

# JAMES WILLARD HURST (b. 1910)

## A Bibliography\*

### I. BOOKS BY HURST

*A Digest of Regional Sources for the Study of the Economic and Political History of the Law.* Madison, University of Wisconsin Law School, 1941.

*The Growth of American Law: The Law Makers.* Boston, Little Brown, 1950.

*Law and the Conditions of Freedom in the Nineteenth-Century United States.* (Julius Rosenthal Foundation Lectures, Northwestern University Law School.) Madison, University of Wisconsin Press, 1956.

[Hurst and Lloyd K. Garrison, eds.] *Law in Society, a Course Designed for Undergraduates and Beginning Law Students. Cases and Other Materials.* Madison, College Typing Co., 1941.

[Hurst and Lloyd K. Garrison, eds.] *The Legal Process: An Introduction to Decision-making by Judicial, Legislative, Executive, and Administrative Agencies* (A revision of *Law in Society* [Hurst and Garrison, eds., 1941]). Madison, Capital Press, 1956.

*Law and Social Process in United States History.* (Thomas M. Cooley Lectures, University of Michigan.) Ann Arbor, University of Michigan Law School, 1960.

[Hurst, Lloyd K. Garrison, Carl A. Auerbach and Samuel Mermin, eds.] *The Legal Process: An Introduction to Decision-making by Judicial, Legislative, Executive, and Administrative Agencies.* San Francisco, Chandler Publishing, 1961. (A further revision of *Law in Society* [Hurst and Garrison, eds. 1941]).

*Justice Holmes on Legal History.* (Oliver Wendell Holmes Devise Lectures, State University of Iowa.) New York, Macmillan, 1964.

*Law and Economic Growth: The Legal History of the Wisconsin Lumber Industry.* Cambridge, Harvard University Press, 1964.

---

\* Prepared by Ronald Eskin and Robert Hayden.

*The Legitimacy of the Business Corporation in the Law of the United States, 1780-1970.* (Page-Barbour Lectures, University of Virginia.) Charlottesville, University Press of Virginia, 1970.

*Statutes in Court.* (Materials for a course on legislation.) Madison, College Printing and Publishing Co., 1970.

*The Law of Treason in the United States.* (Contributions in American History, Serial No. 12). Westport, Greenwood Press, 1971.

*A Legal History of Money in the United States, 1774-1970.* Lincoln, University of Nebraska Press, 1973.

## II. CONTRIBUTIONS BY HURST TO BOOKS EDITED BY OTHERS

"The Role of History [in the Process of Constitutional Construction];" and "Review and the Distribution of National Powers," in Edmond Cahn (ed.) *Supreme Court and Supreme Law*. Bloomington, Indiana University Press, 1954.

"Law and the Limits of Individuality," in Loren Eisley and Robert Spiller (eds.) *Social Control in a Free Society*. Philadelphia, University of Pennsylvania Press, 1960.

"Themes in United States Legal History," in Wallace Mendelson (ed.) *Felix Frankfurter: A Tribute*. New York, Reynal, 1964.

"Commentary: Constitutional Ideals and Private Associations," in J. Roland Pennock and John W. Chapman (eds.) *NOMOS XI: Voluntary Associations*. New York, Atherton Press, 1969.

"Legal Elements in United States History," in Donald Fleming and Bernard Bailyn (eds.) *Law in American History* [originally 5 *Perspectives in American History* 3 (1971)]. Boston, Little Brown, 1972.

## III. ARTICLES BY HURST

"Work of the Wisconsin Supreme Court for the August 1936 and January 1937 Terms: Personal Property," 1938 *Wisconsin Law Review* 100 (1938).

"Research Responsibilities of University Law Schools," 10 *Journal of Legal Education* 147 (1957).

"Content of Courses in Legislation," 8 *University of Chicago Law Review* 280 (1941).

