

*The Cambridge
History of*
**LAW IN
AMERICA**

**VOLUME III
THE TWENTIETH
CENTURY AND AFTER
(1920–)**

Edited by
**MICHAEL GROSSBERG
CHRISTOPHER TOMLINS**

THE CAMBRIDGE HISTORY OF LAW IN AMERICA

VOLUME III

The Twentieth Century and After (1920–)

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THE CAMBRIDGE HISTORY OF LAW IN AMERICA

VOLUME III

The Twentieth Century and After (1920–)

Law stands at the center of modern American life. Since the 1950s, American historians have produced an extraordinarily rich and diverse literature that has vastly expanded our knowledge of this familiar and vital yet complex and multifaceted phenomenon. But few attempts have been made to take full account of law's American history. *The Cambridge History of Law in America* has been designed for just this purpose. In three volumes we put on display all the intellectual vitality and variety of contemporary American legal history. We present as comprehensive and authoritative an account as possible of the present understanding and range of interpretation of the history of American law. We suggest where future research may lead.

In 1941, Henry Luce of *Time Magazine* named the twentieth century "the American Century." For our purposes it begins after World War I: the war was a watershed that foreshadowed a new American state form and role, confirmed the dominance of the new American corporate economy, and gave rise to a new range of international ambitions and relationships. Each arena saw such an intensification of the role of law that by its end, "the American Century was being called 'Law's Century.'" Not everything that seemed new was, but by and large this final volume of the *History* is about accelerating change: innovation in the state, in legal thought and education, in professional organization and life, and in American federalism and governance; innovation at the intersection of law with explosive struggles around race, gender, class, and sexual liberation and the full emergence of "rights" discourse, along with its limitations and blind spots; and the mobilization of "rights" and "law" to "legalize" the world. In the early twenty-first century, about the only prediction we can confidently make is that change is not yet done with us.

The Cambridge History of Law in America has been made possible by the generous support of the American Bar Foundation. Volumes I and II cover the history of law in America, respectively, from the first moments of English colonizing through the creation and stabilization of the republic; and from the foundation of the republic until the immediate aftermath of World War I.

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EDITORS' PREFACE

In February 1776, declaiming against the oppressive and absolute rule of "the Royal Brute of Britain," the revolutionary pamphleteer Tom Paine announced to the world that "so far as we approve of monarchy...in America THE LAW IS KING"! Paine's declaration of Americans' "common sense" of the matter turned out to be an accurate forecast of the authority the legal order would amass in the revolutionary republic. Indeed, Paine's own fiery call to action was one of the stimuli that would help his prediction come true. We know ourselves that what he claimed for law then mostly remains true now. Yet, we should note, Paine's claim was not simply prophecy; it made sense in good part because of foundations already laid. Long before 1776, law and legal institutions had gained a place of some prominence in the British American colonies. The power and position of law, in other words, are apparent throughout American history, from its earliest moments. The three volumes of *The Cambridge History of Law in America* explain why Paine's synoptic insight should be understood as both an eloquent foretelling of what would be and an accurate summation of what already was.

The Cambridge History of Law in America belongs to a long and proud scholarly tradition. In March 1896, at the instigation of Frederick William Maitland, Downing Professor of the Laws of England at Cambridge University, and of Henry Jackson, tutor in Greek at Trinity College, the syndics of Cambridge University Press invited the University's Regius Professor of Modern History, Lord John Dalberg Acton, to undertake "the general direction of a History of the World." Six months later Acton returned with a plan for a (somewhat) more restrained endeavor, an account of Europe and the United States from *The Renaissance* to *The Latest Age*. Thus was born *The Cambridge Modern History*.

