He again extends the metaphor to the common law, discussing the scholarship of Richard Posner and others who "turn a valid descriptive analysis into an illegitimate prescriptive theory" (p.99).

¶23 In the second half of the book, Hutchinson goes on to explore the transforming nature of the common law. He discusses the significance of "great cases" such as *Brown v. Board of Education*[10] or *Roe v. Wade*[11] and considers their meaning in the context of common law development. How, he asks, can we reconcile the change embodied in these cases with their status within a system that claims to be driven by the principle of stare decisis?

¶24 After a detailed discussion of the hermeneutical works of Hans Georg Gadamer, he argues that "breaking with tradition is not only part of the common law's tradition but a defining feature of it" (p.189). He explains how the dynamic of change evident in the common law is played out in constitutional law in the interpretation of the Canadian Constitution and in United States Supreme Court cases like *Washington v. Glucksberg*.[12] Ultimately, Hutchinson returns to the

10. 347 U.S. 483 (1954).
11. 410 U.S. 113 (1973).
12. 521 U.S. 702 (1997) (holding that Washington State's ban on physician-assisted suicide did not violate the Fourteenth Amendment's Due Process Clause by denying competent terminally ill adults the liberty to choose death over life).

metaphor of evolution in order to discuss the "punctuated equilibrium" (p.242) of legal change. He argues for an understanding of the common law that recognizes its changing nature without claiming any larger goal and acknowledges the role of lawyers, judges, and jurists as active agents for social justice.

¶25 *Evolution and the Common Law* is a series of meditations on the nature of the common law. Parts of the book originally appeared in various law journals, and its structure feels like a series of articles. While there is an overarching theme to the book, each chapter is self-contained with an introduction and conclusion that clearly state the main points. Although I have no background in legal theory, I found the book enjoyable, although not always easy to follow. Hutchinson presents abstract arguments with charm and good humor, quoting sources from Oliver Wendell Holmes to Yogi Berra.

¶26 *Evolution and the Common Law* is not intended to be a reference book or an introductory text on either the theory of evolution or the history of the common law. The book has a table of cases and a small index, but it is clearly not intended to be an exhaustive source for any of the subjects addressed. The text is well footnoted, but a familiarity with major cases and schools of thought is assumed. It is aimed at a scholarly audience with a basic background in legal theory. It will, however, make an interesting addition to any academic collection on legal theory and jurisprudence.

Lipinski, Tomas A. *Copyright Law and the Distance Education Classroom*. Lanham, Md.: Scarecrow Press, 2005. 227p. Paper, $37.50.

Reviewed by Shaun G. Jamison

¶27 The Technology, Education and Copyright Harmonization Act of 2002 (TEACH Act)[13] attempted to clarify the rights and responsibilities of traditional distance educators who are associated with accredited, nonprofit institutions and government bodies. The primary purpose of *Copyright Law and the Distance Education Classroom* is to provide in-depth analysis of the TEACH Act from a legal and compliance standpoint.

¶28 Tomas Lipinski is codirector and associate professor at the Center for Information Policy Research, School of Information Studies, University of Wisconsin-Milwaukee. He frequently lectures on information issues, including copyright, and has published works on copyright and on libraries and the law.[14]

¶29 *Copyright Law and the Distance Education Classroom* is well researched with an extensive exploration of the legislative history of the Act. The work is

13. Pub. L. No. 107-273, § 13301, 116 Stat. 1758, 1910 (2002).
14. *E.g.*, MARY MINOW & TOMAS A. LIPINSKI, THE LIBRARY'S LEGAL ANSWER BOOK (2003); TOMAS A. LIPINSKI, *The Decreasing Impact of Technological Neutrality in Copyright Law and Its Impact on Institutional Users*, 54 J. AM. SOC'Y INFO. SCI. & TECH. 824 (2003); TOMAS A. LIPINSKI, *The Climate of Distance Education in the 21st Century: Understanding and Surviving the Changes Brought by the TEACH (Technology, Education, and Copyright Harmonization) Act of 2002*, 29 J. ACAD. LIBR. 362 (2003).

mostly intermediate with some advanced materials, but it is intended to be accessible to administrators. The nutshells and appendixes are very helpful, especially the TEACH Q & A Compliance Audit and the Model Distance Education Policy. Tables are provided to help the reader master the material.

