

**AMERICAN SOCIETY FOR LEGAL HISTORY**  
**Meeting of the Board of Directors**  
**Thursday, November 18, 2010**  
**7:30-10:00 pm**  
**Maestro A & B Rooms, Doubletree Hotel, Philadelphia**

**Agenda**

Receipt of committee reports in the order listed in the Board Materials

New Business

Electronic balloting for ASLH elections (Charles Donahue)

Notification of ASLH elections (Michael Churgin)

Resolution on plural posts of responsibility in the ASLH (Sally Hadden)

Discussion of membership dues (Al Brophy)

Possible Financial and Future of the Society joint meeting proposals (Sally Gordon, Craig Klafter)

Report from Internationalization subcommittee (Wes Pue)

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**Note: These materials contain the names of winners of (or nominees for) prizes, awards, and fellowships. Please keep this information strictly confidential.**

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American Society for Legal History  
Board of Directors  
Minutes of the November 12, 2009 Meeting  
Dallas, Texas  
**DRAFT – NOT YET APPROVED**

Officers and Board Members Present (in alphabetical order): Constance Backhouse (President-Elect), Alfred Brophy, Christine Desan, Charles Donahue (Immediate Past President), William Forbath, Thomas Gallanis (Secretary), Sally Hadden, Martha Jones, Craig Klafter (Treasurer), Adam Kosto, Michael Lobban, Maeva Marcus (President), Matthew Mirow, Robin Stacey, Karen Tani, and John Wertheimer.

Also Present (in alphabetical order): Stuart Banner, Michael Churgin, Daniel Ernst, Sarah Barringer Gordon, Thomas Green, Charles Grench, Michael Grossberg, Craig Joyce, Bruce Mann, Rayman Solomon, David Tanenhaus, and Joshua Tate.

The meeting was called to order at 6:35pm.

1. Approval of Minutes. The minutes of the November 2008 meeting in Ottawa, Canada, were approved.
2. Secretary's Report. Thomas Gallanis presented, and the Board accepted, the Secretary's report.
3. Treasurer's Report. Craig Klafter presented, and the Board accepted, the Treasurer's report.
4. Report of the Committee on Conferences and the Annual Meeting. Craig Joyce presented, and the Board accepted, the committee's report. A motion that the Society hold its 2012 annual meeting in San Juan, Puerto Rico **failed**. A motion that the committee explore, and poll the views of the membership on, the possibility of holding the 2013 annual meeting in San Juan, Puerto Rico, **passed**.
5. Report of the Advisory Committee on the Cromwell Prizes. The Board accepted the committee's report. Maeva Marcus reported that, going forward, the Cromwell Foundation has generously agreed to fund separate prizes for the best article and best dissertation, respectively.
6. Report of the Committee on Documentary Preservation. Michael Churgin presented, and the Board accepted, the committee's report. A motion for the Society to sign the petition (referred to in the committee's report) to update PACER **passed**.

7. Report of the Finance Committee. Sarah Barringer Gordon presented orally, and the Board accepted, the committee's report.

8. Report of the Committee on the Future of the Society. Rayman Solomon presented, and the Board accepted, the committee's report.

9. Report of H-Law. The Board accepted the H-Law report.

10. Report of the Committee on Honors. No report was submitted this year, as no honors have been awarded.

11. Report of the Committee on the Hurst Memorial Fund. Rayman Solomon presented, and the Board accepted, the committee's report. A motion to authorize the outgoing or incoming President to sign an agreement with the University of Wisconsin Law School, continuing the Hurst Institute for five further summers beginning in 2013, **passed**. A motion authorizing the incoming President to send letters of appreciation to Professor Howard Erlanger and Ms. Pam Hollenhorst of the Institute for Legal Studies at the University of Wisconsin Law School **passed**.

12. Reports of Law and History Review and of the University of Illinois Press. Alfred Brophy presented, and the Board accepted, the Law and History Review report. A motion authorizing the incoming President to send letters of appreciation to President Neil Smatresk, Dean John V. White, Dean Christopher Hudgins, and Department Chair David Wrobel of the University of Nevada, Las Vegas, **passed**.

No report was received from the University of Illinois Press.

13. Report of the Membership Committee. Sally Hadden presented, and the Board accepted, the committee's report.

14. Report of the Nominating Committee. The Board accepted the committee's report. The Secretary reported the results of the annual election:

a. For the office of President-Elect, Bruce Mann **stands elected**.

a. For seats on the Board of Directors, Mary Sarah Bilder, Holly Brewer, Risa Goluboff, Dylan Penningroth, and Victoria Saker Woeste **stand elected**.

b. For seats on the Nominating Committee, Sarah Barringer Gordon and David Konig **stand elected**.

15. Report of the Preyer Memorial Committee. The Board accepted the committee's report.

16. Report of the 2009 Program Committee. Stuart Banner presented, and the Board accepted, the committee's report.

17. Report of the Publications Committee. Bruce Mann presented, and the Board accepted, the committee's report. A motion to raise, effective immediately, the annual dues of emeritus members to \$35 and student members to \$25 **passed**. A motion to authorize the Executive Committee and the Membership Committee to explore the idea of further increases in non-student dues as might be appropriate to cross-subsidize student dues **passed**. A motion to keep the category of life membership but raise the dues for new life members, effective immediately, to \$2,000 **passed**. A motion to set the annual rate for institutional subscriptions at \$175, effective immediately, **passed**.

18. Report of the Committee on the Reid Book Award. The Board accepted the committee's report. The Board expressed some concern that, for the second time, the Reid Prize and the Cromwell Prize were awarded to the same book. A motion directing the committee to use its best efforts to seek out all eligible books, rather than relying on submissions, **passed**. A motion encouraging the committee and the Advisory Committee on the Cromwell Prizes to keep each other apprised during their respective deliberations **passed**.

19. Report on the Committee on Research Fellowships and Awards. Michael Grossberg presented, and the Board accepted, the committee's report. A motion authorizing Professor Grossberg to write a letter, on the Society's behalf, thanking the Cromwell Foundation **passed**.

20. Report of Studies in Legal History. Daniel Ernst and Thomas Green presented, and the Board accepted, the editors' report. The Board expressed its appreciation to the University of North Carolina Press, represented at the meeting by Charles Grench.

21. Report of the Surrency Prize Committee. The Board accepted the committee's report.

22. Report of the Sutherland Prize Committee. The Board accepted the committee's report.

23. New Business: Amendments to the By-laws. In connection with item 17 above, a motion to make the following amendments to the Society's by-laws **passed**:

- a. Delete "or institution" in Article I, section 1.
- b. Replace "institutional member" with "institutional subscriber" in Article I, section 2.

The meeting was adjourned at 8:27 pm.

Respectfully submitted,

Thomas P. Gallanis  
ASLH Secretary

**Secretary's Report**  
**Sally Hadden**

In my inaugural year as secretary, I have enjoyed working with Constance Backhouse, Bruce Mann, and Craig Klafter. I extend my sincere thanks to Tom Gallanis, who eased the transition process enormously and continues to serve as a resource to me whenever questions arise.

Shortly after last year's meeting, I began contacting previous secretary-treasurers to locate 'stray' ASLH records that might be collected and, potentially, deposited with the rest of our society records at the University of Illinois archives (they currently hold ASLH records for 1982-2000). I received hard copies of documents and electronic files from Bill Lapiana and Don Nieman. I inventoried these materials and prepared them for transmission to Illinois. I will present the inventory to the Executive Committee for their consideration at the 2010 meeting, to determine if any records should be retained or destroyed rather than shipped to UI.

In the process of preparing for the annual election, I exchanged a series of emails with Charles Donahue about the prospect of electronic balloting. After further emails with President Constance Backhouse, we decided to delay the implementation of electronic balloting until it could be discussed with the Board at the 2010 annual meeting. The range of possibilities is presented under "New Business."

**Treasurer's Report**  
**Craig Klafter**

So far this fiscal year, the Society has received \$22,164.47 in operating income and expended \$11,872.46 in operating expenses. As indicated below, the income and expenses are within budget expectations. Please note that the Society has not yet been paid by Cambridge University Press for membership dues and income from *Law & History Review*. I have been in communication with its representative, who has assured me that payment will be forthcoming shortly.

The Society's endowment, which ended last fiscal year with a value of \$803,172.13, has a value today of \$807,835.18. Thus, it has appreciated so far this fiscal year by \$4,663.05. The Society changed investment managers from Keith Investment Counsel to Peabody River Asset Management on April 8, 2010. Since Peabody River Asset Management has taken over responsibility for investing the Society's endowment, the endowment has generated an annualized return of 2.9%.

As of today's date [September 29, 2010], the Society's net worth is \$874,038.81.

Details of the Society's finances are attached [see Attachment One].

**Annual Meeting, Committee on the  
Craig Joyce, chair**

**Philadelphia Acknowledgments**

*Philadelphia, PA, Nov. 18-21, 2010.* The Annual Meetings Committee, on behalf of the Society, thanks (and expresses the hope that members of the board, too, will take occasion to thank) the 2010 Local Arrangements Chair, Donald Tibbs, J.D., Ph.D., LL.M., of the Earle Mack School of Law, Drexel University, along with committee members Tabatha Abu El-Haj, Rocquael Gaines, Mary McGovern, Tanesha Readom and Kara Swanson (all Drexel), Sally Gordon (University of Pennsylvania), and Ray Solomon (Rutgers University, Camden), for what clearly will be a memorable meeting.

**Meetings Scheduled**

*Atlanta, GA, Nov. 10-13, 2011.* The site of the 2011 meeting will be Atlanta's new Loews in Midtown, which opened in April 2010 (\$135 sleeping rooms/\$25,000 F&B guarantee). For visuals, see <http://www.loewshotels.com/en/Atlanta-Hotel> . Nearby attractions include the High Museum, the Botanical Garden, and the Margaret Mitchell House. Polly Price of Emory Law School will serve as Local Arrangements Chair.

*St. Louis, MO, Nov. 8-11, 2012.* In 2012, the Society will visit the Gateway City, returning for its first visit since 1982. Now, as then, the Local Arrangements effort will be led by David Konig of Washington University. The meeting hotel, located at Laclede's Landing, the 1764 birthplace of St. Louis, will be the Four Seasons, Missouri's only five-star hotel (\$145/\$25K): <http://www.fourseasons.com/stlouis> .

**Future Meetings Input Solicitation**

Past years' reports have contained a detailed set of factors for meeting site selection, including affordability of sleeping and meeting rooms, appeal of the city, travel ease and expense, demographics of membership, and the like. The annual meetings committee will continue to work with the Treasurer and local arrangements committees to conceive affordable but memorable meetings for ASLH.

Prudence in the face of continued constrained finances at Society members' home institutions, however, counsels the need to think creatively about locating and conducting meetings in ways that maximize value while controlling costs.

Thus, the annual meetings committee would be grateful to members of the board for their input at the Philadelphia meeting concerning what is and is not important to them in the siting of annual meetings, as well as any suggestions the board might offer about how optimize such meetings going forward (think "frugal fun").

Volunteers wishing to consider hosting their own meetings should consult the Society's web page for details, at <http://www.legalhistorian.org/conferences/hosting.shtml> , or visit directly with members of the annual meetings committee.



## **Cromwell Prizes, Advisory Committee on the Gerard Magliocca, Chair**

This memo describes the work of the Cromwell Prize Committee for 2010. The Committee was comprised of nine members divided into three subcommittees. Robert Gordon, Risa Goluboff, and Claire Priest served on the dissertation subcommittee. Tony Freyer, Carlton Larson, and Renee Lerner were on the Articles Subcommittee. The Book Subcommittee consisted of Vicky Woeste, Christian McMillen, and myself. This is the first time that the Committee attempted to make three prize recommendations. Prior to this year, articles and dissertations were considered in the same category.

The Dissertation Subcommittee unanimously recommended Anna Leah Fidelis T. Castaneda, *Creating Exceptional Empire: American Liberal Constitutionalism and the Construction of the Constitutional Order of the Philippine Islands, 1898-1935*. Here is what we propose to say on the award citation:

This dissertation is a groundbreaking study of the foundational period of the modern Philippine state. Drawing on an extraordinary range of American and Philippine sources, Castañeda shows how the introduction of liberal and progressive constitutional institutions to a colonial context—separated powers, expanded administrative discretion, even democratic principles of governance—actually facilitated authoritarian rule, reinforcing local patterns of class domination while also smoothing the path for powerful foreign economic interests to control development. Imagined and executed on a large scale, this study makes an original and extraordinary contribution both to Filipino legal history and to the study of the legal machinery of colonialism and empire more generally.

The Book Subcommittee recommended Margot Canaday, *The Straight State: Sexuality and Citizenship in Twentieth Century America* (Princeton Univ. Press 2009). Here is what we propose to say in the book award citation

Canaday's book will surely become a standard source for anyone who wants to understand the regulation of sexual orientation during the twentieth century. Her description of the symbiotic relationship between the rise of the bureaucratic state and the growth of the law on sexual status, as revealed through an exhaustive examination of military, immigration, and welfare policy, is compelling, original and illuminating.

After much discussion within the Articles Subcommittee and consultation with the ASLH President, the decision was made not to award an article prize this year. In part, that was because we received only two submissions, which was considered inadequate. More important, we concluded that neither of the submissions that we did receive deserved recognition.

I would suggest that more efforts be undertaken to publicize the Cromwell Awards next year. The best way to do that would be through legal blogs such as Concurring Opinions, Balkinization, or the Legal History Blog run by Mary Dudziak. As I am now one of the members of Concurring Opinions, I would be happy to talk about the prize competition there to generate more interest.

