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A Bibliographic Catalog of William Blackstone Book Reviews

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BOOK REVIEWS

A Bibliographic Catalog of William Blackstone. By Ann Jordan Laeuchli. Buffalo, New York: William S. Hein & Co., 2015. Pp. xvii, 537. ISBN: 978-0-8377-3993-9. US\$149.00.

In the forward to Ann Jordan Laeuchli's "A Bibliographical Catalog of William Blackstone" (*Bibliographical Catalog*), the late Morris Cohen writes that it is difficult to imagine a legal figure more deserving of comprehensive bibliographic coverage than Sir William Blackstone. If anyone has ever had the authority to make such an assertion it was undoubtedly Morris Cohen, who was widely recognized as both an expert on the works of Sir William Blackstone and as a leading authority on scholarly legal bibliography itself, having authored one of the most impressive and peerless examples, the "Bibliography of Early American Law." Both Cohen and his work, as well as scholarly legal bibliography in general, were eulogized by Robert Berring in the pages of the *Law Library Journal* in 2012. Following Cohen's passing, Berring ruminated that he was the "harbinger of the end of the age of the great bibliographer."¹

Scholarly legal bibliography is an arduous and precise discipline, if also, as Berring proposed, one now in decline. Fredson Bowers, a foremost authority on modern scholarly bibliography, and, according to Cohen's forward, a significant influence on Laeuchli, described scholarly bibliography variously as "'pure' scholarship,"² a discipline subject to the most exacting standards,³ and a vital cornerstone of scholarly textual criticism.⁴ Similarly, Berring referred to bibliographic scholarship as the "crown jewel" of academic librarianship, particularly of the legal variety.⁵ Perhaps then, the publication of the *Bibliographical Catalog* is as much a swan song for scholarly legal bibliographers like Cohen and Laeuchli as it is a testament to the importance of Blackstone and his writings.

Now retired, Ann Jordan Laeuchli holds a library degree from Drexel and a law degree from Temple, where she also served as Associate Law Librarian before becoming Associate Law Librarian at Yale, where she would create the *Bibliographical Catalog*. The *Bibliographical Catalog* itself is based on an earlier work also produced at the Yale Law Library, Catherine Spicer Eller's 1938 "The William Blackstone Collection in the Yale Law Library: A Bibliographical Catalogue" (*Eller's Catalog*). As the title suggests, this earlier work was chiefly a descriptive catalog that focused on the unique and expansive collection of Blackstone's writings held at the Yale Law Library.

In the preface to her *Bibliographical Catalog*, Laeuchli recounts that it was Cohen who first proposed that she update *Eller's Catalog* to include materials added to the Yale Law Library's Blackstone collection since 1938. Following Cohen's suggestion, Laeuchli realized that the work would have more universal utility if she were to retain the core structure of *Eller's Catalog* while also expanding the coverage and scope beyond the holdings of the Yale Blackstone collection alone. In retaining the original structure, Laeuchli likewise carries forward the nine primary sections designated by Eller. The first five sections comprise the bulk of the work and treat in detail the various editions and abridgements of Blackstone's *Commentaries* as published in England and Ireland, America, and several European nations. Two more sections deal with parodies of and works based upon the *Commentaries*, while another is devoted to Blackstone's other legal writings. A final section covers commentary and criticism of Blackstone and his *Commentaries*.

¹ Robert C. Berring, *The End of Scholarly Bibliography: Reconceptualizing Law Librarianship*, 104 LAW LIBR. J. 69 (2012).

² FREDSON BOWERS, PRINCIPLES OF BIBLIOGRAPHICAL DESCRIPTION 3 (1949).

³ *Id.*

⁴ FREDSON BOWERS, THE BIBLIOGRAPHICAL WAY 9–16 (1959).

⁵ Berring, *supra* note 1 at 71.