¶30 The primary focus of the text is to explain the provisions of the TEACH Act, which is covered thoroughly and critically by Lipinski. Such topics as the pre-TEACH law, the need for reform, sound recording, and ephemeral recording are covered. Lipinski suggests that readers lacking expertise in copyright should refer to outside sources to assist in mastering the material, and he provides a partial bibliography for that purpose. The book also covers fair use and faculty ownership issues that are not limited to nonprofit, accredited institutions. The book is written from the perspective of a lawyer and provides legally oriented suggestions for compliance with copyright law.

¶31 The author has a number of suggestions for how to read the text, including reading the text of the law and supplemental resources to master copyright law, and beginning with the Q & A Compliance Audit. I would add that a reader should review the foreword, appendixes, Q & A Compliance Audit, sample policies, and nutshell summaries prior to investing a great deal of time in reading the book straight through. This will enable the reader to determine which sections require in-depth study and will provide context for the thorough discussions within the text. The one-and-a-half-page index is helpful and there is a case index as well.

¶32 University, college, and public K–12 legal departments that have distance education programs may find the extensive research and exploration of potential issues helpful. The text helps one navigate the unsettled nature of the law and provides qualified predictions about trends based on the author's experience and research. As the author points out, the onus of copyright compliance can often default to librarians, so this book may also help librarians responsible for copyright compliance in a distance education environment. The book fills a unique niche by addressing, in a scholarly and lawyerly fashion, copyright compliance issues facing accredited, nonprofit educational institutions that provide distance learning.

McKinney, Ruth Ann. *Reading Like a Lawyer: Time-Saving Strategies for Reading Law Like an Expert*. Durham, N.C.: Carolina Academic Press, 2005. 285p. $28.

Reviewed by Darin K. Fox

¶33 Like many prospective law students, during the summer before my first year, I prepared by reading books on "what to expect in law school." Many covered a wide range of issues facing law students, including briefing cases, dealing with stress, time management, exam taking, and the classroom experience.[15] I wish

15. *See generally* JULIUS J. MARKE & EDWARD J. BANDER, DEANS' LIST OF RECOMMENDED READING FOR PRE-LAW AND LAW STUDENTS: SELECTED BY THE DEANS AND FACULTIES OF AMERICAN LAW SCHOOLS (1984).

Reading Like a Lawyer: Time-Saving Strategies for Reading Law Like an Expert by Ruth Ann McKinney had also been available to me at that time. This book provides a more thoughtful examination of the two activities that take up most of the waking hours of a first-year law student's life—namely, reading casebooks and learning to reason or think like a lawyer. McKinney describes techniques for reading the law which, in turn, help develop the legal reasoning skills possessed by exceptional law students and lawyers. She believes that reading the law effectively and efficiently is like learning a foreign language—it is a skill acquired through hard work and the application of the techniques she describes.

¶34 The book is divided into three parts. The first is intended for readers who have little or no familiarity with the law school experience, such as prospective or first-year law students. McKinney describes the nuts-and-bolts of what a law student does during the first year of school: read and brief cases, participate in class discussions, take exams, and learn to think like a lawyer. The reader learns how law school reading, classroom discussion, and exams differ from the undergraduate experience. She explains how cases are arranged and edited by professors and how to brief a case. Finally, she describes the different types of legal reasoning that lawyers, judges, and scholars employ to "make their case."

¶35 The second part is the heart of the work. It focuses on how to read casebooks efficiently and effectively. This part of the book is a thoughtful examination of how "reading the law" is so different from other types of reading that students experience earlier in their academic careers. McKinney describes law school casebook reading as very active, not merely a passive transmission of facts from the author to the reader (p.4). Law students do not read *about* the law—they "read the law."

¶36 To begin reading the law like an expert, McKinney describes seven skills or behaviors which are represented by the acronym EMPOWER. These go beyond the method commonly described as IRAC (issue, rule, application, and conclusion) for briefing and understanding the components of a case. McKinney challenges the reader to consider a range of issues, such as the reader's physical state, the structure of the materials, the purpose for reading, and how the reader organizes information. Use of these behaviors encourages the reader to take an active role. They cause the reader to engage in a dialogue with the author. Use of these skills will help the reader to better understand the facts of a case, the legal principles discussed, and the "big picture" (i.e., how the legal principles fit into the broader subject and how they might be applied in other cases).