- [Hurst, H. Wechsler and J. Q. Cannon] "Symposium on Lawyers Under the United States Civil Service," 9 *American Law School Review* 1307 (1942).
- "Legal History: A Research Program," 1942 *Wisconsin Law Review* 323 (1942).
- "Treason in the United States," 58 *Harvard Law Review* 226; 395; 806 (1944-45).
- "The Historical Background of the Treason Clause of the United States Constitution," 6 *Federal Bar Journal* 305 (1945).
- "English Sources of the American Law of Treason," 1945 *Wisconsin Law Review* 315 (1945).
- "Uses of Law in Four 'Colonial' States of the American Union," 1945 *Wisconsin Law Review* 577 (1945).
- [Hurst and B. R. Brown] "Perils of the Test Case: An Episode in the History of the Wisconsin Supreme Court," 1949 *Wisconsin Law Review* 26 (1949).
- "Who is the 'Great' Appellate Judge?," 24 *Indiana Law Journal* 394 (1949).
- "Law and the Balance of Power in the Community," 22 *Oklahoma Bar Association Journal* 1223 (1951); 6 *Record of the Bar Association of the City of New York* 148 (1951).
- "Changing Popular Views About Law and Lawyers," 287 *Annals of the American Academy of Political and Social Science* 1 (1953).
- "Funds for Individual Legal Research," 12 *Journal of Legal Education* 592 (1960).
- "The Law in United States History," 104 *Proceedings, American Philosophical Society* 518 (1960).
- "Perspectives Upon Research into Legal Order," 1961 *Wisconsin Law Review* 356 (1961).
- "The Role of Law in United States History: Part I," 7 *Student Lawyer* 4 (Dec., 1961).
- "The Role of Law in United States History: Part II," 7 *Student Lawyer* 14 (Feb., 1962).
- "Memorandum Regarding Pending Proposals to Amend the United States Constitution," 36 *Wisconsin Bar Bulletin* 7 (1963).
- "Legislation as a Field of Legal Research," 2 *Harvard Journal on Legislation* 3 (1965).
- "The Legal Profession," 1966 *Wisconsin Law Review* 969 (1966).

- "Mark Howe: Legal Historian," 80 *Harvard Law Review* 1630 (1967).
- "Lawyers in American Society, 1750-1966," 50 *Marquette Law Review* 594 (1967).
- "Changing Responsibilities of the Law School: 1868-1968," in Symposium on the Occasion of the Centennial of the University of Wisconsin Law School, 1968; 1968 *Wisconsin Law Review* 336 (1968).
- "Problems of Legitimacy in the Contemporary Legal Order," 24 *Oklahoma Law Review* 224 (1971).
- "Thoreau, Conscience and Law," 19 *South Dakota Law Review* 1 (1974).
- "Watergate: Some Basic Issues," 7 *Center Magazine* 11 (1974).

#### IV. BOOK REVIEWS BY HURST

- Review of: Bruce Trimble, *Chief Justice Waite, Defender of the Public Interest* (1938), in 51 *Harvard Law Review* 1306 (1938).
- Review of: Francis Weisenberger, *Life of John McLean: A Politician on the United States Supreme Court* (1937), in 51 *Harvard Law Review* 1306 (1938).
- Review of: Louis Warsoff, *Equality and the Law* (1938), in 52 *Harvard Law Review* 851 (1939).
- Review of: Howard J. Graham, "Conspiracy Theory" of the Fourteenth Amendment (1938), in 52 *Harvard Law Review* 851 (1939).
- Review of: Louis B. Boudin, *Truth and Fiction about the Fourteenth Amendment* (1938), in 52 *Harvard Law Review* 851 (1939).
- Review of: Henry Rottschaefer, *Handbook of American Constitutional Law* (1939), in 53 *Harvard Law Review* 350 (1939).
- Review of: Charles Fairman, *Mr. Justice Miller and the Supreme Court, 1862-1890* (1939), in 40 *Columbia Law Review* 564 (1940).
- Review of: E. Pendleton Herring, *Politics of Democracy: American Parties in Action* (1940), in 54 *Harvard Law Review* 714 (1941).
- Review of: Paul A. Freund, *On Understanding the Supreme Court* (1949), in 11 *Federal Bar Journal* 107 (1950).
- Review of: Mark DeWolfe Howe, *Readings in American Legal History* (1949), in 63 *Harvard Law Review* 553 (1950).