In conclusion, the Committee did an excellent job this year and it was pleasure working with such terrific colleagues.

**Documentary Preservation, Committee on  
Michael J. Churgin, chair**

The National Archives has reconsidered its position concerning the retention of federal bankruptcy records, having never implemented the sampling agreement reached with the committee while Trudy Peterson was acting archivist in the early 1990s. The comments I sent to NARA are attached; NARA has rejected the suggestion to digitize records. In addition, no schedule has been developed for the electronic bankruptcy case files. Concerning the non-trial federal civil case files, NARA is proposing retention by suit codes. The completed appraisal is an improvement over previous NARA consideration. The driving force behind these NARA activities is that the Administrative Office of US Courts must pay for the storage of material in the federal records centers. Michael Griffith, a member of the committee and recently retired as the archivist for Santa Clara County, CA, was of great assistance in reviewing NARA's proposals. The Committee will continue to monitor the development of a final retention schedule for these records.

Last year, the board accepted the committee's recommendation to support greater access to the electronic records system used by most federal courts for public access, known as PACER. The laboring oar for this initiative has been the American Association of Law Libraries. At its fall 2010 meeting, the United States Judicial Conference took the following action: "Approved the establishment of a program involving the Government Printing Office, the American Association of Law Libraries and the Administrative Office, that would provide training and education to the public about PACER service, and would exempt from billing the first \$50 of quarterly usage by a library participating in the program."

Jim Folts of the New York Archives solicited committee support for a bill passed by the New York Assembly and Senate to retain the records of the governors, records which previously had been treated as private property. I took the liberty of endorsing the legislation. The matter is pending for presentation to the governor.

Ray Solomon and I continue to serve on the research advisory panel for the Digital Archive of the Birth of the Dot Com Era at the University of Maryland in affiliation with the Library of Congress. In February, the subcommittee approved a research project using the database that includes records of the defunct bankrupt Brobeck law firm. In addition, I continue to be consulted from time to time by university faculty and librarians on acceptance of legal papers and access issues.

I have continued my practice of commenting to the National Archives concerning agency proposals for disposition of records and the appraisals by the Archives, usually recommending expanded retention of records.

From: Michael Churgin  
Sent: Friday, May 21, 2010 1:48pm  
To: Marvin Kabakoff  
Subject: RE: Bankruptcy Case Files

Mr. Kabakoff,

As you know, I chair the Committee on Documentary Preservation of the American Society for Legal History. I assume you have access to the files that discuss the agreement between NARA and ASLH while Trudy Petersen was Acting Archivist concerning the bankruptcy records. It is unfortunate that the agreement has never been carried out and that no one at NARA notified ASLH about any problems. I am writing in response to your e-mail of April 19.

Bankruptcy records certainly are not regarded as of limited interest by historians. I refer you to the recent essay in the December 2009 issue of *Reviews in American History* where Walter Licht, the Walter H. Annenberg Professor of History at the University of Pennsylvania, comments that "Bankruptcy court records contain gold mines of information on the workings of businesses." He was reviewing *Chicago Made: Factory Networks in the Industrial Metropolis* by Robert Lewis. Professor Licht used bankruptcy records himself to write *The Face of Decline: The Pennsylvania Anthracite Region in the Twentieth Century*. In helping understand the impacts of rapid growth and economic upheaval in the twentieth century, it is difficult to see how bankruptcy records would not be important.

The same factors that make it difficult for NARA to sample bankruptcy records also account for their relatively low use. Retired by courts using different numbering systems and organized by closing dates, the records are difficult to access. They reside in Federal Records Centers, which are not designed or located to facilitate research. Information on cases must first be obtained from courts and record locations determined before a visit can be planned. Not surprisingly, these requirements discourage researchers.

There is no reason not to retain all the pre-1940 bankruptcy cases. According to NARA, they amount to 4600 cubic feet, a quite small volume when distributed among the Regional Archives which hold court records. Given that these cases document America's economic history through the Progressive Era, World War I, the Twenties, and the Great Depression, they definitely should be saved.

Concerning the records subsequent to 1940, ASLH maintains its position on sampling. The compromise of designating certain districts makes the most sense. When records were pulled for our perusal at the Atlanta Records Center, it was obvious that sampling would be needed to include records of women and minorities. An alternative has been suggested by one member of the committee: "The idea of simplified sampling techniques has merit because, in my view, most researchers are not likely to be conducting statistical analyses of all the records. A combination of simplified sampling (say on a box level) with retention of all the records of a small number of courts might be the best alternative. This alternative would preserve some information about all courts while retaining the opportunity to view the full records of selected locations."

Obviously, this is a subject in need of careful consideration if NARA wishes to modify the original agreement. Please keep us in the loop as NARA reconsiders the matter.

Michael J. Churgin  
Chair

**Finance Committee**  
**Sarah Barringer Gordon, chair**

The Finance Committee is pleased to report that the financial condition of the Society is strong. Our Treasurer Craig Klafter has ably guided us and advised us on both budget and investment issues. Our current endowment accounts total just over \$810,000 (\$812,500 as of this writing). Over the past year, we have changed investment advisers, from Roger Keith and SEI to Peabody River, whose principal is Adam Apt. Roger, who had served us well for several years, was about to leave SEI, and we decided that we could no longer impose on his close relationship to Charlie Donahue. Peabody River has had our account since April and we are pleased that the account has grown over the past three months from \$729,000.<sup>1</sup>

As you know, the volatility of markets and the underlying economy has meant that endowments at many institutions have suffered substantially. It is also fair to say that our endowment has suffered, although our draw has been virtually nonexistent, allowing us to weather the turbulent times with relative calm.

We currently have a targeted spend rate of 4 % of endowment. At our committee meeting, we will discuss whether to recommend to be board a revision downward in the spend rate to reflect more cautious times and likely modest returns for the next several years. Now that we have a history of several years of investment, as well, we hope to bring a recommendation to the Board that you authorize us to use a 36-month trailing average for calculation of our spend rate, in order to smooth out expenditures. While we have not yet spent up to our target rate, we anticipate growth in requests for support of our major initiatives, including funding for early career scholars, conferences, and publications. Acting now to ensure reasonable rates of spending will preserve our endowment for the longer term and enable us to remain active in funding efforts to build the field, and to recognize and encourage new work in legal history.

We also append a draft budget to this report, prepared by Craig, which outlines our project income and expenses. As you will see, our expenses associated with putting on the annual conference remain the single highest category. We anticipate that in future years our expenses may grow, as local arrangements committees understandably have encountered reluctance on the part of law schools to fund events, given their own budgetary concerns. The budget materials also include a comparison with past years, and a breakdown of our endowment into various categories, and details how much each restricted fund contains. Last, two weeks ago New York State adopted a uniform law, the Prudent Management of Institutional Funds Act, which may affect how we manage and report on our funds. Craig is currently following up on how this new statute will change (or not) what we have done to date, and expects to have more information for us by the time of the annual meeting.

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<sup>1</sup> That figure represented the total amount transferred to Peabody River in April, plus a slight decline over the interim. The growth over the intervening months reflects a stronger market and a recovery from the costs associated with selling out all accounts at SEI at a particularly volatile period.

<b>Endowment as of 10/1/2010</b>			
	Cost Basis	Current Value	
<b>Restricted Funds</b>			
Annual Meeting	\$1,000.00	\$1,130.00	
Joseph Smith Fund	\$13,720.00	\$16,377.98	for subventions
Thomas A. and Ruth B. Green Endowment Fund	\$69,102.16	\$78,085.44	for subventions
Subventions	\$5,000.00	\$5,650.00	solely in support of legal history concerning early child development
Subventions	\$26,000.00	\$30,380.00	LHR specific (used when extra leaves are required)
John Philip Reid Book Prize	\$46,050.00	\$52,036.50	
Kitty Preyer	\$6,300.00	\$7,119.00	
Restricted Funds Total	\$167,172.16	\$190,778.92	
Unrestricted	\$552,264.57	\$624,032.53	
Endowment Total	\$719,436.73	\$814,811.45	

ASLH	FY2009	FY2009	FY2010	FY2010	FY2011	
Category	Budget	Actual	Budget	Actual to Date	Budget	
<b>Income Categories</b>						
Annual Meeting Revenue*	\$23,000.00	\$23,223.23	\$35,000.00	\$31,903.12	\$35,000.00	*Includes meeting margins or losses from previous years to comply with IRS regulations
Copyright Royalties	\$6,000.00	\$6,957.44	\$5,000.00	\$218.74	\$5,000.00	
Interest Income	\$25.00	\$27.87	\$7.00	\$4.06	\$7.00	
Endowment Income**	\$22,093.34	\$51,813.18	\$32,105.70	\$4,663.05	\$32,592.46	**Budgeted endowment income is based on the pre-approved 4% spend rate
Mailing List Rental	\$350.00	\$725.00	\$350.00	\$0.00	\$350.00	
Membership Dues - L&HR***	\$1,000.00	\$1,097.06	\$24,000.00	\$300.00	\$31,505.00	***Based on CUP projections
<b>Total Income Categories</b>	\$52,468.34	\$83,843.78	\$96,462.70	\$37,088.97	\$104,454.46	
<b>Expense Categories</b>						
Annual Meeting	\$21,000.00	\$10,533.66	\$35,000.00	\$0.00	\$35,000.00	
Membership Dues	\$4,000.00	\$4,135.00	\$1,635.00	\$1,635.00	\$2,000.00	
Merchant Bank Charges	\$350.00	\$391.09	\$800.00	\$691.04	\$1,000.00	
Misc. Operational Expenditures****	\$3,000.00	\$2,837.35	\$4,722.00	\$2,042.58	\$5,000.00	****Includes webserver costs, software, printing, postage, conference calls, etc.
Programatic Expenditures						
Conferences	\$0.00	\$0.00	\$10,000.00	\$5,000.00	\$5,550.00	
H-Law	\$1,000.00	\$1,000.00	\$1,000.00	\$1,000.00	\$1,000.00	
Hurst Institute	\$8,500.00	\$8,500.00			\$7,500.00	
Prizes	\$6,000.00	\$5,250.00	\$6,000.00		\$6,000.00	
Subventions	\$8,000.00	\$17,800.00	\$2,000.00	\$0.00	\$5,000.00	
For Grd. Students to attend annual meeting			\$5,000.00		\$5,000.00	
web design and construction for book series					\$10,000.00	
discretionary with approval of Executive Committee			\$14,000.00		\$20,000.00	
<b>Total Expense Categories</b>	\$51,850.00	\$50,447.10	\$66,157.00	\$10,368.62	\$103,050.00	
<b>Surplus or Deficit</b>	\$618.34	\$33,396.68	\$30,305.70	\$26,720.35	\$1,404.46	

<b>ASLH</b>	<b>FY2011</b>
<b>Category</b>	<b>Budget</b>
<b>Income Categories</b>	
Annual Meeting Revenue*	\$35,000.00
Copyright Royalties	\$5,000.00
Interest Income	\$7.00
Endowment Income**	\$24,444.34
Mailing List Rental	\$350.00
Membership Dues - L&HR***	\$31,505.00
<b>Total Income Categories</b>	<b>\$96,306.34</b>
<b>Expense Categories</b>	
Annual Meeting	\$35,000.00
Membership Dues	\$2,000.00
Merchant Bank Charges	\$1,000.00
Misc. Operational Expenditures****	\$5,000.00
Programatic Expenditures	
Conferences	\$5,550.00
H-Law	\$1,000.00
Hurst Institute	\$7,500.00
Prizes	\$6,000.00
Subventions	\$5,000.00
For Grd. Students to attend annual meeting	\$5,000.00
webmaster for book series discretionary with approval of Executive Committee	\$10,000.00
<b>Total Expense Categories</b>	<b>\$93,050.00</b>
<b>Surplus or Deficit</b>	<b>\$3,256.34</b>

\*Includes meeting margins or losses from previous years to comply with IRS

\*\*Budgeted endowment income is based on the proposed **3% spend rate**

\*\*\*Based on CUP projections

\*\*\*\*Includes webserver costs, software, printing, postage, conference calls, etc.

**Future of the Society, Committee on the  
Ray Solomon, Chair**

1. Last year during the Annual Meeting the Committee met and decided to develop procedures to select an annual conference for young scholars that we would ask the Board to approve and annually fund. Dan Hamilton, Sally Gordon, and I worked on that over the year and I have attached a memo outlining the procedures we would like the Board to approve. Given the timetable we are asking the Board to fund one conference this Spring and then approve a second that would follow an abbreviated schedule and would take place in 2012.
2. The Committee has been presented a proposal from the incoming editors of the ASLH book series. They are requesting \$10,000 to be used to hire a web designer on an hourly basis to design a new website for the series that would help both the internal functions of the publications process of the series, as well as publicity and external promotion. There is also a possibility that the designer can assist in revamping the entire ASLH website. I have attached their proposals.
3. The Futures Committee will meet jointly with the Finance Committee before the Board Meeting in Philadelphia and will discuss these proposals as well as three other budgetary items for the 2010-2011 fiscal year: \$7,500 for the honorarium for the leader of the Hurst Institute during the summer of 2011; \$5,000 for book subventions; and \$5,000 for travel for graduate students/young scholars to the 2011 Annual Meeting.

All of these items will be presented to the Board at its meeting.