¶37 The third part of the book is intended for more experienced law students, practicing attorneys, and anyone who needs to read legal materials. It provides advice on how to effectively read the full text of statutes and cases that have not been edited by professors for casebooks. Since so much of law school is spent reading edited casebooks, this part of the book serves as a helpful refresher for experienced law students and lawyers on how to read, understand, and apply statutes and cases.

¶38 Although most first-year students are instructed on the use of annotated codes, many will not actually use a code in a "real world" setting until after graduation. McKinney begins by explaining how statutes are structured and why they are written in the way they are. She applies her technique of using reading "cues" to orient oneself in the statute. She then discusses how judges apply statutes in actual disputes and the factors that can influence how statutes are interpreted, such as prior court opinions, legislative history, and the plain language reading of the text. With regard to reading case law, she applies the same techniques described in part two of the book. McKinney reminds us about the benefits and limitations of using headnotes, and she discusses how lawyers read case law differently in practice than when they are students reading casebooks in law school.

¶39 Most of the material in *Reading Like a Lawyer: Time-Saving Strategies for Reading Law Like an Expert* will be primarily of interest to prospective law students and to new law students. However, lawyers, librarians, and anyone who has to read legal materials will find this book helpful for improving their reading skills. All of the chapters are followed by practice exercises, and McKinney's Web site[16] includes sample answers to the exercises. Law school academic support personnel will also find this book useful for students who are not understanding course material as well as they should. This book would be a good addition to any academic library that serves prospective or current law students.

Roht-Arriaza, Naomi. *The Pinochet Effect: Transnational Justice in the Age of Human Rights*. Philadelphia: University of Pennsylvania Press, 2005. 256p. $55.

Reviewed by Paul E. Howard

¶40 In 1998, former Chilean dictator Augusto Pinochet was arrested in London by British authorities pursuant to a warrant issued by a Spanish judge. The judge, Baltazar Garzón, was conducting a criminal investigation into human rights violations committed by the Argentine and Chilean military regimes during the 1970s and 1980s. Relying on a Spanish law that allowed universal jurisdiction over certain crimes, he sought to extradite Pinochet to Spain to face charges of genocide, terrorism, and torture. In *The Pinochet Effect: Transnational Justice in the Age of Human Rights*, author Naomi Roht-Arriaza provides a fascinating discussion of the far-reaching legal and political consequences of the ensuing litigation.

¶41 Roht-Arriaza, a law professor at the University of California Hastings College of the Law, has written a compelling book that details recent efforts to bring human rights abusers to justice through transnational criminal proceedings. These cases involve crimes committed in one country that are prosecuted in the

16. Legal Research and Writing: A Practical Guide and Self-Instructional Workbook and Reading Like a Lawyer, http://www.unc.edu/~ramckinn/index.html (last visited Oct. 13, 2005).

domestic courts of another. This approach has become attractive to many human rights advocates because it may be the only viable avenue for achieving justice in situations where the victim's own legal system is unable or unwilling to prosecute. This work reviews the impact of the *Pinochet* case[17] on such prosecutions and evaluates whether this approach can serve as an effective mechanism for justice.

¶42 Roht-Arriaza begins by describing the origin of the Spanish criminal investigation. She provides an intriguing account of how individuals and human rights groups were able to prompt and advance the investigation despite opposition from the Chilean and Argentine governments. The focus then shifts to the arrest of Pinochet in the United Kingdom and the extradition proceedings that followed. Roht-Arriaza recounts the stratagems employed by each side and the legal obstacles to extradition that had to be overcome. Eventually the House of Lords, the United Kingdom's highest court of appeal, held in a landmark decision that Pinochet could be extradited.[18]

¶43 She then traces the effect of Pinochet's arrest on other human rights cases, with a particular focus on Chile and Argentina. Roht-Arriaza examines the role that the *Pinochet* litigation played in creating a new momentum in both countries to hold members of their former military regimes accountable for past crimes. She also describes how Pinochet's arrest helped prompt a surge of transnational criminal complaints in Europe and elsewhere. Roht-Arriaza provides considerable detail as she explains these various cases—she discusses the relevant facts, the personalities involved, the legal obstacles that needed to be surmounted, and how they fared.