Laeuchli adds a small tenth section covering various “Catalogs, Exhibitions, Commemorations, and Prospectuses,” as well as another primarily textual section discussing various microtext and electronic Blackstone collections. Eller included some 266 annotated entries under the original nine headings; the *Bibliographical Catalog* adds almost 400 additional annotated entries to these original sections for a total of 660 entries. Nearly 100 of these new entries are for American abridgements of the *Commentaries*, with another 83 additions covering complete American editions. The “Biography and Criticism” section is also significantly expanded with some 60 new entries, while approximately 40 new entries have also been added to each of the sections covering British abridgements and works based upon the *Commentaries*.

Other useful additions and improvements include a guide to symbols and references, as well as three indices that can be used to locate entry numbers first by author, editor, or translator, then by publisher, place of publication, or bookseller, and, finally, by dedication. These indices are an invaluable inclusion. *Eller's Catalog* completely lacked indexing, and while the *Bibliographical Catalog* incorporates much of Eller's original annotations, a table cross-referencing items included in both works can serve as a *de facto* index to Eller's earlier work.

As a bibliography, there is little to fault technically with the *Bibliographical Catalog*. While, as Cohen notes in the foreword, Laeuchli provides significant collation details based on the bibliographic standards established by Fredson Bowers, she does not follow some of the more exacting standards required for pure descriptive bibliographies. This is, however, both an intentional decision on her part as well as a result of retaining and building upon Eller's original framework. In this, Laeuchli's chosen title “A Bibliographical Catalog of William Blackstone” is both telling and in complete conformity with the classifications and terminology for bibliographies Bowers himself utilized when he distinguished between true descriptive bibliographies and what he referred to as “bibliographical catalogs.”⁶

Nevertheless, there is much for the researcher in the *Bibliographical Catalog's* thorough but compact annotations, particularly those accompanying the entries for the more historically significant editions of Blackstone's *Commentaries*. The *Commentaries* continue to be cited regularly by U.S. Courts, with citations to the *Commentaries* appearing in such recent Supreme Court decisions as *Hamdi v. Rumsfeld* and *District of Columbia v. Heller*. In *Heller*, the Court cites several times to a specific edition of the *Commentaries*, referred to by the Court as “Tucker's Commentaries.” According to the *Bibliographical Catalog*, the edition in question was published in 1803 by Robert Carr, with a preface signed by St. George Tucker. The annotations which follow further indicate that St. George Tucker was a Virginian jurist and early professor of law at the College of William and Mary, and that this particular edition was based on the law lectures that he delivered, wherein Tucker localized and applied the framework and core of the *Commentaries* to the laws of Virginia and the Constitution of the United States. This renders this particular edition of the *Commentaries* one of the earliest systematic treatments of the laws and Constitution of the fledgling United States. Indeed, the Court in *Heller* indicates as much when citing it, but Laeuchli's notes further indicate that the edition follows the text of the ninth London edition, published in 1783.

Laeuchli's annotations include an excerpt from the ninth London edition's editor, Richard Burn, indicating that some, but not all of the alterations to the text from the previous edition were made by Blackstone “in his own handwriting,” with Burn making additional alterations himself based on subsequent acts of Parliament. The annotations further indicate that W.G. Hammond, a prominent 19th century legal scholar, noted in 1890 that most subsequent versions of the *Commentaries* were based on Burn's 1783 ninth edition. Further investigation of the *Bibliographical Catalog's* annotations on Hammond reveals that Hammond published his own version of the *Commentaries* in 1890. Interestingly, Hammond breaks from the common practice to use the ninth London edition, instead relying on the text of the eighth edition as amended by adding Blackstone's personal manuscript alterations that were included in Burn's ninth London edition, but excluding Burn's alterations. Moreover, Hammond's 1890 edition has a unique and intriguing feature: his footnotes serve as the first case citator, including citations to every U.S. court decision referring to Blackstone's *Commentaries*, then some 6,477 such citations. Another unique and important feature of Hammond's edition is the inclusion of his “Bibliography of the Commentaries,” covering English editions between 1765 and 1869 and American editions between 1771 and 1803.

