



Review: [Untitled]

Reviewed Work(s):

Crossing over the Line: Legislating Morality and the Mann Act by David J. Langum
David J. Garrow

Law and History Review, Vol. 15, No. 1. (Spring, 1997), pp. 190-191.

Stable URL:

<http://links.jstor.org/sici?sici=0738-2480%28199721%2915%3A1%3C190%3ACOTLLM%3E2.0.CO%3B2-S>

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that of common law slave states. Was this true? Where does Louisiana fit, and what relationship might there have been between "Americanization" of Louisiana's slave law and racism? There are, of course, other questions as well, but Schafer has provided a very solid base from which to proceed.

Thomas D. Morris
Portland State University

David J. Langum, *Crossing over the Line: Legislating Morality and the Mann Act*, Chicago: University of Chicago Press, 1994. Pp. xii + 311. \$24.95 (ISBN 0-226-46880-1).

Langum's history of the creation and enforcement of the "White Slave Traffic Act of 1910" is a creditable and competent account of a criminal statute whose sexual focus made its name one of the better-known federal legislative appellations of the twentieth century. Thoroughly researched and approachably written, *Crossing over the Line* repeatedly emphasizes how the story of the Mann Act is in significant part a story of how overly inclusive statutory language eventually led to prosecutorial applications and judicial readings that reached well beyond the 1910 intentions of the law's drafters and congressional proponents.

Chicago Representative James R. Mann and other like-minded contemporaries who wanted to stamp out the much-discussed (but little documented) phenomenon of forcibly coerced female prostitution won speedy congressional approval for provisions that invoked the commerce power to make it a federal crime to aid in the interstate transport of any woman "for the purpose of prostitution or debauchery, or for any other immoral purpose" (261). Their language, however, criminalized not only all interstate transit that aided or abetted voluntary as well as coerced commercial prostitution but also, through the vague proscription of "other" immoral purposes, opened the statutory door to the possible federal prosecution of unmarried couples whose friendly and noncommercial interstate travels included or implied the practice of sexual relations. Langum places primary blame on the federal courts, rather than on congressional drafters or Justice Department prosecutors, for the rather rapid expansion of Mann Act prosecutions to include "boyfriend-girlfriend travel" (11). But, particularly with regard to the Justice Department's uncertain and ambivalent application of the law's open-ended language during the 1910s, Langum emphasizes that "the public actually pushed the government to go farther in its interpretation and enforcement of the statute than government itself originally wanted to go" (11). Undergirding public sentiment, Langum stresses, was a "repressive American puritanism, largely religiously inspired, [and] opposed broadly to sexuality outside of marriage, that was at work" (7).

The expansive, puritanical application of the Mann Act was ratified by the Supreme Court in 1917 in *Caminetti v. United States*. While Langum gives extensive attention to the origins and prosecution of the *Caminetti* case (the original June 1913 trial in Sacramento made the front page of the *New York Times* four times), he unfortunately says far less than he might regarding two earlier and likewise significant Supreme Court rulings in *Hoke v. United States* (1913) and *Wilson v. United States* (1914).

Langum believes that "beginning approximately in 1928 there was a curtailment of

prosecution for noncommercial offenses" (95), occasioned both by increasing trial jury opposition to such charges and by a more general liberalization in American attitudes toward nonmarital sex. However, neither in the 1930s nor even in the 1960s was there any *legislative* reform or repeal of the Mann Act's expansive provisions; a change in public opinion was insufficient to generate congressional liberalization of the law's invocation of now outdated standards of sexual morality.

Crossing over the Line's treatment of post-World War II Mann Act cases is sometimes unsatisfying, in part because of Langum's somewhat unclear assertion that the "easy availability" of "trial records stops in the mid-1940s" (215), and perhaps in greater part because of Langum's failure to submit FOIA (Freedom of Information Act) requests to the FBI (whose early growth the Mann Act much aided) with the four- or five-year lead time that experienced FOIA users now know is necessary for the processing and release of most requests. Hence, at least one of Langum's conclusions—that "as a practical matter, the Mann Act is now limited to prostitution, forced sex, and perhaps the creation of pornography" (252)—strikes an explicitly uncertain note at the very same time that Langum confidently—and persuasively—is able to attribute that dramatic change not to any formal modifications in the law but instead to how "the vast majority of the American public [now] is far more tolerant of extramarital sexuality than it was in the early part of the century" (252).

Beyond citing the two extremely well known cases of fighter Jack Johnson and musician Chuck Berry, Langum does little to advance his argument that "the Mann Act also became an instrument of racism" (254), and at times a more assertive editor could have saved Langum from some rhetorical excesses. Dedicating *Crossing over the Line* to "the victims of the Department of Justice" is perhaps appropriate, but when Langum says that "Then, as in our own day, self-righteous politicians and preachers blathered on about moral decay and degeneracy" (165), even the most sympathetic reader cringes just a bit. When Langum further contends that "The federal use of strong-arm tactics continues today and ought to be intolerable in a free society" (171), even the most attentive reader may feel somewhat puzzled.

But by far the greatest weakness of *Crossing over the Line* is a contextual sin of omission rather than commission: never once does the book even mention the name of Anthony Comstock, the well-known anti-vice and anti-obscenity crusader whose efforts were heavily publicized in the years prior to 1910 and whose personal and organizational efforts continued well into the 1910s. Likewise, never once does *Crossing over the Line* even mention birth control advocate Margaret Sanger or similar activists whose efforts during the 1910s and 1920s represented a highly visible challenge to conservative sexual norms, nor does *Crossing over* ever discuss or allude to how many state and local criminal prosecutions of Sanger and other birth control advocates were launched during the very same years when federal agents were so energetically and expansively enforcing the anti-sex provisions of the Mann Act. Had David Langum made a greater and more inclusive effort to paint the sexual dimensions of criminal law and public policy struggles during those two fascinating decades, *Crossing over the Line* might well have been a far more insightful and provocative volume.

David J. Garrow

Emory University School of Law