¶44 The author also devotes substantial discussion to the legal legacy of the *Pinochet* case. Roht-Arriaza evaluates the reaction of courts and legislatures from various countries to the post-*Pinochet* surge in transnational criminal complaints. She explores the problems inherent to transnational prosecutions and the promise that they hold for advancing human rights. She also speculates about the likely interplay between such prosecutions and the newly created International Criminal Court. Observing that transnational prosecutions have had only limited success in securing convictions, she concludes that the primary value of these cases lies in the ability of a transnational investigation to prompt investigations and domestic prosecutions in the home country (p.223).

¶45 The content of this book is more reminiscent of a novel than of the typical legal treatise. A large part of the narrative is devoted to recounting the role specific individuals played in each of these cases. The reader learns who they are, what they did, and how they impacted the various legal actions and investigations. Much of this information is based on interviews with many of the main participants, providing an insider's view of the events. As such, this book is not just about the legal

17. Regina v. Bow St. Metro. Stipendiary Magistrate and Others, *Ex parte* Pinochet Ugarte (No. 3), [2000] 1 A.C. 147 (H.L. 1999).

18. *Id.*

ramifications of these cases, but also is about the roles ordinary people played in the pursuit of justice.

¶46 *The Pinochet Effect: Transnational Justice in the Age of Human Rights* makes a valuable contribution to the body of literature covering transnational criminal law. Roht-Arriaza does a commendable job describing and critiquing the status of the law in this area. The book provides a wealth of factual information on the cases covered. Although addressing many sophisticated issues, the work's readable style makes it accessible to readers with little or no background in this area. This thought-provoking book would make a very useful addition to academic libraries and other libraries with an interest in international criminal law or human rights.

Russell, Carrie, and Dwayne K. Butler. *Complete Copyright: An Everyday Guide for Librarians.* Chicago: American Library Association, 2004. 262p. $50.

Reviewed by David M. Zopfi-Jordan

¶47 *Complete Copyright: An Everyday Guide for Librarians* is an informational guidebook that covers copyright topics such as public domain, licensing, nonprint applications, the four-factor test, and electronic reserves. Compared to other texts on copyright, *Complete Copyright* is indeed that—complete. It covers most copyright topics librarians will need in the day-to-day functioning of a library. The book was published with the Creative Commons agreement to distribute and copy freely for noncommercial use.[19]

¶48 *Complete Copyright* is comprised of eight chapters with accompanying appendixes. There is also a bibliography, including electronic materials, as well as an index and glossary. While the overall presentation of the book is informational, each chapter contains a short skit demonstrating that chapter's theme. The characters within the skit tell of a situation that typically happens in the library, classroom, or even in daily life. The cast of characters makes this book more interesting than a standard text on copyright issues and gives it personality.

¶49 Chapter 1 covers the basics of copyright and the promotion of knowledge exchange while also protecting the rights of the author. Russell and Butler use pertinent cases to illustrate their points about what can and cannot be copyrighted. For example, *Baker v. Seldon*[20] mentions that common elements such as days of the week, months of the year, or even the alphabet cannot be copyrighted; *Feist Publications v. Rural Telephone Service Co.*[21] indicates that phone book directories cannot be copyrighted. The authors also mention interesting copyright facts throughout the text. (Readers of chapter 1 will discover that AOL Time Warner now holds the copyright to the phrase "Happy Birthday to You.")

19. For a description of the provisions of the Creative Commons' license, see Creative Commons, Choosing a License, http://creativecommons.org/about/licenses (last visited Oct. 13, 2005).
20. 101 U.S. 99 (1880).
21. 499 U.S. 340 (1991).

¶50 In addition to a discussion of conditions to consider when determining what is in the public domain, chapter 1 mentions Lolly Gasaway's public domain guide.[22] The authors explain what to consider when determining if you are able to copy a text, such as whether it is being currently sold as new or being sold used for a reasonable price, and whether the copyright holder is being identified as having a current copyright.

¶51 Subsequent chapters cover fair use and copyright exemptions, first sale, interlibrary loan, the Digital Millennium Copyright Act,[23] and shrink-wrap licenses. Each chapter discusses relevant leading cases and offers helpful hints for libraries to remain in compliance with established copyright laws. Chapter 8 includes a sample slide presentation that librarians may wish to use to train others about copyright.

