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Abstract, Work in Progress: “The Failure of America’s First City Plan: Why New Haven, the Colonies’ First Planned City, Would Have Been Better Left Unplanned”

The street plan of the city of New Haven has been hailed by historians and urban developers as a triumph of colonial-era town planning. In contrast to the winding pathways typical of Boston and early New York, the streets of New Haven were set up as a grid surrounding nine evenly-sized blocks, a model later emulated in great colonial cities like Philadelphia and Savannah. This paper questions whether the admiration for New Haven’s comprehensive town plan is deserved. Drawing from material in colonial maps, the unpublished deeds used to transfer land to the municipal government for highway construction, and never-before-studied evidence from a major revision to the street plan in 1784, this paper argues that New Haven’s town plan stunted New Haven’s growth during the colonial era. Comprehensive, top-down planning left New Haven with large blocks that were ill-suited to colonial development and arbitrary streets which did not support or respond to changing settlement patterns. In essence, the supply of streets did not reflect the demand for them. My paper argues that colonial leaders lacked the information and knowledge necessary to plan the best streets for the colonies. The colony streets should instead have been planned by the individuals in possession of the best information: the dispersed town residents themselves. Piecemeal planning (both outside New Haven and in other parts of New Haven) was better able to respond to the market forces guiding settlement. By contrast, the comprehensive plan in New Haven acted as a constraint both on the supply of streets and the location of settlement. The archival evidence from New Haven suggests that piecemeal planning done by individual residents through a coordinating institution would have created the streets best able to support growing cities through the colonial period.

Claire Priest

Abstract: From book project entitled Creating an American Property Law, Chapter 1: “Imperial Property”

This Chapter examines the original “imperial” agenda with regard to land in the colonies, and how this imperial agenda laid the foundations for stream-lined, low cost institutional enforcement of property rights and for the commodification of landed property. Arriving in an undeveloped land, the colonists in the earliest years of settlement began transforming English law and English legal institutions to help spur productive uses of land and the extension of credit. Colonial legislatures adopted land title registration (which was not common in England) because the undeveloped nature of the land meant that systems of title relying on observable “possession” or cultivation were inadequate. Land title registries were also a central institution in imperial administration. They were used to establish the system of quitrents. They were central to the government’s compensation of its officials in grants of land. They were used in monitoring the imperial policy of conditioning title on landowners’ abilities to put their land to productive use (a requirement of ownership unique to the colonies). They legitimated colonists’ title to land vis-à-vis competing Native American claims. The English imperial approach was radically different from that of the Spanish in Latin America which relied on a landed aristocracy, and which lacked institutions accessible by all landholders. What was also distinctive in colonial America was the local administration and oversight of the institutions protecting property rights. Through their constant oversight and modification of land title registries and common law courts, the American colonial legislatures initiated a process of *democratic involvement and input* into local institutions and laws relating to property and credit conditions. Countries contemplating adopting land title registration today should recognize the centrality of democratic participation in the history of America institutions.

Daniel J. Sharfstein abstract

“Atrocity, Entitlement, and Personhood in the American Property Tradition” examines how Americans have thought about property that they have committed atrocities to acquire and own. Scholars such as Gregory Alexander, Joseph Singer, and others have described property ownership as a core component of the “American dream,” embodying a set of social relations and civic republican ideas that ultimately promote “life and human flourishing, the protection of physical security, the ability to acquire knowledge and make choices, and the freedom to live one’s life on one’s own terms.” In contrast, my paper argues that the American property tradition was forged in a crucible of atrocity. Focusing on historical examples including the Native American genocide (in particular, King Philip’s War), slavery, and lynching, my paper examines how Americans have traditionally understood and justified atrocities through their property. Committing atrocities related to the acquisition and ownership of property leads people to develop strong “personhood” connections to it. Drawing upon Margaret Jane Radin’s classic formulation of the “personhood value” of property, a theory closely related to the notion of a progressive American property tradition, I argue that atrocities have boosted the personhood investment in property, which in turn has functioned to absolve owners of the inexcusable circumstances of acquisition and use. For twenty-five years, personhood in property has been celebrated for affirming civil and human rights and embodying a comforting alternative to efficiency and labor-driven accounts of property rights. “Atrocity, Entitlement, and Personhood” questions the theory’s political valance. Establishing a fundamental connection between property’s “human flourishing” values and its violent past, I suggest a hidden value in American property doctrine that impedes the progressive agenda and urge progressive property scholars to focus more on distributive justice.