## **Detailed Contents**

Preface to the Fourth Edition		XV
Pro	ologue	xvii
	I. THE BEGINNINGS: AMERICAN LAW IN THE COLONIAL PERIOD	
	The Skeleton of Colonial Law: The Courts Civil Procedure Land Law Succession at Death Criminal Law Government, Law, and the Economy Commerce and Labor Slavery The Poor Laws Statute and Common Law in the Colonial Period The Legal Profession The Literature of the Law	6 24 26 32 35 44 48 54 59 60 63 71
	II. FROM THE REVOLUTION TO THE MIDDLE OF THE NINETEENTH CENTURY: 1776-1850	
1.	The Republic of Bees Revolutionary Ardor Constitutions: Federal and State The Judges The Organization of Courts Civil Procedure The Law of Evidence	77 77 86 96 110 115 123
2.	Outposts of the Law: The Frontier and the Civil-Law Fringe The Civil-Law Fringe	127 137
3.	Law and the Economy: 1776–1850 Laissez-Faire and Its Limits The Business Corporation	147 147 159

## X DETAILED CONTENTS

4.	The Law of Personal Status: Wives, Paupers, and Slaves Marriage and Divorce All in the Family: Women's Rights and Property Rights Adoption Poor Laws and Social Welfare Slavery and African Americans	173 173 180 183 184 190
5.	An American Law of Property The Land: A National Treasure The Law of Private Land A Cyclical World: The Law of Mortgages Succession: Wills and Trusts Intellectual Property: Patents and Copyrights	213 213 218 227 230 236
6.	The Law of Commerce and Trade A Federal Question: Admiralty and General Commerce Sale of Goods Bankruptcy and Insolvency Contract	241 241 245 251 257
7.	Crime and Punishment: And a Footnote on Tort Penal Law and Penal Reform Walking the Beat The Substantive Law of Crimes The Crime of Punishment: The American Prison A Footnote on Tort	263 263 269 275 278 283
8.	The Bar and Its Works The Bar Organization of the Bar Legal Education The Literature of the Law  III. AMERICAN LAW TO THE CLOSE	289 289 300 303 308
1	OF THE NINETEENTH CENTURY	
	Blood and Gold: Some Main Themes in the Law in the Last Half of the Nineteenth Century The New Era Organic Law State Constitutions The West	321 321 326 330 345
	Judges and Courts: 1850–1900 The Judges Judicial Organization	355 355 367

3.	Procedure and Practice: An Age of Reform	373
	Mr. Field's Code	373
	Appellate Courts	379
	Codification and Reform	383
4.	The Land and Other Property	391
	The Transformation of Land Law	391
	The Public Land	393
	Property Law and the Dynasts	400
	Landlord and Tenant	405
	Mortgages	406
	The Decline of Dower	408
	A Tangle of Titles	409
	Intellectual Property: Patents, Copyrights, and Trademarks	411
5.	Administrative Law and Regulation of Business	417
	The Coming of the Bureaucrats	417
	Regulating the Infrastructure: Banks, Insurance, and Railroads	419
	Occupational Licensing: And the Pull of Public Health	430
	The Great Antitrust Act	437
6.	Torts	443
7.	The Underdogs: 1850–1900	463
	The Dependent Poor	463
	Family Law and the Status of Women	471
	The Races	482
8.	The Law of Corporations	495
	Corporation Law: Freedoms and Restraints	495
	A Discordant Addendum: The Municipal Corporation	507
9.	Commerce, Labor, and Taxation	513
	Contract	513
	Negotiable Instruments	517
	The Law of Sales	520
	Usury Laws	522
	Insurance	524
	Bankruptcy	527
	Admiralty	529
	Labor and Law	532
	Federal Taxation	543
	State and Local Tax	545
	Death Taxes	548

## xii DETAILED CONTENTS

10.	Crime and Punishment	551
	The Many Faces of Criminal Law	551
	The Statute Law of Crimes	561
	Victimless Crimes	564
	Crime, Crime Rates, Insanity, the Guilty Mind	571
	Punishment and Correction	576
11.	The Legal Profession: The Training and Literature of Law	591
	The Rise of the Law School	591
	The Literature of the Law	605
	Legal Periodicals and Casebooks	613
12.	The Legal Profession: At Work	617
	The Nimble Profession	617
	Organization of the Bar	633
	Admission to the Bar	637
	IV. THE TWENTIETH CENTURY	
1.	Leviathan Comes of Age	643
	Center and Periphery	645
2.	The Growth of the Law	661
	Welfare	661
	The Liability Explosion: Workers' Compensation	663
	More Explosions: Tort Law	667
	Constitution, Rights, and Civil Liberties in the Twentieth Century	673
	First Nations	687
	Asian Americans	689
	Hispanics	690
	The Revolt of Otherness	692
	Freedom of Speech	696
	Religion and the Law	699
3.	Internal Legal Culture in the Twentieth Century: Lawyers,	
	Judges, and Law Books	703
	Legal Ethics	706
	The Organized Bar	707
	Legal Education	709
	Legal Literature	711
	The Twentieth-Century Bench	718

	DETAILED CONTENTS	xiii
4.	Regulation, Welfare, and the Rise of Environmental Law Land Use	729 729
	Environmental Law and the Environmental Movement Intellectual Property	732 735
	The Welfare-Regulatory State	737
	Business Law and the Law of Business	743
5.	Crime and Punishment in the Twentieth Century	749
	Crimes of the Century	751
	Decriminalizing Sex and Vice	753
	Defendants' Rights	761
	The Death Penalty	764
	Crime Waves and the National Response	767
6.	Family Law in the Twentieth Century	769
	The Law of Divorce	770
Epilogue: A Final Word		779
_	Bibliographical Essay	
	dex	797