¶52 As a practitioner myself, I would recommend *Complete Copyright: An Everyday Guide for Librarians* for librarians, interlibrary loan practitioners, and others working in a library environment who struggle with copyright issues on a daily basis. *Complete Copyright* is fun and entertaining and provides readers with useful information about copyright.

Schweitzer, Harvey, and Judith Larsen. *Foster Care Law: A Primer*. Durham, N.C.: Carolina Academic Press, 2005. 176p. $30.

Reviewed by Patricia A. Satzer

¶53 My head is spinning after reading *Foster Care Law: A Primer*—not because the book is badly written, but because the subject matter is so much more complex than I had ever imagined! The introduction describes the authors' intent to give the reader a "running start" in understanding foster care law, a subject they describe as mostly "unwritten." They provide a fact-packed overview of foster care law for a diverse audience (social workers, judges, attorneys, students, and child advocates). They target practitioners who need a quick refresher on the issues, highlighting the levels of authority given to the various entities involved (the court, the foster care agency, the biological parents, and the child), the typical time lines, and the types of hearings that will take place.

¶54 Both authors are eminently qualified to write on the subject. Schweitzer teaches juvenile law as an adjunct professor at the Columbus School of Law, Catholic University of America. The back cover of the book notes that Schweitzer's practice concentrates in foster care and child welfare law and that "he helped create the Counsel for Child Abuse and Neglect Office at the D.C. Superior Court." The back cover also identifies Larsen as a "child and family advocate, and a consultant on child and family law to the courts, judicial and legal professional organizations, and state social services administrations."

22. Lolly Gasaway, When U.S. Works Pass into the Public Domain (Nov. 2, 2003), http://www.unc.edu/~unclng/public-d.htm.
23. Pub. L. No. 105-304, 112 Stat. 2860 (1998).

¶55 *Foster Care Law* is organized into six chapters, five appendixes, a section of footnotes, a glossary, and an index. The detailed table of contents serves as an excellent access point for finding sections on a particular aspect of the law. Every chapter follows the same internal structure: overview, legal issues, and conclusion. Each individual chapter examines the law and process from the point of view of one of the principal parties to the case. These major parties include foster children, foster parents, biological parents, public foster care agencies, and the courts.

¶56 The federal government defines foster care in title IV-E of the Social Security Act.[24] To obtain matching federal funds, state programs must stay within the federal definition. The Child Abuse Prevention and Treatment Act (CAPTA)[25] provides another restriction on federal funding to states by requiring them to provide attorneys or guardians ad litem to represent foster children. Other federal laws outline different aspects of foster care and child welfare law. The Adoption and Safe Families Act of 1997 (ASFA),[26] for example, requires that a safe, permanent placement be found for the foster child within the first twelve months of foster care. *Foster Child Care* covers special circumstances that can accelerate the clock and others that can stop it for temporary periods, such as trial home visits. At the end of twelve months, a *permanency hearing* is held to determine whether the child is returned to his biological parents, adopted, placed with relatives, placed under legal guardianship, or, if over age sixteen, can live independently. In addition to the federal child welfare laws, each state establishes its own foster care law and regulations.

¶57 Foster care laws vary greatly from state to state, which automatically increases the complexity of the case and requires the advocate to thoroughly understand the state systems as well as the law itself in order to represent his client well. The authors point out some of the differences in law from one state to another. The degree of authority given to parties involved can vary. In providing foster care professionals with this type of "heads up" information, the book would soon pay for itself.

¶58 For the layperson (biological or foster parent, teenage foster child, grandparent), the book explains in very readable prose how foster care and foster care laws operate. The appendixes contain especially helpful information for the lay reader, including a flowchart following the path a child takes through the foster care system, a brief explanation of how to find a legal case given its citation, excerpts from the ASFA, and a glossary. The largest appendix covers the potential liability issues involved in foster care, adding yet another level of complexity to the foster care law puzzle.

¶59 The book concludes with a selected bibliography and a nice index. I highly recommend the book to all libraries serving patrons dealing with, or learning about, the foster care system.