Date: September 28, 2010

To: The Board of Directors, American Society for Legal History

From: Ray Solomon, Sarah Gordon and Dan Hamilton  
On behalf of the Committee on the Future of the Society

Re: Early Career Scholars Legal History Conference

We are asking that the Board of the ASLH consider making an on-going commitment to co-sponsoring an annual legal history conference designed to benefit younger scholars. In light of the dramatic growth of applications to present papers at the ASLH annual meeting, many graduate students and younger scholars relatively new to the field are finding it increasingly difficult to find space on the program. Our goal is to help provide a new forum for discussing legal history work that will allow for more participation by those in the early stages of their legal history careers and increased interaction between senior and younger scholars.

At last year's Annual Meeting, in November 2009 in Dallas, the Committee for the Future of the Society set a policy of supporting an annual conference targeted especially to early career scholars. As you will recall, the Board generously helped to fund a pilot conference at the University of Pennsylvania Law School, "*Ab Initio: Law in Early America*," that was co-sponsored by Penn, the ASLH, the McNeil Center, the University of Minnesota and the University of Michigan. The ASLH contributed \$5,000. The conference was, thanks to the efforts of Sally Gordon and the steering committee, a major success and serves as a model for how future conferences will be organized. A report detailing the structure of the conference at Penn is attached.

Going forward, we hope the ASLH will consider supporting an annual conference in June. Our aim is to have a school or group of schools together apply for funding to host the conference, with the understanding that the host school would provide substantial funding. These proposals would include a draft call for papers and a budget for all expenses and would be submitted to the ASLH in time for Board action at the ASLH annual meeting in October. As a general matter, a proposal involving more than one institution is preferred. We would ask the ASLH Board, after receiving the recommendation of the Committee on the Future of the Society, to vote on an annual basis to provide roughly \$5,000 towards the cost of the conference. The procedure would be to identify the school or schools seeking to host such a conference in time for the Board to make a selection at the annual meeting. Then, a call for papers would go out, with a deadline of January 1.

The November meeting is almost upon us and we would like to ensure continuity by holding a conference this upcoming spring. The University of Michigan Law School has agreed to host a conference April 1 & 2, under the direction of Professor Martha Jones and Professor Bill Novak. A proposed budget and call for papers is attached. We would like to ask the Board to approve \$5,000 toward the expense of this conference at the annual meeting in November in Philadelphia. If approved, the call for papers will go out following the annual meeting.

The first "regular" application process would begin with the selection of a host school in time for board approval at the October 2011 annual meeting. A call for papers would follow that month or in November, with a due date of January or February. The conference date would be determined by the host school. We would like to ask the Board to approve \$5,000 towards the expense of this conference, which would not be payable until 2012 or possibly later.

Here is a proposed timeline of how we hope this will work:

**November 2010:**

1) The Board approves \$5,000 toward the conference at Michigan in April 2011. A call for papers follows shortly after the annual meeting.

2) The board also approves funding for the next conference, date to be determined by the host school or schools

3) At the annual meeting the board and the Committee on the Future of the Society announce this new initiative and encourage schools to consider putting together a proposal to host a future conference. More publicity efforts follow.

**Spring 2011:**

Proposals from potential host schools are due.

**October 2011:** The board, with the recommendation of the committee, selects a host school or schools. A call for papers is issued in October or November.

**January/February 2012**

Participants are selected. The date of the conference itself is determined by the host school, either spring/summer 2012 or later, depending on the needs of the host institutions.

The forward commitment we are seeking – asking for money in 2011 for a conference in 2012 or later -- may or may not be possible, but we do hope that annual support of this conference becomes a “line item” in the ASLH annual budget. We should also say that if the board does take action at the November 2010 meeting to support future conferences – and not just the one in April at Michigan – then this will make it much easier for schools submitting proposals in Spring 2011 to make better and more detailed plans in support of a detailed proposal to host the conference

Lastly, we should mention there is a consortium of schools organizing to host conferences for younger scholars at their home institution and elsewhere, and is currently comprised of the Universities of Pennsylvania, Michigan, Minnesota, and Illinois. This consortium was formed out of a shared interest in helping younger scholars in the field. The ASLH would not be a pipeline to any school or schools, and any funding would go to the best application the society receives through a regular application procedure. It is certainly the case, and bears emphasizing, that all schools would be encouraged to apply and any school could join up with existing consortiums or form new ones on an ad hoc basis.

Please let any of us know if you have questions or if we can provide any materials. This is a wonderful new project designed to bring more and more voices into our burgeoning field. We are grateful to the ASLH for getting in on the ground floor and we look forward to ongoing collaboration.

To: Dan Hamilton, Ray Solomon & Future of the Society Committee

From: Sally Gordon, Martha Jones & Legal History Consortium

Re: Report on ASLH Conference Support

Date: 27 August 2010

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Thanks to the support of ASLH, the University of Pennsylvania Law School and History Department, the McNeil Center for Early American Studies, the University of Michigan and the University of Minnesota, the conference “Ab Initio: Law in Early America” was held this past June in Philadelphia. A group of legal historians, which includes Sally Gordon from Penn, Barbara Welke of Minnesota, and Martha Jones and Bill Novak of Michigan, organized the conference, which was held at the McNeil Center. Richard Ross of Illinois was also on the advisory committee. Bruce Mann of Harvard was the keynote speaker. A full program for the conference is available through this link:

<http://www.law.upenn.edu/legalhistory/conference/>

The conference focused on introducing new, very promising scholars of legal history – with presentations by graduate students, postdocs, assistant professors (and two noted senior scholars) – to the field.

Commentators were selected from among more senior figures in the field, and included members of the Consortium, as well as Michael Zuckerman of Penn, David Waldstreicher of Temple, David Konig of Washington University, Chuck McCurdy of Virginia, Holly Brewer, soon to be of University of Maryland, and Lauren Benton and Bill Nelson of NYU, just to name those best known to the Society. The result was a serious and spirited exchange of ideas, but one that was always aimed at encouraging the work of new scholars.

The event was organized around timely and important themes and thus promoted discussion that will continue to define the field of early American legal history, and provide guidance to scholars at early stages of careers as legal historians. We heard papers on Indian slavery and freedom, the legal profession, piracy, national boundaries, federalism, widow’s petitions, families enslaved and free, medical care, suffrage, and more. The range and depth of new work was impressive, and the conference itself was both collegial and innovative. The conference drew an impressive audience that generated plenty of questions from interested scholars who came from near and far to attend, and of course from the panelists and organizers. All those involved in the conference planning and presentations participated not only in their own sessions but in the wonderful exchange of ideas that occurred at other panels and at our dinner on Wednesday night and lunch on Thursday. The inaugural conference, we agreed, was a great success.

The conference format was innovative. We pre-circulated papers, and enforced a strict word limit.

Commentators both presented and commented on papers. In the end, we felt that pre-circulation was a great idea, and presentation of the papers by commentators rather than authors was generally a plus, although next time we would make sure that commentators did not separate their sessions into a complete set of presentations, and then a complete set of comments. That format on one panel unduly lengthened the time that commentators were speaking, reducing audience time. However, we generally felt that the format allowed us to include more papers than would otherwise be possible in the timeframe, which extended from Wednesday mid-afternoon through late Thursday.

Already the conference is bearing fruit. Selected papers from the conference will be published in a symposium the *Law and History Review*, which will be edited and introduced by Bruce Mann. LHR editor David Tanenhaus also attended. The consortium of schools involved (Penn, Michigan, Minnesota) has now grown to include Illinois. New networks of scholarly exchange are in place. For example, one consortium member reported having encountered a graduate student presenter at a subsequent meeting where the two continued the discussion begun at Penn.

Costs were kept reasonable. We had a limited travel budget, but we managed thanks to several people who paid their own way and others who used inexpensive options. We also housed conference presenters at local B&Bs rather than hotels, significantly reducing costs and also creating a nice opportunity to talk over breakfast. Last, we ordered out from local restaurants (Indian food on Weds night, for example), which made the usual high catering bills much more reasonable.

The Society's essential support of \$5,000 was met by other schools. Penn Law pledged an equal amount as well as donating all administrative expenses, design, and so on. The McNeil Center donated space and the use of its impressive lists for publicity. Michigan pledged \$2,000. It looks like we brought in the conference for about \$11,000 with everything included. We circulated a call for papers, and were delighted with the response. (Indeed, there were many more outstanding paper proposals than we could accept.) As a result of the larger than expected number of submissions, we were able to be quite selective and put together a conference that made sense and featured the work of a broad array of methodologies and topics. The group worked together effectively and efficiently.

We are especially thankful to ASLH for making this successful inaugural event possible. We believe that a rigorous focus on the work of new and early career scholars, as well as efforts to publish outstanding papers in cooperation with interested journals, will help build the field and welcome new members to the work of the Society. Our consortium hopes to propose a conference for Spring 2011 that would include explicitly transnational and comparative work. This event is to be hosted by Michigan and focused on race, law and history in the Americas. We have also discussed other topics and venues for futures years, and we feel strongly that we can be of use to early career scholars with the invaluable support of highly collegial and focused conferences.

“We Must First Take Account”:  
A Conference on Race, Law, and History in the Americas  
University of Michigan Law School  
Friday and Saturday, April 1 – 2, 2011

#### Overview

“To get beyond racism, we must first take account of race,” is the well-remembered phrase from Justice Harry Blackmun’s opinion in the 1978 *Bakke* decision. Blackmun’s view may remain controversial in debates about constitutional jurisprudence. But for historians of law it is axiomatic. In the generation since *Bakke*, scholars have indeed taken account, mining legal culture’s archives to explain the origins and endurance of race such that today race is at the core of interpreting the history of the Americas. A set of ideas that rely upon understandings of religion, culture, labor, biology, and politics, race has organized profound inequality and galvanized movements for social justice. Legal culture has been linked to slavery and its abolition, and race in turn has shaped the emergence of democratic states, imperialism, social welfare policy, and movements for civil and human rights. Legal historians have long debated the relationship of law to these broad themes while extending into the terrain of social history, exploring how race and law come together to shape ideas about home, family, marriage, gender, and sexuality.

#### A New Generation of Scholarship

Participants in “We Must First Take Account” will contribute to the task of defining the field of race, law, and history for the next generation. The conference will build upon existing work to explore new scholarship in race, law and history. It will solicit presentations from emerging scholars working at the intersection of these analytic categories. It will also encourage research that rethinks earlier frameworks, particularly that of the nation-state. Histories of race and law in transnational and comparative perspectives will be foregrounded through work across the Americas including North America, the Caribbean, Latin America, and Brazil. Senior scholars will be invited to provide discussion and commentary.

#### Key Questions

The call for papers will solicit presentations by early career scholars and graduate students that address the key, inter-related questions from the field including: How have ideas about race shaped the evolution of legal culture? How has law produced ideas about race? How has legal scholarship incorporated race into its analysis? How has law been allied with or an obstacle to movements for social change? What kinds of strategies can be used to carry out comparative studies of race, law, and history?

#### A Dynamic Gathering for Emerging Scholars

The conference builds on the spirit and the structure of the highly successful “Ab Initio” conference sponsored by the University of Pennsylvania Law School in June 2010. As at Penn, the work of emerging scholars will be at the center of the gathering. Over two days, five panels in the “modified Hodson” format will run successively. Panels will feature the pre-circulated papers of three emerging scholars and the commentary of two senior members of the field. This format relies upon pre-circulated papers to maximize audience engagement and leave ample time for discussion and questions. It also asks commentators to facilitate the broader discussion by first summarizing and then offering a critical assessment of each paper. Authors will be allowed a brief response time, but the discussion will move rapidly to a full exchange. The plenary roundtable will provide an opportunity for a small group of senior scholars to reflect upon the evolution of and new directions in the field.

### Assessing the Field with Senior Scholars

The conference plenary will ask senior scholars working in race, law, and history to reflect upon the field. The event will host a reunion of sorts, inviting back together researchers who first met at the 1998 ASLH meeting as newly emerging scholars. That year's Seattle conference included a panel on race, law, and history titled "Policing Whiteness: Intersections of Race and Sexuality in Legal History." Chaired by Ariela Gross, who was revising her first book *Double Character*, the panel featured papers by Walter Johnson, who was completing his *Soul by Soul*, and Robert Chang, whose *Disoriented: Asian Americans, Law, and the Nation-State* would come to press the next year. Commentators included Adrienne Davis, whose work such as "*The Private Law of Race and Sex*" was not yet in print, and Annette Gordon-Reed, whose recently published *Thomas Jefferson and Sally Hemings* was generating praise and controversy. In 2011, we will invite back together Gross, Johnson, Chang, Davis, and Gordon-Reed, all now well-established scholars. Their plenary discussion will reflect on the trajectory of their work and explore how today the field is being shaped by studies that also consider political economy, transnational comparison, sexuality, the dismantling of the black-white paradigm, and the study of extended family narratives.

### Publications

The organizers will explore possibilities for preparing a subset of the conference papers for publication. Discussions are underway with the *Michigan Journal of Race & Law* about editing a special issue of the journal organized around "We Must First Take Account." At the University of Michigan. The University of Michigan Law School, along with its colleagues in the Arts and Sciences, is well-positioned to support this ambitiously themed conference. The law faculty includes notable historians including William Novak, Rebecca Scott, Tom Green, and Martha Jones. In addition, commentary from law faculty members such as constitutional historian Richard Primus and political theorist Don Herzog will further enrich the discussion. In the Arts and Sciences, the Michigan faculty includes an important array of scholars working at the intersection of race, law, and history including Damon Salesa on race and the British empire; Richard Turits on race-making in the Spanish Caribbean; Sueann Caulfield, Paulina Alberto, and Jean Hébrard on structures of race in Brazil; Matthew Countryman and Matthew Lassiter on the politics of civil rights; Scott Kurashige on Asian Americans and cross-racial political culture; Anthony Mora and Daniel Ramírez on the racialization of Mexican-Americans; Tiya Miles and Michael Witgen on American Indian race, culture, and politics; and Pamela Brandwein and Hannah Rosen on race and politics in the Reconstruction era United States.