None of these specific facts should be shocking to a Blackstone scholar or legal historian, but they do serve as an excellent example of the utility and accessibility of the *Bibliographical Catalog*. In the closing comments of the *Bibliographical Catalog's* foreword, Cohen writes “If the purposes of an author bibliography are to list the work of the subject author in its totality, to describe each individual publication accurately, and to provide basic information

⁶ BOWERS, *supra* note 2 at 4–6.

about the specific titles within the context of the author's work, I think Eller has served us well and I expect Laeuchli will do even better." I would only add that if Laeuchli's *Bibliographical Catalog* is indeed a swan song for significant scholarly legal bibliography, it would be difficult to imagine a more suitable candidate.

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Cyber Warfare: Military Cross-Border Computer Network Operations under International Law. By Johann-Christoph Woltag. Cambridge, Antwerp, Portland: Intersentia Publisher, 2014. Pp. xviii, 314. ISBN: 978-1780682266. €86.00; US\$103.00.

Cyber warfare has received abundant attention over the course of the last five years due to the penetration of the Internet and new technologies into every aspect of life, the proliferation of "cyber incidents" all around the world, and the lack of a coordinated response to these incidents in the international community. Incidents in Estonia and Georgia, and the discovery of the computer virus Stuxnet in Iran have spurred new discussions about cyber warfare, the ways to protect a nation against it, and the distinction between cyber warfare and ordinary cybercrime.

"Cyber Warfare: Military Cross-Border Computer Network Operations under International Law" is part of Intersentia's International Law Series, which deals with current issues in public international law. It is based on the author's research conducted during his time as a research fellow at the Max Planck Institute for Comparative Public Law and International Law in Heidelberg. The work was subsequently accepted as a doctoral dissertation at the University of Hamburg.

In his book, Woltag sets out to explore the question of whether general international law and the laws of war in their current form provide a sufficient legal framework to deal with cross-border computer network operations (CNOs) by states. Although the book's title and the introduction suggest otherwise, the work in fact deals not only with the question of the applicability of international law and the laws of war to CNOs, but also explores ordinary cybercrime and cyber espionage.

The book is divided into three main parts covering 1) the internet as a universal yet territorialized infrastructure, 2) the legal qualification of CNOs outside of and during armed conflict, and 3) concluding remarks. The three parts are further subdivided into six chapters. Each chapter consists of a short introduction, a detailed analysis of the topic of the chapter, and a conclusion.

Chapter one provides an overview of the internet as the medium of computer network operations and explores the characteristics and definitions of CNOs in military doctrine and in legal scholarship. Although Woltag criticizes supposedly broad definitions of cyber warfare as "diluting rather than forming the term," he himself uses a rather broad definition of CNOs going forward. He defines CNOs as "operations utilizing networked devices in order to access or manipulate other such devices." This definition would encompass the use of unmanned aerial vehicles, which is one of the points he criticizes about other definitions. It should also be noted that the phrase "computer network operations" covers more than just cyber warfare. The chapter also gives an overview of computer network espionage and uses the cyber incidents directed against Estonia, Georgia, and Iran as case studies.

The second chapter deals with the legal regime in cyberspace. It explores the question of jurisdiction in cyberspace, in particular cyberspace as a jurisdiction *sui generis* and as an international commons, and ultimately rejects both approaches, because states have asserted jurisdiction over all forms of internet activity. Additionally, Woltag discusses various organizations that have tried to provide legal regulation for the internet including ICANN, the Internet Society, the World Wide Web Consortium, and the International Telecommunications Union. He concludes that there is no international organization specifically vested with issuing binding policies for the Internet. Furthermore, he describes the militarization of cyberspace and the establishment of special cyberspace commands within the US military and other national armed forces. Woltag finishes by saying that even though