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24. 42 U.S.C. § 670 (2000).
25. 42 U.S.C. §§ 5101–06 (2000).
26. 42 U.S.C. §§ 671–75 (2000).

Skeel, David A. *Icarus in the Boardroom: The Fundamental Flaws in Corporate America and Where They Came From.* New York: Oxford University Press, 2005. 250p. $25.

Reviewed by Edwin J. Greenlee

¶60 *Icarus in the Boardroom: The Fundamental Flaws in Corporate America and Where They Came From* takes its inspiration from the corporate scandals of the early twenty-first century such as those involving Enron and Worldcom. David Skeel, a corporate law specialist with an interest in the intersection of law and culture, provides the reader with several things: a concise summary of the development of selected aspects of American corporate law; a model for the workings of American business culture, a culture that overvalues competition and risk taking and which, at times, generates public outcry over fraud and manipulative schemes; and a series of suggestions for legal and regulatory changes needed to curb systemic business excesses. Skeel also looks at the psychological makeup of the major players of the business world, executives—in all instances described in this book, men—who are enamored with risk taking and whose fatal flaw is unbridled confidence in their own ideas and abilities combined with a willingness to push, and frequently exceed, the legal limits of corporate executive action.

¶61 The heart of *Icarus* is a series of historical vignettes dealing with corporate risk takers who helped to shape the economy that we have today. These vignettes discuss how the American legal system has responded to some of the financial excesses in which these risk-taking entrepreneurs have engaged and which, at times, have harmed large numbers of individuals, including shareholders, employees, and the public at large. This feature of American society is a two-edged sword: while risk taking both drives technological innovation and facilitates many beneficial economic changes, it also often extracts deep economic costs from individuals in the path of Icaran leaders. The system itself often leads to the downfall of the schemes of these executives: successful ideas generate imitators who become competitors. Competitors cut into profits and challenge business leaders to take further risks. Ultimately, the schemes implode.

¶62 The narrative starts with the mid-nineteenth-century growth of nationwide railroads and the work of Jay Cooke who helped to arrange financing for that important task. It then leads us through the early twentieth-century public utility empire of Samuel Insull, which crashed during the 1930s. Skeel next turns to more recent corporate history, the 1980s era of corporate takeovers and junk bonds exemplified by the career of Michael Milken. Lastly, Skeel looks at the early twenty-first-century examples of the collapse of Enron and Worldcom.

¶63 Skeel concludes his book with a review of possible reforms. He identifies a common pattern across all of the examples of corporate executive hubris which he details. Typically, a creative, risk-taking entrepreneur will commit to a challenging new business venture. As competitors emerge and start to limit profits, the executive takes greater and greater risks to keep his enterprise economically viable, until

the project collapses. Public outrage emerges as the details of the failure come out, and the government reacts with regulatory legislation. Skeel looks to incremental rather than radical change in the realm of corporate action. One of Skeel's suggestions, having the government cover shareholder losses by means of insurance, has been criticized by some reviewers for shifting the risk of losses to taxpayers and, perhaps, ultimately encouraging even greater irresponsible risk taking since false steps would not have the dire economic consequences for Icaran corporate leaders that they have at present.

¶64 David Skeel is an elegant and compelling writer, and *Icarus in the Boardroom: The Fundamental Flaws in Corporate America and Where They Came From* is an absorbing and concise book. It contains detailed bibliographical notes that document Skeel's history of American economic development and the interaction of cultural and legal changes. This would be a good purchase for all academic legal collections. It would also be useful to undergraduates as well as the general public. It is an excellent resource for anyone who is interested in understanding the historical, economic, and legal context of the recent corporate scandals interwoven with a succinct and understandable overview of corporate law.

Sloan, Amy E., and Steven D. Schwinn. *Basic Legal Research Workbook*. 2d ed. New York: Aspen Publishers, 2005. 178p. $28.95.

Reviewed by Lucy Cox

¶65 *Basic Legal Research Workbook* provides a solid foundation for developing practical skills using major legal research resources in both print and electronic format. The preface states that the book is not meant to be self-instructional, but should instead be used in conjunction with a legal research text or classroom instruction. Although any number of other texts may be used, the authors specifically recommend *Basic Legal Research: Tools and Strategies.*[27] While geared primarily to law students and instructors for use in legal research courses, the book is also of value to paralegals, librarians, practitioners, and others as a convenient reference source for learning or reviewing specific aspects of legal research.