### Sponsors

The conference will be supported, in part, by the Legal History Consortium which includes the University of Pennsylvania, the University of Illinois, and the University of Minnesota. We very much hope that this conference also will be supported by ASLH, and request \$5,000 help fund this initiative to encourage and foreground new work in the field by early career scholars. In addition, funding will be sought from the following sources at the University of Michigan: Law School; Eisenberg Institute for Historical Studies; Center for Afroamerican and African Studies; Law in Slavery and Freedom Project (confirmed); Program in American Culture; Institute for the Humanities; Office of the Vice Provost for Research; College of Literature, Science, and the Arts.

Budget Travel (out of town attendees only)	20 participants x \$500	10,000
Accommodations (out of town attendees only)	40 hotel rooms x \$140	5,600
Honoraria (plenary speakers)	5 x \$500	2,500
Meals	\$100 x 35 participants	3,500
Facilities		500
Publicity, programs, etc.		500
TOTAL		\$22,600

From: Holly Brewer & Sally Gordon

To: Ray Solomon & Future of the Society Committee

Re: ASLH support for website design and construction for Studies in Legal History

Date: 1 October 2010

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We would like to request funds for a more interactive, efficient, and attractive website. A first-rate website for Studies in Legal History would allow the series to operate with much greater efficiency internally. For example, the editors could engage in the review process far more seamlessly, posting and editing and critiquing documents without our present cumbersome email exchanges and also with much less paperwork. More important still, a strong web presence would allow us to experiment with new ways of editing and interacting with the broader scholarly community of the ASLH. We would like to experiment with having broader input into works-in-progress by posting a teaser chapter or two along the lines of what they did with the Shakespeare Quarterly. See [http://www.nytimes.com/2010/08/24/arts/24peer.html?\\_r=2](http://www.nytimes.com/2010/08/24/arts/24peer.html?_r=2). While such public review of a book that is not yet accepted (even a chapter or two) might be problematic for some authors, we could in such cases post a chapter or two of accepted book manuscripts so that the author could both benefit from broader input and we could generate excitement about their forthcoming book. This will not only help our series to adapt to the radically new environment in publishing, but will build on the strengths of the association between the series and the society.

Ideally, we would commission a web designer to develop a logo for the books series in particular as well as a consistent look for a website, and to create the external and internal functions that would serve us best. It will be important to have the website both look and feel user-friendly as well as attractive. It should include links to the ASLH main page, blogs, and our (future) facebook page. This website may well also be a precursor to a redesigned web presence for the Society, and thus would serve as something of an experiment in net outreach for our broader community of scholars.

Although it is difficult to predict costs with pinpoint accuracy, we believe that funding this project fully could be accomplished for \$10,000. This would allow us to hire a talented web designer, and also to have that person (or perhaps a separate IT person) build the website and work out all the bugs. We will also need a good logo and facebook page, which will require smaller but still worthwhile support. If we receive Society funding, we hope to have the website ready to test by spring 2011.

Thereafter, we will need small amounts of funding for a webmaster to do maintenance of the facebook and webpages and make sure that everything is up to date (in the range of \$1,000 per year or possibly more, depending on responsibilities). If the Society also moves to a similar platform, possibly the same person could do both sites. Retaining such a webmaster would be a minor expense, but would greatly increase the ability of the society to reach out, especially to younger scholars but also to the broader ASLH community to help build the profile of the series and the society's involvement with it.

With thanks for your consideration of this proposal.



## H-Law

Christopher Waldrep, editor

This year, H-Law again hosted discussion among one thousand legal scholars and also, in its capacity as the ASLH's internet interface with the world, provided up-to-date information about the society and its activities. H-Law also recruits new members; some people learn about ASLH through H-Law as we invite every new H-Law subscriber to join ASLH. We provided detailed information about the 2009 meeting (most particularly announcements of prize winners) and helpful announcements about the upcoming Philadelphia gathering. From September 1, 2009 to August 31, 2010, we posted 704 messages of scholarly interest to legal and constitutional historians, ranging from 21 in April, 2010 and June, 2010 to 136 in January, 2010. Our discussion included lively conversation about the end of the Civil War, a New Orleans murder case, the Fourteenth Amendment and citizenship, feudalism, corporate personhood, regulating campaign money, Beard's "Baleful Influence," *Ex Parte Milligan*, sources for historical weather, Virginia Woolf, and the King's Bench and "misgovernment."

Editing H-Law is a never-ending, relentless daily task and six editors carried the burden of this work over the past year: Ken Aldous, Christopher Waldrep, Carla Spivack, Charles Zelden, Jerry Arkenberg, and William James Hoffer again served as editors backed up by H-Law's editorial board of ten members. We have an active editorial board that reviews questionable messages submitted to the list and sets policy. Christopher Waldrep and Michael Pfeifer again served as book review editors.

On September 16 and 17, H-Law co-sponsored the San Francisco Rights Conference at San Francisco State University. Over eighty scholars attended, presenting papers in eighteen sessions. Lynn Hunt served as the keynote speaker. Much to the relief of the organizer, the conference ran smoothly and by all accounts, was a huge success. Beginning scholars, graduate students and seasoned veterans came together for probing discussions about constitutional issues in a historical context. For the program, go to the H-Law website: <http://www.h-net.org/~law/index.html>.

This year Timothy Huebner continued compiling a new books list for H-Law. His lists have proven quite popular and appear on the H-Law email service but also on the H-Law website. This is a particularly useful and helpful service that is much appreciated.

### Book Reviewing

This year H-Law commissioned and posted 33 reviews of 34 books of interest to the H-LAW community in the fields of American and foreign legal and constitutional history. Last year we posted 20 reviews.

Henry Louis Gates Jr., ed. *Lincoln on Race and Slavery*. Coedited by Donald Yacovone. Princeton: Princeton University Press, 2009. Illustrations. lxxviii + 343 pp. \$24.95 (cloth), ISBN 978-0-691-14234-0. Reviewed by Martin Hardeman (Eastern Illinois University) Published on H-Law (October, 2009) Commissioned by Christopher R. Waldrep

Daniel C. Beaver. *Hunting and the Politics of Violence before the English Civil War*. Cambridge Studies in Early Modern British History Series. Cambridge: Cambridge University Press, 2008. xii + 173 pp. \$95.00 (cloth), ISBN 978-0-521-87853-1. Reviewed by James Robertson (University of the West Indies, Mona) Published on H-Law (October, 2009) Commissioned by Michael J. Pfeifer

Nicholas Terpstra, ed. *The Art of Executing Well: Rituals of Execution in Renaissance Italy*. Early Modern Studies Series. Kirksville: Truman State University Press, 2008. 360 pp. \$48.00 (cloth), ISBN 978-1-931112-87-1; \$24.95 (paper), ISBN 978-1-931112-88-8.

Reviewed by John Hunt (University of Louisville)

Published on H-Law (December, 2009)

Commissioned by Michael J. Pfeifer

Robert Samuel Smith. *Race, Labor, & Civil Rights: Griggs Versus Duke Power and the Struggle for Equal Employment Opportunity*. Baton Rouge: Louisiana State University Press, 2008. x + 234 pp. \$37.50 (cloth), ISBN 978-0-8071-363-7.

Reviewed by Christopher Schmidt (American Bar Foundation)

Published on H-Law (February, 2010)

Commissioned by Christopher R. Waldrep

Christopher Waldrep. *African Americans Confront Lynching: Strategies of Resistance from the Civil War to the Civil Rights Era*. African American History Series. Lanham Rowman & Littlefield Publishers, 2009. xxvi + 201 pp. \$34.95 (cloth), ISBN 978-0-7425-5272-2.

Reviewed by Amy Wood (Illinois State University)

Published on H-Law (February, 2010)

Commissioned by Michael J. Pfeifer

Kevin J. Hayes. *The Mind of a Patriot: Patrick Henry and the World of Ideas*. Charlottesville: University of Virginia Press, 2008. 184 pp. \$22.95 (cloth), ISBN 978-0-8139-2758-9.

Reviewed by R. B. Bernstein (Distinguished Adjunct Professor of Law, New York Law School)

Published on H-Law (February, 2010)

Commissioned by Christopher R. Waldrep

Steven Hahn. *The Political Worlds of Slavery and Freedom*. Cambridge: Harvard University Press, 2009. xvii + 246 pp. \$21.95 (cloth), ISBN 978-0-674-03296-5.

Reviewed by Martin Hardeman (Eastern Illinois University)

Published on H-Law (February, 2010)

Commissioned by Christopher R. Waldrep

Edward F. Mannino. *Shaping America: The Supreme Court and American Society*. Columbia University of South Carolina Press, 2009. xxiv + 321 pp. \$44.95 (cloth), ISBN 978-1-57003-857-0.

Reviewed by John Dinan (Madison Program, Princeton University)

Published on H-Law (February, 2010)

Commissioned by Christopher R. Waldrep

William Bruce Johnson. *Miracles and Sacrilege: Roberto Rossellini, the Church, and Film Censorship in Hollywood*. Toronto: University of

Toronto Press, 2008. viii + 516 pp. \$90.00 (cloth), ISBN 978-0-8020-9307-3; \$35.00 (paper), ISBN 978-0-8020-9493-3.

Laura Wittern-Keller, Raymond J. Haberski. *The Miracle Case: Film Censorship and the Supreme Court*. Lawrence: University Press of Kansas, 2008. xiii + 233 pp. \$35.00 (cloth), ISBN 978-0-7006-1618-3; \$16.95 (paper), ISBN 978-0-7006-1619-0.  
Reviewed by Norman Rosenberg (DeWitt Wallace Professor, Macalester College)  
Published on H-Law (January, 2010)  
Commissioned by Christopher R. Waldrep

Lacy K. Ford. *Deliver Us from Evil: The Slavery Question in the Old South*. Oxford: Oxford University Press 2009. viii + 673 pp. \$34.95 (cloth), ISBN 978-0-19-511809-4.  
Reviewed by Peter Hoffer  
Published on H-Law (March, 2010)  
Commissioned by Christopher R. Waldrep

Malcolm D. Holmes, Brad W. Smith. *Race and Police Brutality: Roots of an Urban Dilemma*. SUNY Series in Deviance and Social Control. Albany: State University of New York Press, 2008. ix + 186 pp. \$65.50 (cloth), ISBN 978-0-7914-7619-2; \$21.95 (paper), ISBN 978-0-7914-7620-8.  
Reviewed by Jeffrey S. Adler (University of Florida)  
Published on H-Law (March, 2010)  
Commissioned by Christopher R. Waldrep

R. B. Bernstein. *The Founding Fathers Reconsidered*. Oxford: Oxford University Press, 2009. 238 pp. \$17.95 (cloth), ISBN 978-0-19-533832-4.  
Synthesizing the Scholarship, Reassessing the Founding  
Reviewed by Paul Longmore  
Published on H-Law (March, 2010)  
Commissioned by Christopher R. Waldrep

Philip Howell. *Geographies of Regulation: Policing Prostitution in Nineteenth-Century Britain and the Empire*. Cambridge: Cambridge University Press, 2009. xii + 299 pp. .00 (cloth), ISBN 978-0-521-85365-1.  
Reviewed by Richard Cosgrove  
Published on H-Law (March, 2010)  
Commissioned by Christopher R. Waldrep

Brent J. Aucoin. *A Rift in the Clouds: Race and the Southern Federal Judiciary, 1900-1910*. Fayetteville: University of Arkansas Press, 2007. Illustrations. xii + 163 pp. \$34.95 (cloth), ISBN 978-1-55728-849-3.  
Reviewed by Lewie Reece (Anderson University)  
Published on H-Law (April, 2010)  
Commissioned by Christopher R. Waldrep

Kathryn Preyer. *Blackstone in America: Selected Essays of Kathryn Preyer*. Edited by Mary Sarah Bilder, Maeva Marcus, and R. Kent Newmyer. Cambridge: Cambridge University Press, 2009. xii + 287 pp. \$85.00 (cloth), ISBN 978-0-521-49087-0.

Reviewed by R. B. Bernstein (Distinguished Adjunct Professor of Law, New York Law School)

Published on H-Law (April, 2010)

Commissioned by Christopher R. Waldrep

Kevin Kenny. *Peaceable Kingdom Lost: The Paxton Boys and the Destruction of William Penn's Holy Experiment*. New York: Oxford University Press, 2009. viii + 294 pp. \$29.95 (cloth), ISBN 978-0-19-533150-9.

Reviewed by Peter Messer (Mississippi State University)

Published on H-Law (April, 2010)

Commissioned by Michael J. Pfeifer

Anders Walker. *The Ghost of Jim Crow: How Southern Moderates Used Brown v. Board of Education to Stall Civil Rights*. New York: Oxford University Press, 2009. 256 pp. \$34.95 (cloth), ISBN 978-0-19-518174-6.

Reviewed by Gerald N. Rosenberg (University of Chicago)

Published on H-Law (April, 2010)

Commissioned by Christopher R. Waldrep

Steven Robert Wilf. *Law's Imagined Republic: Popular Politics and Criminal Justice in Revolutionary America*. Cambridge: Cambridge University Press, 2010. 248 pp. \$25.99 (paper), ISBN 978-0-521-14528-2.

Reviewed by Peter Hoffer (University of Georgia)

Published on H-Law (June, 2010)

Commissioned by Christopher R. Waldrep

R. Michael Wilson. *Legal Executions in the Western Territories, 1847-1911: Arizona, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington and Wyoming*.

