

BOOK REVIEWS

Carlton F. W. Larson, *The Trials of Allegiance: Treason, Juries, and the American Revolution*

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Patriots and Britons disagreed on the legality of the American Revolution. American Patriots argued that their actions fell within their rights as English subjects, but the British government's attempt to nip the rebellion in the bud demonstrated their disagreement. In *The Trials of Allegiance: Trials, Juries, and the American Revolution*, Carlton F.W. Larson shows that despite the treasonous nature of the Patriot cause, revolutionaries concerned themselves with treason in their ranks more than the British. Larson analyzes the outcomes and participants in Pennsylvania treason trials to demonstrate that aversion to sentencing Loyalists to death for choosing the wrong side, rather than juror demographics, caused juries to lean toward mercy over revenge. Larson has made a valuable contribution to the study of early American law and the American Revolution.

After outlining the fundamental role of treason in the American Revolution, Larson sets out to answer the question “how did revolutionary Americans apply the law of treason, forged over many centuries in an island monarchy three thousand miles away, to instances of criminal disloyalty in their new republic” (5)? The book outlines the English legal precedent out of which American revolutionaries crafted their approach to treason law before analyzing relevant trials between 1775 and 1778 in Pennsylvania. Larson focuses on the state due to its early isolation from the war, allowing for the litigation of treason without military interference, and its large population of pacifist Quakers, whose opposition to arms bearing resulted in treason trials and a mass exile. The strongest part of the book comes in chapters 6 and 7, when Larson analyzes the demographics of jurors involved in twenty-three trials in Philadelphia between 1778 and 1779. The author uses helpful charts, sub-headings, and statistics to present his evidence clearly and allow it to speak for itself.

Examining the earliest treason trials in the emergent United States shows how authorities in colonial Pennsylvania adopted English treason law, the subject of chapters 1–3. British authorities hesitated to try revolutionaries for treason in response to major events in the lead-up to war including the *Gaspée* incident of 1772 and the Boston Tea Party of 1773. While condemning Parliament for forcing Americans to submit to overseas trials that never materialized, revolutionaries began organizing their own treason trials. The Continental Congress ordered colonial assemblies and committees of safety to arrest those suspected of Loyalism, sparking trials throughout Pennsylvania. Though Americans were the ones rebelling, “the only treason trials were those of Americans charged with betraying America” (58).

The law of treason evolved rapidly in the tumultuous early years of treason litigation in revolutionary Pennsylvania, as chapters 4–5 narrate. In 1777, the Pennsylvania Assembly enacted a statute defining the qualifications for high treason. Adopting elements of English treason law, the statute did not amend the provision for killing a monarch to protect members of the new state government, instead eliminating the provision altogether. In this “republicanization” of treason law, treason became “about violating the ties that connected one to every other member of the political community” (71). But this expansive definition resulted in the arrest of several individuals by the Pennsylvania Supreme Executive Council and military authorities. When he assumed the office of Chief Justice upon the reopening of Pennsylvania courts in 1777, Thomas McKean had to establish the court’s jurisdiction against these competing authorities.

The heart of the book, chapters 6–7, consists of a careful study of jury and defendant demographics and trial outcomes for twenty-three Philadelphia treason trials between 1778 and 1779. Larson shows how “eighteenth-century American defense counsel creatively used peremptory challenges, deployed on the bases of religion, age, ethnicity, wealth, occupation, and political beliefs, to create juries more favorable to the defense” (7). But despite this manipulation, jurors who passed muster had participated in the revolutionary government and military and experienced disruption and property damage when British forces occupied Philadelphia. Though many jurors possessed a plausible disposition against Loyalists, few faced the death penalty. Explaining the trials and death sentences of Quakers John Roberts and Abraham Carlisle for treason, Larson shows that awareness among the jury that conviction could result in execution caused a tendency towards clemency in the courts of revolutionary Pennsylvania. “Through their strong aversion to capital punishment, Pennsylvania jurors effectively nullified Pennsylvania’s treason laws” (174).

Chapters 8–9 address treason in the waning years of the Revolution, the Constitution, and the post-war period. Benedict Arnold’s treason in 1780 provoked harsher measures against accused traitors including Ralph Morden, whose trial and execution was prosecuted by Edward Burd, the shamed brother-in-law of Arnold who sought to absolve himself of suspicion. In 1787, the Constitution codified the conditions for treason against the United States, rarifying state treason for subsequent generations. Larson points to the limited number of indictments that followed the Whiskey and Fries

rebellions in the 1790s as evidence of Americans' enduring resistance to convicting people of the deadly charge of treason.

During the early years of the Revolution, the Supreme Executive Council and Continental Army struggled with the judiciary for the right to sentence suspected traitors in Pennsylvania. Once Chief Justice McKean helped to return this authority to the courts, juries resisted convicting defendants of treason not out of a sympathetic Loyalism, but out of an aversion to sentencing them to death. Larson proves this important insight with extensive evidence gathered from trial records, petitions, and letters. This careful study will prove invaluable to historians of Loyalists and their reintegration into American society, as well as early American historians and legal scholars.

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Lisa Kloppenberg, *The Best Beloved Thing is Justice: The Life of Dorothy Wright Nelson*

New York: Oxford University Press, 2022. Pp. 216. \$39.95 hardcover (ISBN 9780197608579); ebook (ISBN 9780197608609).

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Lisa Kloppenberg's official biography of Judge Dorothy Wright Nelson, the first woman to join the law faculty at the University of Southern California (USC) and its first female dean, is—as the author acknowledges—a labor of love. Completed with the cooperation of Judge Nelson, her family and colleagues, the result is a wonderful portrait of a unique life generously lived. We are all the richer for this partnership of sorts between author and subject.

Unlike many biographers, the author embraces her relationship with her subject, whom she describes as “an inspiration, a role model, and a source of strength” (ix) to many within academe and the U.S. federal judiciary, someone who went out of her way to encourage women to join law faculties and become law deans. That close relationship provides unique insights.

At just 164 pages of text (plus notes and index), the book nonetheless captures the essence of Nelson, described as both a “typical” white middle-class Protestant girl from Southern California in the 1930s and 1940s and a trailblazer. Attending the University of California at Los Angeles (UCLA) as an undergraduate in the late 1940s she also served as student council Vice