Acton's plan described a collaborative, collectively written multi-volume history. Under general editorial guidance, each volume would be divided among "specially qualified writers" primed to present extensive and

authoritative accounts of their subjects.¹ They were to imagine themselves writing less for other professional historians than for a more general audience of "students of history" – anyone, that is, who sought an authoritative, thoughtful, and sophisticated assessment of a particular historical subject or issue. Acton envisioned a history largely clean of the professional apparatus of reference and citation – texts that would demonstrate the "highest pitch of knowledge without the display," reliant for their authority on the expertise of the authors chosen to write them. And although it was intended that the *History* be the most complete general statement of historical knowledge available, and to that extent definitive, Acton was not interested in simply reproducing (and thus by implication freezing) what was known. He desired that his authors approach the task critically, strive for originality in their research, and take it on themselves to revise and improve the knowledge they encountered.²

Acton did not live to see even the first volume in print, but between 1902 and 1911 *The Cambridge Modern History* appeared in twelve substantial volumes under the editorial direction of Adolphus Ward and Stanley Leathes. The *History* quickly found a broad audience – the first volume, *The Renaissance*, sold out in a month. Other Cambridge histories soon followed: *The Cambridge History of English Literature*, which began to appear under Ward's editorship in 1907; *The Cambridge Medieval History* (1911–36); *The Cambridge History of American Literature* (1917–21); *The Cambridge Ancient History* (1923–39); *The Cambridge History of the British Empire* (1929–67); *The Cambridge History of India* (1922–60), and more. All told, close to a hundred Cambridge histories have been published. More than fifty are currently in print. Cambridge histories have justly become famous. They are to be found in the collections of libraries and individuals throughout the world.

Acton's plan for *The Cambridge Modern History* invoked certain essentials – an ideal of collective authorship and a commitment to make expertise accessible to a wider audience than simply other specialists. To these he added grander, programmatic touches. The *History* would be "an epic," a "great argument" conveying "forward progress . . . upward growth." And it would provide "chart and compass for the coming century." Such ambitions are

¹ When, early on, Acton ran into difficulties in recruiting authors for his intimidating project, Maitland gently suggested that "his omniscient lordship" simply write the whole thing himself. Acton (we note with some relief) demurred. There is humor here, but also principle. Collective authorship is a practice ingrained in the Cambridge histories from the beginning.

² Our account of Acton's plan and its realization gratefully relies throughout on Josef L. Altholz, "Lord Acton and the Plan of the *Cambridge Modern History*," *The Historical Journal*, 39, no. 3 (September 1996), 723–36.

characteristic of Acton's moment – the later nineteenth century – when in Britain and Continental Europe history still claimed an educative mantle “of practical utility,” the means rather than science (or law) to equip both elites and ordinary citizens “to deal with the problems of their time.” It was a moment, also, when history's practitioners could still imagine filling historical time with a consistent, standardized account – the product, to be sure, of many minds, but minds that thought enough alike to agree on an essential common purpose: “men acting together for no other object than the increase of accurate knowledge.” Here was history (accurate knowledge) as “the teacher and the guide that regulates public life,” the means by which “the recent past” would yield up “the key to present time.” Here as well, lest we too quickly dismiss the vision as naïve or worse, was the shouldering of a certain responsibility. “We have to describe the ruling currents, to interpret the sovereign forces, that still govern and divide the world. There are, I suppose, at least a score of them, in politics, economics, philosophy and religion. . . . But if we carry history down to the last syllable of recorded time, and leave the reader at the point where study passes into action, we must explain to him the cause, and the growth, and the power of every great intellectual movement, and equip him for many encounters of life.”

Acton's model – a standard general history, a guiding light produced by and for an intellectually confident elite – could not survive the shattering effects of two world wars. It could not survive the democratization of higher education, the proliferation of historical scholarship, the constant emergence of new fields and subdisciplines, the eventual decentering of Europe and “the West.” When, amid the rubble and rationing of a hastily de-colonizing post-World War II Britain, Cambridge University Press's syndics decided a revised version was required – a *New Cambridge Modern History* for a new day – their decision acknowledged how much the world had changed. The revised version bore them out. Gone was Acton's deep faith in history's authority and grandeur. The general editor, G. N. Clark, wrote, “Historians in our self-critical age are aware that there will not be general agreement with their conclusions, nor even with some of the premises which they regard as self-evident. They must be content to set out their own thought without reserve and to respect the differences which they cannot eradicate” – including, he might have added (but perhaps there was no need) the many fundamental differences that existed among historians themselves. Cambridge histories no longer aspired to create standardized accounts of the way things had been nor to use the past to pick the lock on the future. The differences in perspective and purpose that a less confident, more self-critical age had spawned were now the larger part of the picture.