Jefferson: Mcfarland, 2010. 228 pp. \$95.00 (paper), ISBN 978-0-7864-4825-8.

Reviewed by Gordon Bakken (California State University, Fullerton)

Published on H-Law (July, 2010)

Commissioned by Christopher R. Waldrep

David Critchley. *The Origin of Organized Crime in America: The New York City Mafia, 1891-1931*. New York: Routledge, 2009. xiv + 347 pp. \$95.00 (cloth), ISBN 978-0-415-99030-1.

Reviewed by Jeffrey S. Adler (University of Florida)

Published on H-Law (July, 2010)

Commissioned by Christopher R. Waldrep

Glenn McNair. *Criminal Injustice: Slaves and Free Blacks in Georgia's Criminal Justice System*. Charlottesville: University of Virginia Press, 2009. xii + 234 pp. \$45.00 (cloth), ISBN 978-0-8139-2793-0.

Reviewed by Vivien Miller (School of American and Canadian Studies,

University of Nottingham)  
Published on H-Law (July, 2010)  
Commissioned by Michael J. Pfeifer

Henk F. K. van Nierop. *Treason in the Northern Quarter: War, Terror, and the Rule of Law in the Dutch Revolt*. Princeton: Princeton University Press, 2009. x + 297 pp. \$39.95 (cloth), ISBN 978-0-691-13564-9.  
Reviewed by Laura Lisy-Wagner (San Francisco State University)  
Published on H-Law (July, 2010)  
Commissioned by Christopher R. Waldrep

Phillip J. Cooper. *The War against Regulation: From Jimmy Carter to George W. Bush*. Studies in Government and Public Policy Series. Lawrence: University Press of Kansas, 2009. 288 pp. \$34.95 (cloth), ISBN 978-0-7006-1681-7.  
Reviewed by William James H. Hoffer (Seton Hall University)  
Published on H-Law (August, 2010)  
Commissioned by Christopher R. Waldrep

Jeremy Hayhoe. *Enlightened Feudalism: Seigneurial Justice and Village Society in Eighteenth-Century Northern Burgundy*. Rochester: University of Rochester Press, 2008. xii + 309 pp. \$80.00 (cloth), ISBN 978-1-58046-271-6.  
Reviewed by David Andress  
Published on H-Law (August, 2010)  
Commissioned by Christopher R. Waldrep

James M. McPherson. *Abraham Lincoln: A Presidential Life*. New York: Oxford University Press, 2009. 96 pp. \$12.95 (cloth), ISBN 978-0-19-537452-0.  
Reviewed by Michael Les Benedict (Ohio State University)  
Published on H-Law (August, 2010)  
Commissioned by Christopher R. Waldrep

Robert Justin Goldstein. *American Blacklist: The Attorney General's List of Subversive Organizations*. Lawrence: University Press of Kansas, 2008. xix + 361 pp. \$34.95 (cloth), ISBN 978-0-7006-1604-6.  
Reviewed by William Thomas (Independent Scholar, O'Fallon, Illinois)  
Published on H-Law (August, 2010)  
Commissioned by Michael J. Pfeifer

Richard Godbeer. *The Overflowing of Friendship: Love between Men and the Creation of the American Republic*. Baltimore: Johns Hopkins University Press, 2009. xii + 254 pp. \$35.00 (cloth), ISBN 978-0-8018-9120-5; \$20.95 (paper), ISBN 978-0-8018-6294-6.  
Reviewed by David A. Reichard (California State University Monterey Bay)  
Published on H-Law (August, 2010)  
Commissioned by Christopher R. Waldrep

Debra A. Reid, ed. *Seeking Inalienable Rights: Texans and Their Quests for Justice*. College Station: Texas A&M University Press, 2009. xxiii + 196 pp. \$45.00 (cloth), ISBN 978-1-60344-118-6; \$22.50 (paper), ISBN 978-1-60344-123-0.

Reviewed by William Carrigan (Rowan University)  
Published on H-Law (September, 2010)  
Commissioned by Christopher R. Waldrep

Valerie Genevieve Hebert. *Hitler's Generals on Trial: The Last War Crimes Tribunal at Nuremberg*. Lawrence: University Press of Kansas, 2010. xii + 362 pp. \$39.95 (cloth), ISBN 978-0-7006-1698-5.  
Reviewed by Jonathan Lurie (Rutgers)  
Published on H-Law (September, 2010)  
Commissioned by Christopher R. Waldrep

Earl M. Maltz. *Slavery and the Supreme Court, 1825-1861*. Lawrence: University Press of Kansas, 2009. 362 pp. \$34.95 (cloth), ISBN 978-0-7006-1666-4.  
Reviewed by Helen Knowles  
Published on H-Law (September, 2010)  
Commissioned by Christopher R. Waldrep

Benjamin A. Kleinerman. *The Discretionary President: The Promise and Peril of Executive Power*. Lawrence: University Press of Kansas, 2009. xv + 322 pp. \$34.95 (cloth), ISBN 978-0-7006-1665-7.  
Reviewed by David Siemers  
Published on H-Law (September, 2010)  
Commissioned by Christopher R. Waldrep

Thomas J. Sugrue. *Not Even Past: Barack Obama and the Burden of Race*. Princeton: Princeton University Press, 2010. 165 pp. \$24.95 (cloth), ISBN 978-0-691-13730-8.  
Reviewed by Amanda I. Seligman (University of Wisconsin-Milwaukee)  
Published on H-Law (September, 2010)  
Commissioned by Christopher R. Waldrep

Judith Kelleher Schafer. *Brothels, Depravity, and Abandoned Women: Illegal Sex in Antebellum New Orleans*. Baton Rouge: Louisiana State University Press, 2009. 229 pp. \$32.50 (cloth), ISBN 978-0-8071-3397-2.  
Reviewed by Martin Hardeman  
Published on H-Law (September, 2010)  
Commissioned by Christopher R. Waldrep

## **Conclusion**

The Editorial Board of H-LAW welcomes directions and suggestions from the Society's Board as to additional areas or topics for discussion or other services that H-LAW might provide or furnish for the benefit of the Association's members as well the list's non-member subscribers.

**Honors, Committee on  
Gregory S. Alexander, chair**

After a diligent review of several Canadian candidates, the Committee on Honors decided not to recommend anyone for election as an Honorary Fellow to the Society. We were disappointed with this result and hope to have more success next year. There were no nominees for Corresponding Fellow.

**Hurst Memorial Fund, Committee on the  
Elizabeth Hillman, chair**

The committee made no report for this year. The institute will resume next summer.



**Law and History Review**  
**David S. Tanenhaus, editor**

NB: Discussion/action items at **1**.

1. General and Organizational

This was an extraordinarily busy year for *Law and History Review* (*LHR*). On January 1, 2010, Cambridge University Press [CUP] became our publisher, I began my second five-year term as editor, and the members of the new editorial board began their service. CUP publishes the journal as a quarterly with issues mailed in February, May, August, and November. On June 3, 2010, our new journal management system, ScholarOne [visit at <http://mc.manuscriptcentral.com/lhr>], went —live.□ In addition, after helping to ensure that our transition to CUP went smoothly, Alfred E. Brophy retired from his post as associate editor for book reviews. During his seven years of exemplary service, Al worked tirelessly to ensure that our coverage expanded to keep pace with our dynamic field. He played a vital role in recruiting Amalia D. Kessler to join the editorial team to serve as the book review editor for studies of non-American subjects, and helped to recruit Daniel W. Hamilton as his successor as associate editor for book reviews of the Americas. **I ask that the Board formulate and pass a resolution expressing its appreciation to Alfred E. Brophy, and that the President of the Society incorporate those sentiments in a letter to Professor Brophy.**

I am once again pleased to report that *LHR* had an extremely productive year. In our first year as a quarterly, we published 21 articles, 4 forums, 1 remembrance, and 95 book reviews. In addition, we received 78 new manuscript submissions. The number and quality of these submissions is a testament to the vitality of the field.

*LHR* continues to enjoy generous support from the University of Nevada, Las Vegas [UNLV]. The William S. Boyd School of Law provides office space and secretarial assistance. This system facilitates online submission, refereeing, and journal management. The UNLV History Department and College of Liberal Arts have provided me with course relief and part-time graduate assistance. Consequently, *LHR* enjoys full access to all necessary facilities and equipment at UNLV.

In light of the exceptional support that the journal has enjoyed from UNLV during challenging budgetary times, **I ask that the Board formulate and pass a resolution expressing its appreciation to President Neal Smatresk for his support, and that the President of the Society incorporate those sentiments in a letter to President Smatresk. I also ask that the Board formulate and pass a resolution expressing its appreciation to Dean John Valery White and Dean Christopher Hudgins, who are both strong supporters of the journal, and that the President of the Society incorporate those sentiments in letters to Dean White and Dean Hudgins. I also ask that the Board formulate and pass resolutions expressing its appreciation to Department Chair David Wrobel for the support he has given to *Law and History Review*, and that the President of the Society incorporate those sentiments in a letter to Professor Wrobel.**

2. Contract and Related Matters

[a] On behalf of the Society, in 2009 Bruce Mann negotiated a five-year contract with CUP. It begins the

practice of *LHR* being published annually in one volume of 4 issues each consisting of approximately 250 printed pages with an annual total of no more than 1000 printed pages, including all front and end matter. The Publisher shall allow for 10 percent overrides, or 120 pages per volume.

### 3. Production

[a] Beginning January 1, 2010, CUP has efficiently distributed *LHR*. We owe special thanks to our splendid production editor, Jonathan Geffner.

[b] The *LHR* website has moved to: <http://journals.cambridge.org/LHR>. Back issues of *LHR* from 2005 are available to subscribers on the Cambridge Journals Online. CUP is currently digitizing the remainder of our archive. It will be sold separately to institutions. Our existing agreements with HeinOnline, Lexis, Westlaw, and JSTOR also remain in force.

### 4. Manuscript Submissions

#### Inventory

[a] During the twelve months ending August 31, 2010, *LHR* had 78 new submissions under active consideration. Of the 78 manuscripts newly submitted between September 1, 2009 and August 31, 2010, 33 were rejected without the assistance of external peer review, 5 were rejected after one or more rounds of review, 0 are awaiting initial consideration, 8 were undergoing first-round review, 21 have been returned to their authors after review with advice for revision and resubmission, 5 were undergoing second-round review, and 6 have undergone full review and have been accepted for publication. One author who received a revise and resubmit offer has decided to publish his essay elsewhere.

Year	Received	Rejected/Withdrawn	Reviewed	Pending	Accepted
2009/10	78	39	45	13	6*

[b] As of September 30, 2010, *LHR*'s active —inventory consists of 26 manuscripts awaiting publication but not yet published. I have scheduled 7 for publication in 29:1 (in advanced copy edit). As of September 30, I had not officially slotted the remaining 19 manuscripts for publication.

#### Manuscript Submissions – Trends – Table

Year	Received	Rejected/Withdrawn	Reviewed	Pending	Accepted
1992/3	37	21	16	4	4*
1993/4	39	20	16	5	3*
1994/5	56	32	23	9	4*
1995/6**	58	24	30	14	11
1996/7	44	26	27	14	12
1997/8	53	31	32	19	10
1998/9	42	24	24	14	11
1999/0	52	34	33	16	10
2000/1	49	32	33	21	13
2001/2	51	39	31	15	18
2002/3	62	41	33	19	13
2003/4	68	52	25	17	10
2004/5	64	50	24	8	14
2005/6	67	43	31	18	9
2006/7	69	37	33	8	14
2007/8	60	35	32	19	15
2008/9	79	32	45	12	12*

\*acceptance figures do not include mss pending from previous years

\*\*split editorial year - figures include mss from previous years

#### 5. Manuscript Submissions -- Matters Arising

##### Trends

[a] The figure for manuscripts received during the year ending August 31, 2010 (78) is the second highest total in the journal's history. Based on the number of manuscripts received since September 1, 2010, it looks like we are on track to receive 70+ this year.

[b] Our acceptance rate over the past five years has been approximately 1 in 5 manuscripts submitted. To present this information more precisely in future reports, I will use calendar years to report on acceptance rates. Maintaining and improving the quality of the journal, however, depends at least as much on maintaining high standards of refereeing and editing as on attracting a rising number of manuscripts. Our goal must be to maintain an annual —core□ influx of solidly publishable or probably publishable manuscripts (depending on how much work one is prepared to put into pieces with potential) at 16+ submissions per year.

[c] I have experienced almost no difficulty in gaining access to referees and obtaining four reports per manuscript. The majority of manuscript authors receive a first-round review response within ten weeks of submission. The members of our large editorial board deserve special thanks for their willingness to referee manuscripts. I am happy to report that in qualitative terms, the standard of our refereeing remains extraordinary, a feature of the journal on which authors comment frequently.

## 6. Book Reviews

[a] Daniel W. Hamilton, Associate Editor for Book Reviews of the Americas (June 2010-August 2010)

I should say first that I am delighted to be taking over for Al Brophy, who did such outstanding work for so long on behalf of *Law and History Review*. My first issue is the upcoming Volume 29:1 and so far my initial work has consisted largely in overseeing the production process for the reviews that Al commissioned. There are 26 books that Al commissioned still out for review, and I am working with the reviewers to ensure that these reviews are published in a timely manner. Simultaneously, I am soliciting reviews of incoming books. Since taking over this summer, I have commissioned approximately 20 reviews.