- Review of: *Laws of Illinois Territory 1809-1818* (1950), in 64 *Harvard Law Review* 1228 (1950).
- Review of: Burke Shartel, *Our Legal System and How It Operates* (1951), in 4 *Journal of Legal Education* 347 (1952).
- Review of: Mark DeWolfe Howe, *Justice Oliver Wendell Holmes: The Shaping Years, 1841-1870* (1957), in 9 *Journal of Legal Education* 566 (1957).
- Review of: Willard L. King, *Lincoln's Manager, David Davis* (1960), in 9 (2) *University of Chicago Law School Record* 59 (1960).
- Review of: Mark DeWolfe Howe, *Justice Oliver Wendell Holmes: The Proving Years, 1870-1882* (1963); and O. W. Holmes, Jr., *The Common Law* (Howe ed. 1963), in 77 *Harvard Law Review* 382 (1963).
- Review of: Morton Keller, *The Life Insurance Enterprise, 1885-1910* (1963), in 31 *University of Chicago Law Review* 207 (1963).
- Review of: John P. Frank, *Justice Daniel, Dissenting* (1964), in 12 *University of California at Los Angeles Law Review* 1481 (1965).
- Review of: P.W. Gates, *Wisconsin Pine Lands of Cornell University* (1964), in 19 *Economic History Review* 227 (1966).
- Review of: *Everyman's Constitution: Historical Essays on the Fourteenth Amendment, the "Conspiracy Theory," and American Constitutionalism* (1968), in 61 *Journal of American History* 146 (1969).
- Review of: Charles Fairman, *Reconstruction and Reunion, 1864-88, Part One* (Oliver Wendell Holmes Devise History of the Supreme Court of the United States, Volume VI, 1971), in 58 *American Bar Association Journal* 955 (1972).

## V. ARTICLES ABOUT HURST

- Russell E. Brooks, "The Jurisprudence of Willard Hurst," 18 *Journal of Legal Education* 257 (1966).
- David H. Flaherty, "An Approach to American History: Willard Hurst as Legal Historian," 14 *American Journal of Legal History* 222 (1970).
- Earl F. Murphy, "The Jurisprudence of Legal History: Willard Hurst as a Legal Historian," 39 *New York University Law Review* 900 (1964).

Harry N. Scheiber, "At the Borderland of Law and Economic History: The Contributions of Willard Hurst," 75 *American Historical Review* 744 (1970).

Mark Tushnet, "Lumber and the Legal Process," 1972 *Wisconsin Law Review* 114 (1972).

## VI. REVIEWS OF HURST'S BOOKS

*The Growth of American Law: The Law Makers* (1950)

Albert S. Abel, 44 *American Political Science Review* 1022 (1950)

Edgar Bodenheimer, 26 *Indiana Law Journal* 118 (1950)

Bennett Boskey, 18 *University of Chicago Law Review* 419 (1951)

Alfred Conrad, 3 *Journal of Legal Education* 133 (1950)

J. Hector Currie, 3 *Vanderbilt Law Review* 846 (1950)

Charles S. Desmond, 26 *Notre Dame Law Review* 169 (1950)

Daniel F. Dykstra, 2 *Utah Law Review* 84 (1950)

John P. Frank, 59 *Yale Law Review* 1381 (1950)

Ford W. Hall, 28 *Texas Law Review* 992 (1950)

Frank E. Horack, Jr., 64 *Harvard Law Review* 866 (1951)

Samuel F. Howard, Jr., 50 *Columbia Law Review* 1153 (1950)

Mark DeWolfe Howe, *New York Herald Tribune Book Review* (July 2, 1950) at 6.

Robert S. Hunt, 35 *Iowa Law Review* 730 (1950)

Fredrick W. Killian, 31 *Boston University Law Review* 265 (1951)

Philip B. Kurland, 45 *Illinois Law Review* 812 (1951)

J. Leon Lebowitz, 3 *Baylor Law Review* 488 (1951)

Samuel Mermin, 4 *Oklahoma Law Review* 410 (1951)

Stanley Milledge, 5 *Miami Law Quarterly* 339 (1951)

Philip C. Neal, 3 *Stanford Law Review* 558 (1951)

Wilmar Pewsey, 27 *North Dakota Law Review* 73 (1951)

Thomas Reed Powell, *New York Times Book Review* (June 25, 1950) at 19.

Max Radin, 25 *New York University Law Review* 670 (1950)

Edward D. Re, 25 *St. John's Law Review* 149 (1950)

Kenneth R. Redden, 36 *Virginia Law Review* 285 (1950)

Stefan A. Riesenfeld, 38 *California Law Review* 973 (1950)

L.H. Riggs, 44 *Law Library Journal* 38 (1951)