Yet the genre Acton helped found has now entered its second century. It still bears, in some fashion, his imprint. The reason it has survived, indeed

prospered, has less to do with some sense of overall common purpose than the more modest but nevertheless essential precept of continued adherence to certain core principles of design simply because they have worked: individual scholars charged to synthesize the broad sweep of current knowledge of a particular topic, but also free to present an original interpretation aimed at encouraging both reflection and further scholarship, and an overall architecture that encourages new understandings of an entire subject or area of historical scholarship. Neither encyclopedias nor compilations, textbooks nor works of reference, Cambridge histories have become something quite unique – each an avowedly collective endeavor that offers the single best point of entry to the wide range of an historical subject, topic, or field; each in overall conceptual design and substance intent not simply on defining its field's development to date but on pushing it forward with new ideas. Critique and originality, revision and improvement of knowledge – all remain germane.

Readers will find that *The Cambridge History of Law in America* adheres to these core goals. Of course, like other editors we have our own particular ambitions. And so the three volumes of this Cambridge history have been designed to present to full advantage the intellectual vitality and variety of contemporary American legal history. Necessarily then – and inevitably – *The Cambridge History of Law in America* dwells on areas of concern and interpretive debates that preoccupy the current generation of legal historians. We do not ignore our predecessors.³ Nor, however, do we attempt in the body of the *History* to chart the development of the field over their time and ours in any great detail. Readers will find a more substantial accounting of that development in the bibliographic essays that accompany each chapter, but as editors we have conceived our job to be to facilitate the presentation of as comprehensive and authoritative a rendition of the present understanding of the history of American law as possible and to suggest where future research may lead.

Cambridge histories always define their audiences widely; ours is no exception. One part of our intended audience is scholarly, but hardly confined to other legal historians; they are already the best equipped to know something of what is retailed here. So to an important extent we try to look past legal historians to historians at large. We also look beyond history to scholars across the broad sweep of law, the humanities, and the social sciences – indeed to any scholar who may find a turn to law's history useful (or simply diverting) in answering questions about law and society in America.

³ See, for example, the graceful retrieval and reexamination of themes from the “imperial school” of American colonial historians undertaken by Mary Sarah Bilder in Volume I, Chapter 3.

A second part of our audience is the legal profession. Lawyers and judges experience in their professional lives something of a practical encounter with the past, although the encounter may not be one they would recognize as "historical." As John Reid has written, "The lawyer and the historian have in common the fact that they go to the past for evidence, but there the similarity largely ends." Here lawyers and judges can discover for themselves what historians do with evidence. In the process, they will also discover that not inconsiderable attention has been paid to their own lives and experiences. Legal historians have always known how important legal thought and legal education are in the formation of the professional world of the law, and both feature prominently in this *History*. Here the profession encounters the history of its activities and of the medium it inhabits from a standpoint outside itself.

The third segment of our intended audience is the general public. Our purposes in this encounter are not Acton's. We do not present this *History* as the means to educate a citizenry to deal with the problems of the moment. (Indeed, it is worth noting that in America law appropriated that role to itself from the earliest days of the republic.) Like G. N. Clark, today's historians live in self-critical times and have lower expectations than Lord Acton of what historical practice might achieve. That said, readers will find that this *History* touches on many past attempts to use law to "deal with" many past problems: in the America where law is king, it has been law's fate to be so employed. And if their accounts leave some of our authors critical in their analysis of outcomes or simply rueful in recounting the hubris (or worse) of the attempts, that in itself can be counted an education of sorts. Moreover, as Volume III's chapters show repeatedly, Americans continue to turn to law as their key medium of private problem solving and public policy formation and implementation, and on an expanding – global – stage. In that light, there is perhaps something for us to learn from Acton's acknowledgment that the scholar-expert should not abandon the reader "at the point where study passes into action." We can at the very least offer some reflection on what an encounter with the past might bring by way of advice to the "many encounters of life" lying ahead.

