

Water, Business, and the Law in California

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Donald Pisani, *To Reclaim a Divided West: Water, Law, and Public Policy 1848-1902* (University of New Mexico Press, 1992)

In *To Reclaim a Divided West*, Donald Pisani—a chair professor at the University of Oklahoma and one of the most respected historians of western legal development—offers a fascinating analysis of how Americans mobilized governmental authority in reclaiming arid regions of the West. As he writes in his preface, “private, public, and mixed enterprise” is the focus; but he also gives ample attention to events in Washington, as federal politicians struggled with western regional demands, and to the processes of legal innovation in California, Colorado, Nevada, and Wyoming.

Readers who are familiar with Pisani’s earlier book, *From the Family Farm to Agribusiness: The Irrigation Crusade in California and the West, 1850-1931* (University of California Press, 1984), will find in this new study the familiar hallmarks of his scholarship: prodigious research in manuscripts and other original sources, a text that is written in a clear manner, and presentation of original interpretations of high significance to specialists that are also accessible to general readers.

“There was no single West,” the author contends, and thus he makes “fragmentation” the book’s main theme—the competition for use of the West’s resources. This competition manifested itself in rivalries among local communities, regions within states, states contending against one another for favor with the national government and for private capital and immigration—and, not least, competitive private interests who were the users of natural resources.

Starting with the mining camps of Anglo-American California in the Gold Rush era, Pisani weaves his story of water law conflict and resolution to embrace the activities of grazing and farming interests. The landscape of his subject is populated not only by those who struggled to wrest a living—or better, a fortune—from the newly opened West, but also by utopians, visionary engineers and planners, shrewd political

manipulators, and corporate interests whose influence pervaded the era's litigation in both state and federal courts as well as debates in legislative halls.

California's Wright Act, the national Newlands Act, and the cluster of complex, interrelated federal and state reclamation activities that shaped western water policy, all receive amply attention. Seldom will one encounter in the literature of western water law, or for that matter resource law, an account so learned in the history of science and engineering, and of political history, as well as the law. It is somewhat disappointing that the Mexican Californians, as well as the native peoples, receive so little attention. Otherwise, the canvas is crowded with figures sketched in bright colors; it portrays a landscape of historic change that recaptures in vivid narrative and penetrating analysis the exciting era of enterprise, law, and "water politics" that stretched from the Gold Rush to the Progressive Era.

Together with M. Catherine Miller's new book on the legal-business history of Miller & Lux—reviewed elsewhere in this *Yearbook* by Stephen Gillespie—and also the recently published work of Professor Norris Hundley of UCLA, Pisani's new study enriches an impressive and growing modern literature on the history of western water law.