Thanks to the arrangement with Cambridge University Press, and the move to four issues per year, our publication lag is decreasing. Working with Cambridge is a pleasure and also efficient. They turn reviews around in three to four months after we submit the copy to the press. The goal for the 2010 volume, as for 2009, will be to publish approximately 70-75 reviews.

**Local Arrangements Committee**  
**Donald Tibbs, chair**

The Local Arrangements Committee will present its report orally at the Board meeting.

**Membership Committee**  
**Patricia Minter, chair**

Now that the transition of the Society’s data from the University of Illinois Press to Cambridge University Press is complete, I can say with some authority in my capacity as Membership Chair that our data is far more stable. Since I took over this position in December 2009, I have personally fielded over 40 separate e-mails from members seeking to verify their status—the most frequent complaint was that they were not receiving the LHR. I have found the team at CUP to be very professional and efficient in dispatching my requests to insure that members received their journals. On the more awkward situations in which someone was listed as lapsed who believed they were paid members, I have followed the policies established by my predecessor Sally Hadden and requested proof of payment be forwarded to CUP. I have found that many people were simply mistaken about their membership category or their renewal, but there were also 9 people who could prove membership who did not appear in CUP’s database at all. One of those was a pre-2010 life member, which is troubling but still far fewer than the problems of previous years. Two members wrote because they had not received the LHR; both were found in the database and the situations resolved. I have worked with the CUP team to rectify these situations, and going forward I believe sincerely that this chapter will soon be closed. I hope that in next year’s report I will be able to report that all data management issues post-transition are now resolved.

Past chair Sally Hadden reported to the Board last year that the 2009 membership data was unreliable due to the transition. Therefore, I have prepared a comparative summary below using the more reliable membership data from 2008 below. The 2010 numbers were captured on September 21, 2010.

Membership Type	September 2008	September 2010
Complimentary	2	
Sponsoring	6	7
Honorary	25	22
Institution	357	246*
Life Members	82	76**
Student	95	60
Regular	476	525
Emeritus	60	50
Totals	1103	986

\*The Board of Directors eliminated Institutional Memberships at its 2009 meeting; I include our institutional subscribers here as a data point for comparison to 2008 membership numbers.

\*\*There are 74 pre-2010 Life Members and 2 post-2010 Life Members. This number should remain flat going forward due to the increased cost of life membership.

As the table indicates, the Society has gained 49 regular members while student memberships have declined. This obviously is a net gain for the Society’s treasury but also serves as a reminder that we must continue to work hard to recruit and retain graduate student members, in the hope of building organizational loyalty as they move into their careers. Our other significant decline, while technically no longer part of our membership evaluation, is the loss of institutional subscribers. It is a sad sign of the times, and this hopefully will be rectified when better economic

times restore library budgets.

Going forward, the Membership Committee will meet at the annual meeting in Philadelphia. We will discuss a regional strategy to increase membership and follow up on lapsed members, as well as brainstorming on ways to facilitate membership renewal. At least one committee member has expressed concern about the annual renewal process, and I have asked him to bring forward some possible solutions. We should easily surpass 1000 members next year. I hope that through vigorous recruiting and reinstatement of lapsed members, the Membership Committee will be able to return the Society to paid membership of 1100 in the coming year.

**Nominating Committee**  
**David Konig, chair**

**ASLH ELECTIONS 2010**

**Introduction**

Society members who wish to participate in the annual election of **Board of Directors** and the **Nominating Committee** will find all necessary information to do so here. On the following pages there are a list of candidates with biographies, and a ballot which can be printed out and returned via mail. To be counted, your paper ballot must be returned to ASLH Secretary Sally Hadden at the address provided on the ballot **postmarked no later than 7 November 2010**.

**Board of Directors:** The Board of Directors, together with the officers, is the governing body of the ASLH. The Society's by-laws require annual election of one-third of the elected board membership (currently fifteen). Elected members serve a three-year term. In 2010 four "at large" members (from eight candidates) and one graduate student member (from two candidates) will be elected.

**Nominating Committee:** The Nominating Committee selects candidates to stand for vacant elected positions on the Board of Directors. The Nominations Committee also selects the society's president-elect (uncontested office). Five persons serve on the Nominating Committee; the Society by-laws require annual election of up to one-third of the Committee. Committee members serve a three year term. In 2010 two members will be elected (from four candidates).

Currently, the elected members of the ASLH **Board of Directors** are (year elected in parentheses):

Mary Sarah Bilder, Boston College (2009)  
Holly Brewer, North Carolina State (2009)  
Alfred L. Brophy, University of North Carolina (2007) --retiring member  
Mary Dudziak, University of Southern California (2007) --retiring member  
Risa L. Goluboff, University of Virginia (2009)  
Annette Gordon-Reed, Harvard University (2007) --retiring member  
Martha S. Jones, University of Michigan (2008)  
Adam Kosto, Columbia University (2007) --retiring member  
Michael Lobban, Queen Mary College, University of London (2008)  
Matthew C. Mirow, Florida International University (2008)  
Dylan C. Penningroth, Northwestern University (2009)  
Rebecca J. Scott, University of Michigan (2008)  
Karen M. Tani, University of Pennsylvania,  
graduate student representative (2007) --retiring member  
John Wertheimer, Davidson College (2008)  
Victoria Saker Woeste, American Bar Foundation (2009)

Currently, the members of the **Nominating Committee** are:

David Konig, chair, Washington University in St. Louis (2009)  
Christina Duffy Burnett, Columbia University (2008)  
Amalia Kessler, Stanford University (2007) --retiring member



Sarah Barringer Gordon, University of Pennsylvania (2009)

Barbara Welke, University of Minnesota (2007) --retiring member

### NOMINEES FOR ASLH ELECTION 2010

**Board of Directors: “at large” positions (choice of 8 candidates; the 4 candidates receiving most votes will be deemed elected)**

**Tomiko Brown-Nagin** is the Justice Thurgood Marshall Distinguished Professor of Law and Professor of History at the University of Virginia. She holds a doctorate in history from Duke and a law degree from Yale, where she was an editor of the *Yale Law Journal*, and a bachelor’s in history from Furman University, from which she graduated *summa cum laude* and Phi Beta Kappa. Brown-Nagin has written widely on civil rights history and law and published in both law and history journals. Her first book, *Courage to Dissent: Atlanta and the Long History of the Civil Rights Movement*, a socio-legal history about lawyers, courts, and community-based activism during the civil rights era, will be published in January, 2011 by Oxford University Press. She has begun research on her second book, a biographical study of the groundbreaking civil rights lawyer, politician, and jurist Constance Baker Motley. At Virginia, Brown-Nagin is co-director of UVA’s legal history colloquium and advises students in the history graduate program. She teaches courses on American social and constitutional history, constitutional law, education law and policy, and public interest law, as well as a seminar on lawyers and the civil rights movement. At ASLH, Brown-Nagin has been a regular presenter or commentator on papers related to the topic of constitutional law, history and inequality. She also has presented on the role of historians as experts in constitutional litigation. Brown-Nagin is a member of the program committee for the 2012 annual meeting in Atlanta. As a member of ASLH’s board of directors, Brown-Nagin would continue the society’s tradition of welcoming diverse disciplinary perspectives, would enhance its commitment to a diverse membership, and would work to increase its profile and impact within the legal academy, particularly among younger scholars.

**Lyndsay Campbell** is an assistant professor in the faculties of Arts and Law at the University of Calgary, in Alberta, Canada. She has recently become the coordinator of the undergraduate Law and Society Program within the Faculty of Arts. She holds a Ph.D. in Jurisprudence and Social Policy from the University of California, Berkeley, where she completed a dissertation entitled “Truths and Consequences: The Legal and Extralegal Regulation of Expression in Massachusetts and Nova Scotia, 1820–1840,” under the guidance of a committee chaired by Harry N. Scheiber. She also holds an LL.M. from the University of British Columbia. Her thesis was entitled “The *St. Clair* Case and the Regulation of the Obscene in Pre-World War One Ontario”; that research was supervised by W. Wesley Pue. Lyndsay recently collaborated with Professor Tony Freyer of the University of Alabama on a co-authored and co-edited collection entitled *Freedom’s Conditions in the US-Canada Borderland in the Age of Emancipation*, which is forthcoming from the Carolina Academic Press. Articles have appeared in the *Canadian Journal of Law and Society* and in the *Dalhousie Law Journal*. Lyndsay is currently working on an essay on the history of the libel treatise and is following up on her doctoral work by learning all there is to know about the regulation of the immoral, indecent, and obscene in Massachusetts and Nova Scotia in the 1820s and 1830s. A monograph will emerge eventually. Lyndsay believes she first attended the American Society for Legal History annual meeting in 2002 or perhaps 2003, and she recalls missing only one meeting since. She served as the graduate student representative on the Board of Directors from 2005 to 2007. Since 2005, she has been a member of the selection committee for the Kathryn T. Preyer award for early-career scholars.

**Tahirih Lee** is Associate Professor of Law and Courtesy Professor of History at Florida State University. Her research focuses on Chinese courts and dispute resolution and the globalization of law in Asia. She earned a J.D. from the Yale Law School, as well as a Ph.D. in History from Yale University, writing her dissertation on the International Mixed Court of Shanghai, and in that research was among the first generation of historians to use China's archival resources. She edited an anthology by Garland Press on Chinese law and legal history and published numerous articles, including "A Maze of Jurisdictional Walls: Conflict and Cooperation Among the Courts in Republican-Era Shanghai," in *Chinese Walls in Time and Space: History, Medicine, Media, Law, Art, and Literature*, Cornell University Press (2010) and "The United States Court for China: A Triumph of Local Law," *52 Buffalo Law Review* 1 (2004).

Professor Lee's service to the ASLH includes chairing the Surrency Prize Committee (1998–2000), and serving on the Publications (1998–2001) and Nominations (2003–2006) Committees. As a member of the Program Committees for the 1996, 1997, 1999, 2002, and 2009 annual meetings, she shepherded nearly a dozen panels. She has presented her research on six panels at the annual meetings and appeared as chair or commentator on others.

She has promoted legal history in other institutional settings. For the Legal History Section of the AALS, Professor Lee has served as Chair and Chair-Elect and is currently a member of the Executive Committee. She was a member of the Planning Committee for the AALS China-US Dean's Conference held in Beijing in 2004. At both the Association for Asian Studies and the Law & Society Association, Professor Lee has presented papers on Chinese legal history, as well as at numerous conferences in Asia and Canada.

This service, together with her experience as Associate Dean of the College of Law, highlights for Professor Lee the importance of external funding to the Society's efforts to connect with scholars from Asia. She has seen many panels of high quality disband before the annual meetings only because Asian panelists couldn't fund air travel. As a member of the ASLH Board, she would like to explore sources for this, as well as initiatives for forging cooperative relationships with legal history organizations in Asia.

**David Lieberman** is Jefferson E. Peysner Professor of Law University of California, Berkeley. He writes, "I joined the UC Berkeley faculty in 1984 and teach in two interdisciplinary law and society programs: the Ph.D. program in Jurisprudence and Social Policy and the undergraduate Legal Studies major. I was trained as an historian of 18th-century and modern Britain and came to legal history through an interest in the history of political ideas. Most of my research addresses the history of legal thought, and I am particularly interested in projects of legal modernization and the interplay among law and other bodies of speculation, such as social theory and political economy. My most recent book was a critical edition of Jean Louis De Lolme's 1771 *The Constitution of England*.

"It is a great honor to be considered as a candidate for the Board of Directors. Like so many other members, I have found the Society a unique source of scholarly support, stimulation and inspiration. I always leave the Society's meetings humbled and energized by the remarkable work undertaken by my colleagues. I have served for many years on the Society's Publications Committee. Given this experience, I am predictably committed to maintaining the flourishing state of the *Law and History Review* and *Studies in Legal History*, notwithstanding the increased resources this requires. As a scholar who resides within a familiar frame of Anglo-American legal history, I also give priority to the effort to insure that the Society serves as a cosmopolitan scholarly site, attractive to and supportive of legal historians who pursue less well-populated scholarly fields and who undertake research on legal traditions and geographic terrains to which we are less frequently exposed."

**Jim Phillips** is Professor of Law, History and Criminology at the University of Toronto, and editor-in-chief of the Osgoode Society for Canadian Legal History. Published on British imperial history and eighteenth century India, on property and charities law, and, principally, Canadian legal history, including

co-editing four volumes of the Osgoode Society's Essays in the History of Canadian Law and, with Philip Girard, *The Supreme Court of Nova Scotia 1754–2004: From Imperial Bastion to Provincial Oracle*. Also the author, with Rosemary Gartner, of a book on US legal history, *Murdering Holiness: The Trials of Franz Creffield and George Mitchell* (UBC Press, 2003). I have been an ASLH member for many years, and it's time I took a more active part in the organisation. Last year I was on the programme committee. I have become increasingly interested in comparative work, and the Osgoode Society has published and will publish books about Canada and other parts of second empire. An even more compelling comparison is with the US, and I hope to help further enhance such links, hopefully going so far as to include joint publications between the Osgoode Society and the Studies in Legal History Series.

**Reuel Schiller** has been a professor of law at the University of California, Hastings College of the Law since 1996. In addition to teaching legal history at Hastings, he was Associate Academic Dean for two years, chair of the College's Academic Standards Committee, and a member of its Executive Committee several times. Since 2009, he has been a member of the Editorial Board of the *Law and History Review* and has served the Society as a member of the J. Willard Hurst Summer Institute Selection Committee. Professor Schiller's scholarship focuses on the relationship among labor law, fair employment practices law, and the development of postwar liberalism in the United States, as well as the history of administrative law in the twentieth century. Professor Schiller writes that "as I member of the Board of Directors of the Society I would seek to promote interaction between legal historians and historians working in other fields of history. I would also try to ensure the robust participation of graduate students and young scholars in the activities of the Society."