In reaching all three of our intended audiences, we are greatly assisted by the pronounced tendency to "demystify" and diversify its subject that has characterized American legal history for a half-century. To some, the field's very title – "legal history" – will conjure merely an arcane pre-occupation with obscure terminologies and baffling texts, the doctrines and practices of old (hence defunct) law, of no obvious utility to the outsider whether historian or social scientist or practicing lawyer or just plain citizen. No doubt, legal history has at times given grounds to suppose that such a view of the discipline is generally warranted. But what is interesting

in American legal history as currently practiced is just how inappropriate that characterization seems.

To read the encomia that have accumulated over the years, one might suppose that the demise of legal history's obscurity was the single-handed achievement of one man, James Willard Hurst, who on his death in 1997 was described in the *New York Times* as "the dean of American legal historians." Indeed, Hurst himself occasionally suggested the same thing; it was he who came up with the aphorism "snakes in Ireland" to describe legal history in America at the time he began working in the field in the 1930s. Though not an immodest man, it seems clear whom he cast as St. Patrick. Yet the *Times*' description was merited. Hurst's lifework – the unpacking of the changing roles of American law, market, and state from the early nineteenth to the early twentieth centuries – set the agenda of American legal historians from the 1950s well into the 1980s. That agenda was a liberation from narrower and more formalistic preoccupations, largely with the remote origins of contemporary legal doctrine or with the foundations of American constitutionalism, that had characterized the field, such as it was, earlier in the century. Most important, Hurst's work displayed some recognition of the multidimensionality of law in society – as instrument, the hallmark with which he is most associated, but also as value and as power. Hurst, in short, brought legal history into a continuing dialogue with modernity, capitalism, and the liberal state, a dialogue whose rich dividends are obvious in this *History*.

Lawyers have sometimes asked aggressively anachronistic questions of history, like – to use an apocryphal example of Robert Gordon's – "Did the framers of the Constitution confer on the federal government the power to construct an interstate highway system?" Hurstian legal history did not indulge such questions. But Hurstians did demonstrate a gentler anachronism in their restriction of the scope of the subject and their interpretation of it. Famously, for Hurst, American legal history did not begin until the nineteenth century. And when it did begin it showed a certain consistency in cause and effect. As Kermit Hall summarized the view in 1989, "Our legal history reflects back to us generations of pragmatic decision making rather than a quest for ideological purity and consistency. Personal and group interests have always ordered the course of legal development; instrumentalism has been the way of the law."⁴ The Hurstian determination to demystify law occasionally reduced it to transparency – a dependent variable of society and economy (particularly economy) tied functionally to social and economic change.

⁴ Kermit L. Hall, *The Magic Mirror: Law in American History* (New York, 1989), 335.

As a paradigm for the field, Hurstian legal history long since surrendered its dominance. What has replaced it? In two words, astonishing variety. Legal historians are aware that one cannot talk or write about economic or social or political or intellectual history, or indeed much of any kind of history, without immediately entering into realms of definition, prohibition, understanding, practice, and behavior that must imply law to have meaning. Try talking about property in any of those contexts, for example, without implying law. Today's legal historians are deeply engaged across the full range of historical investigation in demonstrating the inextricable salience of law in human affairs. As important, the interests of American historians at large have never been more overtly legal in their implications than now. To take just four popular areas of inquiry in American history – citizenship and civic personality, identity, spatiality, and the etiology of social hierarchy and subordination – it is simply impossible to imagine how one could approach any of these areas historically without engaging with law, legal ideology, legal institutions, legal practices, and legal discourse. Legal historians have been and remain deeply engaged with and influenced by social history, and as that field has drifted closer and closer to cultural history and the historical construction of identity so legal history has moved with it. The interpretive salience of race and ethnicity, of gender and class is as strong in contemporary legal historical practice as in any other realm of history. Add to that the growing influence of legal pluralism in legal history – the migration of the field from a focus on “the law” to a focus on the conditions of existence of “legality” and the competition of many alternative “legalities” – and one finds oneself at work in a field of immense opportunity and few dogmas.