- John P. Roche, 99 *University of Pennsylvania Law Review* 263 (1950)
- A.J. Rockwell, *San Francisco Chronicle* (May 17, 1950) at 17.
- Clinton Rossiter, 36 *American Bar Association Journal* 921 (1950)
- Robert C. Sorenson, 271 *Annals of the American Academy* 198 (1950)
- Erwin C. Surrency, 24 *Temple Law Quarterly* 509 (1951)
- Ignatius M. Wilkinson, 19 *Fordham Law Review* 341 (1950)
- Law and the Conditions of Freedom in the Nineteenth Century United States* (1956)
- Robert N. Carnahan, 35 *Texas Law Review* 161 (1956)
- Howard J. Graham, 45 *California Law Review* 792 (1957)
- Jacob D. Hyman, 10 *Journal of Legal Education* 274 (1957)
- Andrew L. Kaufman, 73 *Harvard Law Review* 809 (1960)
- Carl McGowan, 10 *Stanford Law Review* 180 (1957)
- Stefan R. Riesenfeld, 51 *Northwestern University Law Review* 800 (1957)
- Erwin C. Surrency, 1 *American Journal of Legal History* 194 (1957)
- Calvin Woodard, 19 *Louisiana Law Review* 560 (1959)
- Law and Social Process in United States History* (1960)
- H.A. Gardiner, 10 *American Journal of Comparative Law* 488 (1961)
- Robert S. Hunt, 60 *Michigan Law Review* 1202 (1962)
- Frederick G. Kempin, Jr., 5 *American Journal of Legal History* 291 (1961)
- Donald P. Kommers, 15 *Vanderbilt Law Review* 313 (1961)
- Lewis R. Mills, 1961 *Washington University Law Quarterly* 187 (1961)
- Talcott Parsons, 23 *Journal of the History of Ideas* 558 (1962)
- The Legal Process* [with Auerbach, Garrison & Mermin] (1961)
- William H. Angus, 40 *Canadian Bar Review* 525 (1962)
- William Beaney, 29 *University of Chicago Law Review* 593 (1962)
- Marvin E. Frankel, 72 *Yale Law Journal* 833 (1963)
- Jaro Mayda, 15 *Journal of Legal Education* 482 (1963)
- William F. Swindler, 48 *American Bar Association Journal* 470 (1962)

*Justice Holmes on Legal History* (1964)

Robert F. Fries, 51 *Journal of American History* 507 (1964)

Frederick G. Kempin, Jr., 8 *American Journal of Legal History* 345 (1964)

Earl F. Murphy, 39 *New York University Law Review* 900 (1964); 12 *UCLA Law Review* 700 (1965)

*Law and Economic Growth: The Legal History of the Lumber Industry in Wisconsin, 1836-1915* (1964)

John P. Frank, 18 *Journal of Legal Education* 395 (1966)

Carter Goodrich, 19 *Economic History Review* 225 (1966)

Byron Higgins, 10 *Wayne Law Review* 733 (1964)

James A. Lake, Sr., 17 *Maine Law Review* 298 (1965)

Rodney C. Loehr, 70 *American History Review* 269 (1964)

Harold L. Marquis, 9 *American Journal of Legal History* 250 (1965)

Lewis R. Mills, 1964 *Washington University Law Quarterly* 411 (1964)

Earl F. Murphy, 39 *New York University Law Review* 900 (1964)

Dean N. Quinney, 5 *Natural Resources Journal* 187 (1965)

Julius Stone, 78 *Harvard Law Review* 1687 (1965)

J. Lloyd Warner, 51 *Journal of American History* 506 (1964)

R.E. Will, 89 *Library Journal* 647 (1964)

*Legitimacy of the Business Corporation in the Law of the United States, 1780-1970* (1970)

Richard M. Abrams, 24 *Stanford Law Review* 765 (1972)

William L. Cary, 70 *Columbia Law Review* 1317 (1970)

John D. Donnell, 46 *Indiana Law Journal* 449 (1971)

Edwin M. Epstein, 60 *California Law Review* 1701 (1972)

Ray D. Henson, 56 *American Bar Association Journal* 1195 (1970)

Wythe W. Holt, Jr., 1971 *Wisconsin Law Review* 982 (1971)

Arthur M. Johnson, 76 *American History Review* 190 (1971)

Stanley A. Kaplan, 37 *University of Chicago Law Review* 849 (1970)

Fredrick G. Kempin, Jr., 14 *American Journal of Legal History* 369 (1970)

Frank J. Macchiarola, 86 *Political Science Quarterly* 545 (1971)



- Harry N. Scheiber, 46 *Business History Review* 108 (1972)
- Lehan K. Tunks, 47 *Washington Law Review* 201 (1971)
- Law of Treason in the United States: Collected Essays* (1971)
- Sanford J. Rosen, 51 *Texas Law Review* 817 (1973)
- A Legal History of Money in the United States, 1774-1970* (1973)
- H.M. Burns, 99 *Library Journal* 2149 (1974)
- Maurice H. Merrill, 61 *American Bar Association Journal* 172 (1975)