**Mitra Sharafi** is a legal historian of South Asia at the University of Wisconsin Law School, with History affiliation. She holds two UK law degrees (BA Cambridge, 1998; BCL Oxford, 1999), and a doctorate in history from Princeton (2006), where she worked with Hendrik Hartog and Gyan Prakash. In 2009–11, she received an NSF Law and Social Sciences grant for the completion of her book project, "Parsi Legal Culture in British India." She teaches Contracts to law students, and undergraduate courses on legal pluralism and colonial law. Her research interests include law and religion, the legal profession, and legal consciousness. Sharafi organizes an annual national workshop on South Asian Legal Studies in Madison every October. She served on the ASLH Program Committee in 2008–9, and has been involved with the Hurst Summer Institute in Legal History both as a participant and faculty member since 2005. As a UW faculty member, she has also been closely involved with the University of Wisconsin's Law and Society postdoctoral fellowship program, which has supported many legal historians at the beginning of their careers. If elected to the ASLH Board of Directors, Sharafi would work to promote the study of legal history beyond the US context. This entails not only promoting the creation of panels focusing on other parts of the world for the annual conference, but also working to involve more scholars with a non-US focus in the Hurst Summer Institute and other ASLH projects. In the US, she would work to forge stronger links between the ASLH and Title VI-funded area studies centers, where work on legal history is being done. Sharafi is also interested in promoting the digitization of legal history sources. In 2010, she started a website of South Asian Legal History Resources (<http://hosted.law.wisc.edu/wordpress/sharafi/#>) and would work to promote similar efforts, particularly on non-western contexts.

**Charles L. Zelden** is a Professor of History at Nova Southeastern University teaching undergraduate courses in history, government and the law. He received his BA and MA from Washington University in St. Louis in 1985 and his Ph. D. from Rice University in 1991. He has been a member of the ASLH since 1993 and served as the founding book review editor for *H-Law* from 1994–2004. In 2006 he became an h-law moderator, a position he continues to hold. In 2007 he was appointed to the ASLH Committee on Future Conference Sites. His research focuses on the issue of rights and the courts, with a special emphasis on voting rights and the

regulation by the courts of the electoral process. All told, Zelden has published six books on these topics: *Justice Lies in the District: The U. S. District Court, Southern District of Texas, 1902–1960* (1993); *Voting Rights On Trial: A Handbook with Documents* (2002); *The Battle for the Black Ballot: Smith v Allwright and the Defeat of the Texas All-White Primary* (2004); *Bush v Gore: Exposing the Hidden Crisis in American Democracy* (2008); the document book, *The Supreme Court and Elections* (2009) and *Bush v Gore: Exposing the Hidden Crisis in American Democracy*, Abridged and Updated 2nd Edition (2010). Zelden is also the general editor of ABC-Clio Press' three volume *About Federal Government* encyclopedia (for which he was volume editor of Vol. III on the Federal Judiciary). Zelden has also published a number of scholarly articles, the most recent of which are "Old Vinegar in a New Bottle: Vote Denial in the 2000 Presidential Election and Beyond," in *Civil Rights and the Presidency: From Nixon to Obama*. (University of Florida Press, est. pub date 2011) and "'In no event shall a Negro be eligible': The NAACP takes on the Texas All White Primary, 1923–1944," in *Long Is The Way and Hard: One Hundred Years of the NAACP* (Univ of Arkansas Press, 2009).

**Board of Directors: graduate student position (choice of 2 candidates; the candidate receiving most votes will be deemed elected)**

**Greg Ablavsky.** After growing up in Massachusetts, I graduated from Yale University in 2005 with a B.A. in history, where I wrote my senior essay on eighteenth-century Quaker travelers. After graduation, I spent two years with Teach for America teaching fifth grade on the Zuni Indian Reservation in New Mexico. Since 2007, I have been at the University of Pennsylvania in the joint J.D./Ph.D. program in American legal history. My research interests focus on the legal history of the early modern Atlantic, particularly eighteenth-century European/Native encounters. I recently completed a project on the judicial abolition of Indian slavery in revolutionary Virginia, which is forthcoming as a Comment in the *University of Pennsylvania Law Review*, and anticipate expanding the scope of this project into a legal history of Indian slavery for my dissertation project.

If I became the graduate student representative to the ASLH, I would urge the organization to continue its support for young and emerging scholars. Events like the recent *Ab Initio* conference, which brought together both junior and senior scholars in the field to present some of the latest research, should continue. In addition, the organization should work to help young legal historians negotiate the complex interdisciplinary space between historical and legal academia. As formal and informal dual degree programs become more important, students should receive guidance from faculty outside their advisors over possible career tracks and the challenges of working in two academic settings. One possible option would be to create a mentorship program, which could be worked into the annual ASLH meeting to allow early-career legal scholars to meet briefly with senior faculty who work in their area of interest.

**Heidi Scott Giusto** is a Ph.D. Candidate in the History department at Duke University, where she studies the legal history of early American and Caribbean societies. Her dissertation, supervised by Laura F. Edwards, argues that warfare played a critical role in the development of the legal culture and slave regime in colonial South Carolina. In particular, the dissertation scrutinizes methods of slave governance and enslaved people's place within the legal culture of South Carolina. Giusto was a recent participant in the annual International Seminar on the History of the Atlantic World, 1500–1825, held at Harvard University, which focused on law and legal systems in the Americas. Honors include fellowships and awards through Duke University, the Franklin Humanities Institute, and the Institute for Southern Studies.

She writes, "During my term, I would like to help facilitate open communication between graduate students and established scholars in the ASLH. I also hope to encourage more graduate student membership in the organization as well as participation in its annual conference. As a representative for graduate students, I believe it is important for the ASLH to help make participation in its events more affordable and welcoming to younger scholars."

**Nominating Committee (choice of 4 candidates; the 2 candidates receiving most votes will be deemed elected)**

**Adriaan Lanni** is Professor of Law at Harvard Law School. She holds a B.A. and J.D. from Yale, an M.Phil. in Classics from Cambridge, and a Ph.D. in History from the University of Michigan. Her research focuses on ancient law. Publications include *Law and Justice in the Courts of Classical Athens* (CUP 2006); *Law and Order in Ancient Athens* (under contract, CUP); “The Laws of War in Ancient Greece” (*Law and History Review*); and articles in classics journals. She has been active in the Society for several years: she served on the Program Committee in 2001–2002, 2008–2009, and 2009–2010, and has presented, organized, and served as chair on panels at the annual meeting. If elected, she would aim to expand the representation of scholars and topics from outside the United States at the annual meeting and in the society, as well as to enhance the (already very impressive) participation of younger scholars.

**Jim Oldham** is St. Thomas More Professor of Law and Legal History at Georgetown University Law Center in Washington, D.C., where he has taught since 1970. For many years, his principal scholarly work has been devoted to 18th-century English legal history. During 1987–88, he was the Samuel I. Golieb Senior Fellow in Legal History at New York University Law School. In 1992, his two-volume work, *The Mansfield Manuscripts and the Growth of English Law in the Eighteenth Century*, was published by UNC Press as part of the Society’s Studies in Legal History series. In June 2004 his revised single-volume abridgement of the two-volume work was also published in the Society’s series, entitled *English Common Law in the Age of Mansfield*. Other work includes *Trial by Jury: Anglo-American Legal History and the Seventh Amendment* (NYU Press 2006) and “Informal Law-Making in England by the Twelve Judges in the Late 18th and Early 19th Centuries,” *Law and History Review*, forthcoming February 2011. Also in progress is his volume covering the years of the reign of George III in the series edited by Sir J.H. Baker, *The Oxford History of the Laws of England*.

Prof. Oldham has long been active in the affairs of the Society, having served on the board of directors and its executive committee, as program chair for the annual meeting in Charleston, S.C., as a member of the Finance Committee, and as chair of the Sutherland Prize Committee. He has delivered papers and served as a panelist or commentator at many Society meetings, and will do so again at the Fall 2010 meeting in Philadelphia. He also serves as a member of the Board of Editors of the Society’s *Law and History Review*. He has not, however, served on the Nominating Committee and would be pleased to have that opportunity in order to help shape and sustain diverse and dynamic leadership for the Society.

Another subject area that Prof. Oldham has researched is the history of arbitration, and for most of his academic career he has served from time to time as a labor arbitrator. From 2004–07 he was the grievance arbitrator for the National Hockey League and the NHL Players’ Association, and he is a salary arbitrator for Major League Baseball and the MLB Players’ Association.

**W. Wesley Pue** (Currently on leave from the Nathan Nemetz Professorship of Legal History at the University of British Columbia to serve as Vice Provost for the University). He writes, “My research has focussed on comparative colonial legal history, the history of legal education/ legal profession (with a largely 19th and 20th Century focus), and constitutionalism, security, and the rule of law. I am General Editor of the University of British Columbia Press’ Law and Society book series. If elected I would seek to further advance the USA Society for Legal History’s initiatives respecting interdisciplinarity, indigeneity, and international reach.

**Richard J. Ross** is a Professor of Law and History at the University of Illinois (Urbana/Champaign). He received a B.A. (1984), J.D. (1989), and Ph.D. degree (1998) from Yale University. He is currently working on: *The Beginnings of American Law: A Comparative History* (under contract, Yale University

Press) (with Steven Wilf). The book explores the origins of early American law with one eye on the Spanish and French New World empires and the other eye on Ireland and British India. Previous research has concentrated on the history of legal communications in the early modern Atlantic world. Representative articles include: “Legal Communications and Imperial Governance: British North America and Spanish America Compared,” in *Cambridge History of Law in America, Volume 1: Early America (1580–1815)*, ed. Christopher L. Tomlins and Michael Grossberg (Cambridge, 2008), 104–143; and “The Memorial Culture of Early Modern English Lawyers: Memory as Keyword, Shelter, and Identity, 1560–1640,” *Yale Journal of Law and the Humanities* (1998), which received the honorable mention for the 1999 Sutherland Prize. Early modern law and religion, examined in a transnational framework, is another interest. “Puritan Godly Discipline in Comparative Perspective: Legal Pluralism and the Sources of ‘Intensity,’” *American Historical Review* 113 (2008): 975–1002, is an article in this vein. Ross is the founder and director of the Symposium on Comparative Early Modern Legal History, which meets at the Newberry Library in Chicago. The Symposium yearly presents a conference that gathers law professors, historians, and social scientists to explore a particular topic in comparative legal history in the early modern period, broadly defined (c.1492–1815). He was an associate editor of *Law and Society Review* (2004–2007). Service to the ASLH includes: Editorial Board, *Law and History Review* (2010–); Cromwell Prize Selection Committee (2004–09; chair, 2008–09); Surrency Prize Selection Committee (2000–2003 and 2006–2008; Chair, 2000–2003); Executive Committee, Board of Directors (2002–2005); Willard Hurst Memorial Fund Committee (2002–2006); Program Committee for the Annual Conference (1998–2000). If elected to the nominating committee, Ross will try to further enhance the presence of non-U.S. and comparative topics in the ASLH.

**Preyer Memorial Committee**  
**Aviam Soifer, chair**

No report submitted.

## **Program Committee**

**Kenneth Ledford and Barbara Welke, co-chairs**

This year, as in most recent years, we have five panels per session, over seven sessions, for a total of 35 panels. Eight of the panels were organized by committee members, and one panel is a Presidential Panel organized by President Backhouse. In response to the call for papers, we received 46 proposals for complete panels, of which we accepted 22, and we received 66 proposals for individual papers, of which we accepted 9, which we arranged in three panels. That makes 34 panels; the 35<sup>th</sup> is the Preyer prize panel.

We were all impressed by the quality of the submissions. Except for a few of the individual papers, everything we received was good enough to be on the program.

As in recent years, we used an on-line evaluation system, accessible only to committee members, where members could read submissions and post comments. We are grateful to Tron Compton-Engle and the Case Western Reserve University School of Law for setting up and hosting this year's web site, which worked very smoothly.

We had a total of \$10,000 available from the Society to award as travel grants. We initially identified twenty-one graduate students, fourteen international scholars, and four post-doctoral scholars without fixed institutional sources for support, and in May queried all 39 as to their need. Eleven replied that they needed no support from the Society to attend the meeting. Accordingly, we divided the funds available equally among the 28 remaining scholars, resulting in support of \$357.14 per person.

The chairs would like to thank the members of this year's committee, Holly Brewer, Tom Gallanis, Amalia Kessler, Adriaan Lanni, Assaf Likhovski, Christian McMillan, Dylan Penningroth, Jim Phillips, Gautham Rao, Victor Uribe, and Jim Whitman, for all their hard work and good cheer.



**Publications Committee**  
**Bruce H. Mann, chair**

**I. *Studies in Legal History***

After a lengthy search—but one that was well worth the wait—the Committee enlisted the triumvirate of Sarah Barringer Gordon (Arlin M. Adams Professor of Constitutional Law and Professor of History at the University of Pennsylvania), Holly Brewer, (Burke Professor of History at the University of Maryland), Michael Lobban (Professor of Legal History at Queen Mary College, University of London) to succeed Daniel R. Ernst and Thomas A. Green as co-editors of the series. Dan is stepping down at the conclusion of the 2010 Annual Meeting, while Tom will continue to serve as co-editor into next year. Both will continue to assist with projects they have developed for the Series.

The Committee continues to consider publishing options for the Series.

**II. *Law and History Review***

Although not seamless, the switch to Cambridge University Press has been a success. The journal now published four issues per volume. University of Illinois has reassigned the copyright to the back volumes to the Society.