“Astonishing variety” demonstrates vitality, but also suggests the benefits of a judicious collective effort at authoritative summation. The field has developed at an extraordinary rate since the early 1970s, but offers no work that could claim to approach the full range of our understanding of the American legal past.⁵ *The Cambridge History of Law in America* addresses both

⁵ The field has two valuable single-author surveys: Lawrence M. Friedman's *A History of American Law* (New York, 1973; 3rd ed. 2005) and Kermit Hall's *The Magic Mirror*. Neither approaches the range of what is on display here. The field also boasts volumes of cases and commentary, prepared according to the law teaching “case book” model, such as Stephen B. Presser and Jamil S. Zainaldin, *Law and Jurisprudence in American History: Cases and Materials* (St. Paul, MN, 1980; 6th ed. 2006) and Kermit Hall, et al., *American Legal History, Cases and Materials* (New York, 3rd ed., 2003). There also exist edited volumes of commentary and materials that focus on broad subject areas within the discipline of legal history; a preponderance deal with constitutional law, such as Lawrence M. Friedman and Harry N. Scheiber, eds., *American Law and the Constitutional Order: Historical Perspectives* (Cambridge, MA, 1978; enlarged ed. 1988). Valuable in

the vitality of variety and its organizational challenge. Individually, each chapter in each volume is a comprehensive interrogation of a key issue in a particular period of American legal history. Each is intended to extend the substantive and interpretative boundaries of our knowledge of that issue. The topics they broach range widely – from the design of British colonizing to the design of the successor republic and of its successive nineteenth- and twentieth-century reincarnations; from legal communications within empires to communications among nation-states within international law to a sociology of the “legalization” that enwraps contemporary globalism; from changes in legal doctrine to litigation trend assessments; from clashes over law and religion to the intersection of law and popular culture; from the movement of peoples to the production of subalternship among people (the indigenous, slaves, dependents of all kinds); and from the discourse of law to the discourse of rights. Chapters also deal with developments in specific areas of law and of the legal system – crime and criminal justice, economic and commercial regulation, immigration and citizenship, technology and environment, military law, family law, welfare law, public health and medicine, and antitrust.⁶

Individual chapters illustrate the dynamism and immense breadth of American legal history. Collectively, they neither exhaust its substance nor impose a new interpretive regimen on the field. Quite the contrary, *The Cambridge History of Law in America* intentionally calls forth the broad array of methods and arguments that legal historians have developed. The contents of each volume demonstrate not just that expansion of subject and method is common to every period of American legal history but also that as the long-ascendant socio-legal perspective has given way to an increasing diversity of analytical approaches, new interpretive opportunities are rife everywhere. Note the influence of regionalism in Volume I and of institutionalism in Volume II. Note the attention paid in Volume III not only to race and gender but also to sexuality. The *History* shows how legal history

their own right, such volumes are intended as specific-purpose teaching tools and do not purport to be comprehensive. Finally, there are, of course, particular monographic works that have proven widely influential for their conceptual acuity, or their capacity to set a completely new tone in the way the field at large is interpreted. The most influential have been such studies as James Willard Hurst, *Law and the Conditions of Freedom in the Nineteenth-Century United States* (Madison, WI, 1956), and Morton J. Horwitz, *The Transformation of American Law, 1780–1860* (Cambridge, MA, 1977).

