*Coercion, Contract, and Free Labor in the Nineteenth Century*
ROBERT J. STEINFELD
Cambridge: Cambridge University Press, 2001

Reviewed by **CHARLES POST**

For most Marxists, the relationship between capital and wage-labour constitutes the core of capitalist social property relations.[1] However, there is little consensus among historical materialists about the concrete, historical forms wage-labour has taken during the history of capitalism. In particular, there is considerable controversy concerning the status of legal-juridical 'freedom' in the constitution of capitalist social property relations. In a recent essay in this journal, Jairus Banaji makes a powerful argument against the notion that direct producers under capitalism ever consent to wage-labour. He contends that any attempt to distinguish 'free' and 'unfree' labour under capitalism produces 'a Marxism of liberal mystifications'.[2] Specifically, Banaji argues that the ability of the individual worker to enter and leave employment at will – to freely dispose of their labour-power as their 'personal property' – is not a necessary element of capitalist social property relations.

In making his argument, Banaji relies on the work of 'critical-realist' legal historians who have researched the concrete history of wage-labour in the industrialised countries over the past two centuries. Robert Steinfeld's study of the legal coercion of wage-workers in Britain and the US, *Coercion, Contract and Free Labor in the Nineteenth Century* is an excellent example of this literature. Steinfeld locates the origins of the notion of 'free labour' in the Scottish Enlightenment's stageist interpretation of European history. According to Adam Smith and others, the move toward 'free labour' was the inevitable product of the historical evolution from feudalism, where serfdom bound peasants to the land; to mercantilism, where wage-workers were legally compelled to find employment and complete the terms of their contracts; to industrialisation, where workers were free to enter and leave employment at will. Steinfeld and the legal realists reject this evolutionary perspective, arguing, instead, that various forms of legal coercion continue to exist well into the late nineteenth century and that 'free' and 'unfree' labour should be viewed as 'terms of labor along a very broad continuum rather than a binary opposition' (p. 8).

[1] I would like to thank Robert Brenner, Vivek Chibber and Teresa Stern for their helpful comments on an earlier draft of this review.
[2] Banaji 2003, p. 72.

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Steinfeld examines in detail the struggles against two sets of laws and regulations employers used to force workers to fulfill their contracts in the nineteenth century. In Britain, the sixteenth-century Statute of Artificers, which regulated wages, imposed fines on employers who 'enticed' workers from other employers and jailed workers who were not employed, was no longer enforced by the late eighteenth century. The Statute was repealed in the early nineteenth century. Despite the dominance of 'laissez-faire' ideology among employers and their political spokesmen in the nineteenth century, 'one feature of earlier system of labour regulation, however, remained in place: criminal sanctions for contract breaches' (p. 41). Beginning in 1720, Parliament passed a series of laws, culminating in the 1823 Master and Servant Act, which imposed penal sanctions on workers who left their employers before the end of their contracts. Specifically, the Master and Servant Acts allowed local Justices of the Peace to send 'workmen . . . to the house of correction and held at hard labor for us to three months for breaches of their labor agreement' (p. 47).

US capitalists did not rely solely on the 'dull compulsion of the market' to enforce labour contracts during the nineteenth century. Like their British counterparts, they relied on various legal-juridical pressures to ensure that workers fulfilled the terms of their labour contracts. However, US employers did not have access to penal sanctions for recalcitrant workers. Instead, capitalists in the US routinely withheld wages until workers completed the terms of their contracts. By 1850, almost all Northern state courts had adopted the common-law doctrine of 'entirety'. According to Steinfeld, 'contracts of service for a term or to perform task or piece work would be construed as entire and no wages would be owed to a worker who had voluntarily abandoned the contract before completing the term or task' (p. 291).

Steinfeld's detailed study of the enforcement of the Master and Servant Act in Britain, and the court cases challenging the withholding of wages in the US demonstrate that legal-juridical coercion to enforce wage-labour was not restricted to the agricultural 'peripheries' of either social formation. Between 1857 and 1875, approximately 10,000 British workers were prosecuted each year for violating the terms of their labour contracts – mostly leaving employment before the end of the contract. The vast majority were convicted and served, on average, one month at hard labour. Steinfeld found that most of the prosecutions were of skilled workers in manufacturing – coal mining, iron, building and printing trades, glass, pottery and cutlery workers, transport workers, engineers (machinists), tool makers, coach builders and boiler makers. Prosecutions were concentrated in the northern Midlands 'where manufacturing played a significant role in the local economy' (p. 78) and tended to increase in number during periods of low unemployment, when tight labour markets increased the ability of workers – especially skilled workers – to move from employer to employer in search of higher wages and better working conditions.

Data on the actual extent of employers' withholding of wages when workers failed to fulfil the term of contract in the US is quite sketchy. Unlike Britain, where the local