¶66 This edition differs from its predecessor[28] in that it includes revised problems and updated material, especially for electronic and Internet sources. Both authors are experienced legal research instructors, Sloan at the University of Baltimore Law School and Schwinn at the University of Maryland School of Law.

¶67 The book is clearly written, well organized, and adheres to a consistent format throughout most of the chapters. Its core consists of exercises based on hypothetical fact patterns and legal questions. Both guided and unguided exercises are included. The interesting hypotheticals, covering issues from attractive nuisance to extradition to a foreign country, give users a sense of the breadth of

27. Amy E. Sloan, Basic Legal Workbook: Tools and Strategies (2d ed. 2003).
28. Amy E. Sloan & Steven D. Schwinn, Basic Legal Research Workbook (2002).

legal practice. Exercises using both print and electronic resources are included in the individual chapters, but the authors suggest it is up to the instructor whether to teach both at the same time or to teach print sources first and defer the electronic sources until later in the semester. The introduction to each chapter identifies the chapter goal and contains review questions that test users' basic understanding of the material. For example, one of the review questions at the beginning of the chapter on case research asks for the difference between digests and reporters. A succinct explanation of the specific research features to be covered is also given at the beginning of each chapter.

¶68 The first chapter is preparatory and meant to acquaint users with the basics of different types of legal authority and the process for locating local and state cases, statutes, and constitutional provisions. The second chapter deals with generating search terms and includes a chart of search term categories, a useful tool when working on the assignments in the book or other research projects. Chapters 3 through 8 cover research in, respectively, secondary sources, case law, Shepard's and other citators, statutes, federal legislative history, and federal administrative law. Chapter 9 is devoted to electronic search techniques, and the authors point out that it could be assigned earlier in the sequence if students have received some basic instruction in electronic research. This chapter focuses on refining Boolean search techniques and reviews electronic search strategies. The final chapter gives an explanation of research planning. For each assignment, multiple hypothetical problem sets are provided. As the research questions for each assignment are generic, students can work on different problems in the library at the same time, avoiding the chaos that results when an entire class converges on one or two sets of resource material at the same time.

¶69 *Basic Legal Research Workbook* provides reassuring guidance as the user works through each assignment. Many copious "hints," explanations, and suggestions are provided. The problems for each exercise build in complexity, so users progress from retrieving information to answering legal questions based on what they have found. This promotes an increased awareness of the relationship between specific items retrieved and the overall process of analyzing and solving legal problems. Users are also regularly introduced to excellent Internet resources—one of the great strengths of this book is its emphasis on the value of Internet sources for legal research. Examples include FindLaw (www.findlaw.com), Thomas: Legislative Information on the Internet (http://thomas.loc.gov), the Government Printing Office's GPO Access (www.access.gpo.gov), and Cornell Law School's Legal Information Institute (www.law.cornell.edu).

¶70 Its comprehensiveness, skillful organization, and clear teaching methodology should earn *Basic Legal Research Workbook* a place on any list of recommended books for teaching and learning practical legal research skills. Law students who use it in the first year are well advised to keep it handy for the rest of their law school career, and to carry it with them into legal practice. All law libraries should have it on their shelves for ready access as a reference guide for anyone needing advice on doing legal research.

@inproceedings{Brooks2014KeepingUW, title={Keeping Up with New Legal Titles}, author={T. Brooks}, year={2014} }. T. Brooks. Published 2014. Sociology. View PDF. Save to Library. Create Alert.Â Should You Use a Textbook to Teach Legal Research. N. Johnson. Sociology. 2011. 5. Save. Alert. Citation Information. Beau Steenken. "Keeping Up with New Legal Titles" Law Library Journal Vol. 108 Iss. 1 (2016) Available at: http://works.bepress.com/beau_steenken/8/. Copyright 1999â€“2020 bepress.â„¢ All rights reserved. Keeping up with the Joneses is an idiom in many parts of the English-speaking world referring to the comparison to one's neighbor as a benchmark for social class or the accumulation of material goods. To fail to "keep up with the Joneses" is perceived as demonstrating socio-economic or cultural inferiority. The phrase originated in a comic strip of the same name.