⁶ Following the tradition of Cambridge histories, each chapter includes only such footnotes as the author deems necessary to document essential (largely primary) sources. In place of the dense display of citations beloved of scholarly discourse that Acton's aesthetic discouraged, each author has written a bibliographic essay that provides a summary of his or her sources and a guide to scholarly work on the subject.

has entered dialogue with the full array of “histories” pursued within the academy – political, intellectual, social, cultural, economic, business, diplomatic, and military – and with their techniques.

The Cambridge History of Law in America is more than the sum of its parts. The *History*'s conceptual design challenges existing understandings of the field. We divide the American legal past into three distinct eras and devote a complete volume to each one: first *Early America*, then *The Long Nineteenth Century*, and last *The Twentieth Century and After*. The first volume, *Early America*, examines the era from the late sixteenth century through the early nineteenth – from the beginnings of European settlement through the creation and stabilization of the American republic. The second volume, *The Long Nineteenth Century*, begins with the appearance of the United States in the constituted form of a nation-state in 1789; it ends in 1920, in the immediate aftermath of World War I, with the world poised on the edge of the “American Century.” The final volume, *The Twentieth Century and After*, concentrates on that American century both at home and abroad and peers into the murk of the twenty-first century. Within each of these broad chronological divisions occurs a much more detailed subdivision that combines an appreciation of chronology with the necessities of topical specialization.

Where appropriate, topics are revisited in successive volumes (crime and criminal justice, domestic relations law, legal thought, and legal education are all examples). Discussion of economic growth and change is ubiquitous, but we accord it no determinative priority. To facilitate comparisons and contrasts within and between eras, sequences of subjects have been arranged in similar order in each volume. Specific topics have been chosen with an eye to their historical significance and their social, institutional, and cultural coherence. They cannot be walled off from each other, so readers will notice substantive overlaps when more than one author fastens on the same issues, often to create distinct interpretations of them. History long since ceased to speak with one voice. In this *History*, readers are invited into a conversation.

Readers will notice that our chronology creates overlaps at the margins of each era. They will also notice that some chapters focus on only particular decades within a specific era⁷ or span more than one era.⁸ All this is

⁷ Chronologically specific topics – the American Revolution and the creation of the republic in Volume I, the Civil War in Volume II, the New Deal era in Volume III – are treated as such. Chapters on the legal profession in Volumes II and III divide its development at the Civil War, as do those, in Volume II, on the state and on industrial organization.

⁸ Volume II's chapter on the military deals with both the nineteenth and twentieth centuries, as do Volume III's chapters on agriculture and the state and on law and the environment. The latter chapter, indeed, also gestures toward the colonial period.

intentional. Historians construct history by placing subjects in relation to each other within the continuum of historical time. Historians manipulate time by creating periods to organize the placement of subjects. Thus, when historians say that a subject has been "historicized," they mean it has been located in what they consider its appropriate historical-temporal context or period. Slicing and dicing time in this fashion is crucial to the historian's objective of rendering past action coherent and comprehensible, but necessarily it has a certain arbitrariness. No matter how familiar – the colonial period, the Gilded Age, the Progressive period, and so forth – no historical period is a natural division: all are constructs. Hence we construct three "eras" in the interests of organizational coherence, but our overlaps and the distinct chronologies chosen by certain of our authors allow us to recognize different temporalities at work.

That said, the tripartite division of these volumes is intended to provide a new overall conceptual schema for American legal history, one that is broad and accommodating but that locates legal history in the contours of American history at large. Maitland never forgot that, at bottom, just as religious history is history not theology, legal history is history not law. Notwithstanding law's normative and prescriptive authority in "our" culture, it is a phenomenon for historical inquiry, not the source of an agenda. And so we take our cue, broadly, from American history. If it is anything, American history is the history of the colonization and settlement of the North American mainland, it is the history of the creation and expansion of an American nation-state, and it is the history of that state's place in and influence on the world at large. The contents and the organization of *The Cambridge History of Law in America* speak to how law became king in this America and of the multitudinous empire of people and possibilities over which that king reigned. Thus we address ourselves to the endless ramifications, across more than four centuries, of the meaning of Tom Paine's exclamation in 1776.

