

A Legal Biography of Miller & Lux

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M. Catherine Miller, *Flooding the Courtrooms: Law and Water in the Far West* (University of Nebraska, 1993)

Beginning with James Willard Hurst in the 1940s, a growing chorus of legal historians has insisted that anyone interested in law must look beyond the opinions of courts if they are to understand legal change. Hurst argued that by tradition and training, the legal community was biased toward equating law with what judges do, to the neglect of legislative, executive, and administrative activity and the effects on law of lay attitudes and practices affecting legal norms.

In *Flooding the Courtrooms: Law and Water in the Far West*, Catherine Miller provides a thoughtful and well-documented example of the type of legal inquiry advocated by legal historians following Hurst's lead. The book is the legal biography of one of early California's largest business corporations, the land and cattle company Miller & Lux, from 1858 to 1930. Miller focuses on the most prominent of Miller & Lux's legal concerns, control over the water flowing through its massive land holdings. She carefully documents the firm's successful efforts to shape the law in order to maximize the profit-making potential of its control over water.

Miller & Lux convinced the state's supreme court in *Lux v. Haggin* that California had adopted the doctrine of riparian rights when it adopted the common law, a holding of enormous value to the firm that shapes California water law to the present day. Once its control of water was defined as a property right, the firm was able to capitalize on the judicial bias in favor of private property to prevent interference from the legislative arena. As valuable as riparianism was to Miller & Lux, Miller reveals how the universality of legal doctrine hindered its attempts to prevent other riparians from interfering with its control over water resources. Miller also shows how Miller & Lux's ability to utilize the courts diminished with its financial decline.

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The book tells a fascinating story about the demands made upon law by different groups with conflicting interests and how those demands helped shape legal doctrine. It is a valuable reminder, to all of us accustomed to thinking of law in terms of the "important" decisions of courts, that law is shaped by the demands and interests of specific people in specific times and places, whose interests and actions in pursuit of those interests are determined as much by place and circumstance as by doctrine and ideology. It will be of interest not only to those specifically interested in the development of California water law, but also to anyone interested in the sources and nature of legal change.