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## Book Review of American Legal Realism and Empirical Social Science, by John Henry Schlegel

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old-fashioned, whiggish historical narrative. It would be hard to deny that the book is full of useful information with tremendous contemporary relevance, but some readers will be worried by the historiographical holes.

Despite the fifty-year span encompassed by the subtitle, *Safety Net* is concerned disproportionately with the early years of the federal welfare state. Here Coll makes her main scholarly contribution, this despite the formidable amount of good work that has already been undertaken in this area. The sections on the birth of the Aid to Dependent Children program are particularly insightful, showing, for example, how the desire of the Abbott sisters and the Children's Bureau to help "nice families" collided with the preference of the Bureau of Public Assistance for assistance on the basis of need. Coll illuminates debates over work, entitlement, and federalism that have startling relevance sixty years on.

According to its publisher, *Safety Net* is "the only comprehensive history of modern welfare in the United States." This incautious claim is undermined not simply by the existence of other such histories (what of the work of Edward Berkowitz, Michael Katz, and James Patterson?) but also by Coll's somewhat limited focus. Legitimately preoccupied with the developing perspective of the federal welfare bureaucracy and the social work profession, she pays little attention to the external pressures, trends, and prejudices that acted upon them. The changing composition of the poor population, the broader odyssey of the progressive impulse, the impact of economic trends on social policy, and the role of race in generating or thwarting policy innovation receive scant treatment.

Still, *Safety Net* remains a valuable contribution to our understanding of the politics of welfare. Any contemporary politician who believes that obligation, rehabilitation, workfare, and other current mantras represent some kind of break with the preoccupations of the past would do well to ponder the frequency with which they punctuate Blanche Coll's timely book.

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*American Legal Realism and Empirical Social Science.* By John Henry Schlegel. (Chapel Hill: University of North Carolina Press, 1995. xiv, 418 pp. \$55.00, ISBN 0-8078-2179-9.)

*American Legal Realism and Empirical Social Science* is a refreshing and insightful analysis of the origins, flowering, and demise of "legal realism." Professor John Henry Schlegel seeks to reorient the historical discussion by passing over the well-known jurisprudential debate that flared in the late twenties and thirties and by focusing instead on the significance of "one of the things that the Realists did that never figured in the common understanding," conducting "empirical legal research." The approach proves both rich and provocative. His book succeeds admirably not only in expanding our understanding of legal realism but also in illuminating both the cultural evolution of the profession of law teaching and the course of academic legal thinking in the twentieth-century United States.

Schlegel's focus shifts attention away from the roles played by such "major" realist figures as Karl Llewellyn and Jerome Frank and toward the efforts of some of those usually placed in the background, principally Charles E. Clark, Walter Wheeler Cook, and Underhill Moore. The result is to individualize and complicate the idea of a realist "movement" and to root it deeply in the historically specific social context of the emerging profession of law teaching. Schlegel's chapter on the early careers of Cook and Moore, for example, provides a brilliant account of the ways in which developing conceptions of professional identity and broadening intellectual horizons combined—in quite different ways—to nudge them both away from classical "boundary maintenance" work and toward distinct types of critical and "scientific" scholarship. Again, the altered focus leads Schlegel to explore important issues that earlier historians slighted or ignored, including the court studies done at Yale University in the 1920s and 1930s and the accomplishments of those somewhat distant relatives of realism who tried to revitalize empirical legal research in the 1950s and 1960s. Particularly valuable is his thoughtful discussion—the most complete and balanced

one available — of the ill-fated realist Institute of Law that operated at Johns Hopkins University from 1928 to 1933.

Although Schlegel advocates a highly contextualized and individualized type of intellectual history, throughout the book he nevertheless stalks methodically the answer to the broad and Veblenesque question he poses on his first page: In spite of the rise of modern science and the consequent transformation of other academic disciplines in the early twentieth century, “Why did law not become a scientific study?” His pointed and essentially Veblenesque answer, stripped of its complexities, is that the possibilities for truly scientific studies of law were constricted, marginalized, and rendered essentially irrelevant by the vocational ethos, culture, and self-identity of the emergent American profession of law teaching. Law professors, Schlegel maintains, came to conceive of their discipline and their own self-identities in terms of a knowledge of formal rules and a commitment to the elaboration of normative propositions. Consequently, science “as a criticism of other ways of knowing” was simply “too threatening” to their “professional identity.”

Schlegel has written a thoroughly researched, perceptive, and provocative book that adds immeasurably to our understanding of legal realism and the culture of American law teaching. It should become a foundation stone for subsequent discussions of twentieth-century American legal thought and education.

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*Regulation and the Revolution in United States Farm Productivity.* By Sally H. Clarke. (New York: Cambridge University Press, 1994. xiv, 310 pp. \$59.95, ISBN 0-521-44117-X.)

This book is a cliometric study of the adoption of the tractor in the Midwest in 1929 and 1939. The purpose of the study is to ascertain the relationship between regulation of the

farm sector and the dramatic increase in farm productivity.

Sally H. Clarke appeals to Joseph Schumpeter's focus on the dynamic process of growth rather than on the static neoclassical model. Like Schumpeter, Clarke questions the extent to which competition promotes growth and suggests that some reduction in perfect competition (such as regulation) may stimulate higher rates of innovation. Clarke argues that while markets send signals to producers, much depends on how firms respond internally to those messages. Family farms differ from neoclassical firms.

Using the threshold model of Paul David, Clarke finds the unexpected result that many farmers did not adopt the tractor in 1929, even when the threshold model predicted they should. Clarke contends that competitive markets are not enough to explain the farmers' delay. Clarke suggests the “farmers' investment climate thesis” to explain the anomaly. Farmers had the strategy of selecting inputs that limited their cash outlays and thus limited their exposure to losses due to low crop prices. Family farmers are risk-averse, fearing the downside of volatile crop prices. Family farmers are cash conserving and use inputs created on the farm such as raising horses for power and using their manure for fertilizer. The family farm is a household that wants security even if it is in conflict with profit.

Farmers had to be able and willing to use their cash earnings or credit to finance investment. But credit in the 1920s was short-term, high-interest, and not always available. As a result, farmers did not adopt the tractor in 1929, even though it would have been profitable.

Using the threshold model for 1939, Clarke finds the further unexpected result that many farmers did adopt the tractor then, in spite of the fact that the threshold had not changed in the intervening decade. Despite the depression, farmers invested in expensive capital equipment.

Clarke asserts that the difference between 1929 and 1939 was New Deal regulation. In 1933, the Commodity Credit Corporation started a price support loan system that stabilized crop prices. Also in 1933, the Farm