The Cambridge History of Law in America could not have been produced without the support and commitment of the American Bar Foundation, Cambridge University Press, and our cadre of authors. We thank them all.

The American Bar Foundation housed the project and, together with the Press, funded it. The Foundation was there at the creation: it helped initiate the project by sponsoring a two-day meeting of an ad hoc editorial consulting group in January 2000. Members of that group (Laura Edwards, Tony Freyer, Robert Gordon, Bruce H. Mann, William Novak, Stephen Siegel, Barbara Young Welke, and Victoria Saker Woeste) patiently debated the editors' initial thoughts on the conceptual and intellectual direction that the *History* should follow and helped identify potential contributors. Since then,

the project has benefited from the support of two ABF directors, Bryant Garth and his successor Robert Nelson, and the sustained and enthusiastic interest of the Foundation's Board of Directors during the tenure of four Board presidents: Jacqueline Allee, M. Peter Moser, the late Robert Hetlage, and David Tang. We owe a particular debt of gratitude to Robert MacCrate for his early support and encouragement. As all this suggests, the American Bar Foundation's role in the production of *The Cambridge History of Law in America* has been of decisive importance. The part the Foundation has played underlines its standing as the preeminent research center for the study of law and society in the United States and its long tradition of support for the development of American legal history.

Cambridge University Press has, of course, been central to the project throughout. We are grateful to the syndics for their encouragement and to Frank Smith and his staff in New York for their assistance and support. Frank first suggested the project in 1996. He continued to suggest it for three years until we finally succumbed. During the years the *History* has been in development, Frank has accumulated one responsibility after another at the Press. Once we rubbed shoulders with the Executive Editor for Social Sciences. Now we address our pleas to the Editorial Director for Academic Books. But Frank will always be a history editor at heart, and he has maintained a strong interest in this *History*, always available with sage advice as the project rolled relentlessly onward. He helped the editors understand the intellectual ambitions of a Cambridge history. Those who have had the privilege of working with Frank Smith will know how important his advice and friendship have been to us throughout.

Finally, the editors want to thank the authors of the chapters in these volumes. A project like this is not to every author's taste – some took to it more easily than others. But together the sixty authors who joined us to write the *History* have done a magnificent job, and we are deeply grateful to every one. From the beginning our goal was not only to recruit as participants those whom all would identify as leading figures of our field but also to include those who, we were confident, would be leading figures of its next generation. We are delighted that so many of each were willing. We acknowledge also those who were unable for one reason or another to see an initial commitment through to the end: their efforts, too, helped us define and establish the project. And obviously, we owe a particular debt to those others who came later to take the places of the fallen.

To oversee a project in which so many people have at one time or another been involved has seemed on occasion like being the mayors of a village. People arrive and (much less frequently, thank goodness) depart. Those who settle in for the duration become a community of friends and neighbors. Over time, one learns much from one's friends and neighbors about the joys

and vicissitudes of life. One learns who (and whose family) may be ailing, and who is well. One learns of hurts and difficulties; one revels in successes. And one may learn, as we did so sadly in August 2006, of an untimely death. Notwithstanding the demands of his immensely successful career in academic administration, our colleague Kermit Hall never laid down his historian's pen and was an enthusiastic participant in this project. He died suddenly and unexpectedly. His contributions to the field have been great, and he is greatly missed.

Throughout, the many authors in this project have responded courteously to our editorial advice. They have reacted with grace and occasional humor to our endless demands that they meet their deadlines. Sometimes they even sent their manuscripts too. Most important, they have striven to achieve what we asked of them – the general goals of a Cambridge history and the specific goals of *this* history, as we have described them in this preface. Their achievements are evident in the pages of each volume. In an individualistic intellectual culture, the scholarship on display here demonstrates the possibilities inherent in a collective intellectual enterprise. In the end, of course, the editors, not the authors, are responsible for the contents of these volumes. Yet, it is the authors who have given the *History* its meaning and significance.

Michael Grossberg
Christopher Tomlins

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