\* \* \* \* \*

The Committee wishes to thank David S. Tanenhaus, Thomas A. Green, and Daniel R. Ernst, for their extraordinarily dedicated and effective stewardship of the *LHR* and the series; Sara Barringer Gordon, Holly Brewer, and Michael Lobban for undertaking to carry that legacy forward; and the University of Nevada-Las Vegas, Cambridge University Press, and the University of North Carolina Press (and Chuck Grench in particular) for their continued support of our scholarship.

**Reid Book Award, Committee on the  
Gerald Leonard, chair**

1) The Reid Award Committee solicited book nominations from a wide range of university and commercial presses early in 2010 with a deadline of May 28, 2010. We received approximately 20 nominations, which we reduced to a short list of 4 by the middle of July. The total number of nominees fell short of last year's 36 mainly because the Reid Award now excludes books by junior scholars. We convened by conference call on September 2 to pick a winning book. While we spent some time sharing our admiration for several of the books, we quickly came to agreement on Catherine Fisk's *Working Knowledge* as a very worthy winner. The citation follows:

Catherine L. Fisk, *Working Knowledge: Employee Innovation and the Rise of Corporate Intellectual Property, 1800-1930* (University of North Carolina Press, 2010)

Catherine Fisk's *Working Knowledge* is a book of many different virtues. It takes on a novel question—when, how, and why did corporations come pervasively to own and control the intellectual property created by their employees?—and it brings to bear prodigious primary research, not just in case law but in corporate archives as well. By combining these two types of sources, among others, Fisk delivers a compelling story of doctrinal development—especially in the areas of patent, copyright, and trade secrets—but also grounds that story in a textured history of the internal practices and cultures of DuPont, Eastman Kodak, and other companies known for innovation in the early 20<sup>th</sup> century. Moreover, Fisk brings together a range of literatures that do not always make contact with each other: the literatures of legal history, of business history, of labor history, and of cultural history, among others. Adroitly deploying all of this research, she delivers a highly readable narrative that exposes the mutability of historical perspectives on identity and creativity. She offers us both a big, satisfying narrative arc and a collection of smaller arguments and speculations. The big story takes us from an early republic in which creativity and intellectual property rights were presumed to lie in the independent man that was idealized by free labor ideology (even when that independent man was an employee for the moment) to a 20<sup>th</sup>-century America where the ideals of secure corporate employment and consumer satisfaction encouraged identification of employees' innovations—and thus the copyrights and patents that went with them—with the corporation itself. Fisk's many subordinate narratives and arguments enrich the story further, leading the reader finally to lament the absence of Catherine Fisk's name from the book's copyright notice, where only that of the publisher appears.

2) One important issue emerged from our deliberations of the last two years. After our winner last year duplicated the winner of the Cromwell Award for the second year in a row, we suggested to the Board that it might consider whether the two awards should be redefined to ensure that they go to different books each year. The Board decided that that was the right thing to do and accordingly rewrote the Reid Award criteria to exclude "first books." The difficulty is that that language would seem to exclude first books by senior scholars who do not qualify for the Cromwell and who, therefore, really should qualify for the Reid. Our winner this year, Catherine Fisk, provides an example. Although she had her name on a couple of other books before publication of *Working Knowledge*, the latter really is her "first book" in the usual sense—that is, her first monograph. We therefore consulted with Constance Backhouse on the question whether we could deem Fisk eligible. Constance determined we could, either by treating Fisk's non-monographs as her first books or by simply reading the eligibility criteria in the proper spirit. So we

did. But it might be worthwhile to edit the written criteria slightly to make this sort of thing easier going forward. Below, I copy the current relevant text from the website and then a proposed rewrite for your consideration (the rewrite shows italics where the main changes happen). Like the current text, the rewrite contains some unavoidable ambiguity, but we think it handles the issue a bit more cleanly and leaves borderline cases to be decided straightforwardly by the committee chairs, presumably in consultation with the President.

Current text:

**John Phillip Reid Book Award**

. . . the John Phillip Reid Book Award is an annual award for the best monograph that is not the author's first book, published in English in any of the fields defined broadly as Anglo-American legal history

. . . .

**Nomination Process for 2010**

In 2010, the Reid Prize and the Cromwell Book Prize will be mutually exclusive. The Reid Prize is for books that are not the author's "first book," and the Cromwell Book Prize is for books that are.

Our proposal:

**John Phillip Reid Book Award**

. . . the John Phillip Reid Book Award is an annual award for the best monograph *by a mid-career or senior scholar*, published in English in any of the fields defined broadly as Anglo-American legal history

. . . .

**Nomination Process for 2011**

The Reid Award and the Cromwell Book Prize *are* mutually exclusive. The Reid Award is for a book *by a mid-career or senior scholar*, and the Cromwell Book Prize is for a "first book" by a junior scholar. *If you are uncertain which category fits a book that you wish to nominate, please consult the chairs of the Reid and Cromwell committees.*

**Research Fellowships and Awards, Committee on  
Michael Grossberg, chair**

The Committee on Research Fellowships and Awards is tasked with soliciting and evaluating applications for the William Nelson Cromwell Fellowships and then making recommendations for awards to the Trustees of the Cromwell Foundation. The trustees make the final determinations. Over the last several years the Foundation has awarded from three to five fellowships each year with funding ranging from \$2,500 to \$5,000 per fellowship. Preference is given to scholars at an early stage in their careers, which the Committee and Trustees have interpreted to mean applicants who are completing or have completed a dissertation and/or are at work on a first book.

The membership of the 2010 Committee included: Robert Gordon, Yale University; Michael Grossberg, Indiana University; Amy Dru Stanley, University of Chicago; and Christopher Tomlins, University of California, Irvine. ASLH President Constance Backhouse serves as an *ex officio* member. I am in the second year of my tenure as chair of the committee.

The Committee received viable 14 applicants, which constituted an increase over the previous year. More importantly, the pool of applicants was quite strong with several extraordinary candidates. And in line with longstanding goals of the Committee, the pool also included a diverse group of applicants in terms of institutional training and affiliation. Indeed I think it is worth noting that this year's applicant pool included candidates from the broadest range of institutions in recent years. We will, of course, continue our attempts to increase the number and quality of fellowship applicants. However, I would welcome suggestions by the Board about how we might publicize the fellowship more broadly. As I noted in my first report, despite our recent efforts information about the Cromwell Fellowship is still not reaching as many potential applicants as it should.

On September 20<sup>th</sup>, the Committee sent the Trustees a ranked list of candidates. We based our judgments on three primary standards: the significance of a project as a contribution to American legal history; the cogency of the applicant's research plan; and the strength of the supporting letters submitted by each applicant. Though the most highly ranked candidates are in different stages of their research and study a range of legal and constitutional issues, we believe that each of their projects holds great promise and that each will make a significant contribution to our field.

The Trustees will inform the Committee of their selections before the ASLH annual meeting. I will report the results to the Board and, if time permits, invite the successful candidates to attend the annual meeting.

**Studies in Legal History**

**Holly Brewer, Sarah Barringer Gordon, Michael Lobban and Thomas A. Green, Editors**

*Studies in Legal History* has published two books in 2010:

James M. Donovan, *The Juries and the Transformation of Criminal Justice in France in the Nineteenth and Twentieth Centuries*

Susan M. G. Reynolds, *Before Eminent Domain: Towards a History of Expropriation of Land for the Common Good*

Two manuscripts are currently under advance contract:

Richard Wetzell, "Between Retributive Justice and Social Hygiene: Penal Reform in Modern Germany, 1880-1945"

Linda Przybyszewski, "The Cincinnati Bible War"

The editorial team for *Studies in Legal History* has undergone changes. Holly Brewer and Sally Gordon have replaced Dan Ernst on the American side and will work jointly. Michael Lobban and Tom Green will handle mss. on the non-American side until Tom's retirement at the end of 2011. Michael has full authority for all new acquisitions as of now.

The editors continue to work with authors at various stages in the completion of their manuscripts. They expect that books will appear in the series at or near the historic average of two a year through 2013.

The editors want to express their gratitude to our editor at the University of North Carolina Press, Chuck Grench and to Chuck's assistants Katy O'Brien (now retired) and Beth Lassiter. As always, we want also to thank Kate Torrey, Director of the Press, and David Perry, Editor in Chief. The Society owes a great deal to the Press for its support and excellent standards of production over the past three decades.

**Surrency Prize Committee**  
**Annette Gordon-Reed, chair**

The Surrency Prize for 2009 is awarded to Daniel Ernst for “The Politics of Administrative Law: New York’s Anti-Bureaucracy Clause and the O’Brian-Wagner Campaign of 1938.”

President Franklin D. Roosevelt's response to the Great Depression-- the New Deal-- ushered in a new era in American law. As happens when any profound social transformation is put in motion, individuals and groups within American society quickly saw themselves as either potential winners or losers in the emerging new world. Those who considered themselves powerful enough to take actions to support the transformation-- or stop it-- mobilized. In vivid prose, and with great clarity and intelligence, Daniel R. Ernst's “The Politics of Administrative Law: New York’s Anti-Bureaucracy Clause and the O’Brian-Wagner Campaign of 1938” describes and analyzes how this process unfolded in the Empire State during the late 1930’s. Ernst identifies “two institutions, the political party and the legal profession” as having played leading roles in shaping the “peculiar way which administrative agencies were incorporated into the American polity.” He complicates the traditional narrative about reactions to the creation of modern administrative law, a narrative that casts the raging battles as a straight forward “clash of interests or ideas”. In Ernst’s able hands we see instead that the “emergence of the administrative state” caused sharp divisions within political parties and the legal profession, cleaving both institutions into factions that were often led into alliances that, on the surface, appear anomalous. Thus, the New Dealer par excellence, Felix Frankfurter, worked assiduously (and successfully) with John Foster Dulles, a vociferous opponent of the New Deal, to defeat the Anti-Bureaucracy Clause, a measure designed to curb the power of administrative agencies. And John Lord O’Brian, who ran against the great New Dealer Robert Wagner, could vigorously support the very powerful Tennessee Valley Authority while railing against the National Labor Relations Board as the prime culprit in the erosion of “due process in the midst of a growing administrative state.” Although O’Brian lost, his critique of the NLRB resonated with voters, suggesting that political actors focused on a relatively technical question of administrative law could involve members of the public in important constitutional matters and that citizens would respond with their votes. Presenting a nuanced definition of “interests” and a thorough description of the “ideas” in play, Ernst helps us to see how these early battles resulted in the “judicialization of administrative procedure” that we know today. Extensively and creatively researched, “The Politics of Administrative Law” tells us much that we need to know about a fascinating moment in American history.

**Sutherland Prize Committee**  
**James Oldham, chair**

The Sutherland Prize, named in honor of the late Donald W. Sutherland, a distinguished historian of the law of medieval England and a mentor of many students, is awarded annually, on the recommendation of the Sutherland Prize Committee, to the person or persons who wrote the best article on English legal history published in the previous year. The Committee for the 2009 prize consisted of Professor James Oldham, Georgetown Law Center (chair); Professor John Beattie, University of Toronto; and Professor Jonathan Rose, Arizona State Law School.

The Sutherland Prize Committee is pleased to recommend that the Sutherland Prize for 2009 be awarded to Professor Emily Kadens for her article, "The Puzzle of Judicial Education: The Case of Chief Justice William de Grey," 75 *Brooklyn Law Review* 143 (2009). The commendation to be read at the annual meeting in Philadelphia and to accompany the award is attached.

The Sutherland Prize for 2009 is awarded to Emily Kadens for her article, "The Puzzle of Judicial Education: The Case of Chief Justice William de Grey," 75 *Brooklyn Law Review* 143 (2009).

In this article Professor Kadens presents a cogent analysis of how an excellent but little-known judge, William de Grey, equipped himself to perform his office. De Grey was appointed Chief Justice of the Court of Common Pleas in January 1771, a position he held for ten years. Having had little experience in Common Pleas during his years in practice, de Grey promptly began to buy reference books. Using de Grey's accounts, held by the Norfolk Record Office, Professor Kadens reconstructs de Grey's book purchases and shows how he used his expanding library to shape the first stage of his judicial education. She then explains in careful detail how de Grey created a two-volume encyclopedic bench book by interleaving pages of his own notes with the pages of the 1772 edition of Francis Buller's *Introduction to the Law Relative to Trials at Nisi Prius*. The Norfolk archives have only one volume of de Grey's bench book, but Professor Kadens constructs a persuasive description of the full two-volume compilation and of de Grey's extensive annotations. The marginalia, she states, "show that de Grey sought to have at his fingertips the various types of information that would help him decide questions of law, give explanations to juries, and engage with counsel."

Professor Kadens' article is based upon meticulous documentary research and is a splendid example of the enhanced historical understanding that can be gained through the patient archival work of the legal historian.

## **New Business**

Electronic balloting for ASLH elections (Hadden): Professor Charles Donahue, as ongoing ASLH web supervisor, informed me that it would be possible to conduct electronic voting for the annual election. One of the issues that concerned me was the prospect of voter fraud, if there were no way to identify individual voters who attempted to vote more than once. In brief, we have a few options:

(1) We could hire a company that does things like union elections. It would be pricey. (The AHA has such a company.) It would be totally secure and totally anonymous. We'd need to give everyone a username and password to do it.

(2) We could just tell folks to send us their ballots by email. This would mean we might check emails sent in against the email addresses that members have on file with CUP, to insure only one vote per person.

(3) The middle version would have voters go to the secure site to fill in the form. The only question is whether folks would feel more comfortable if they were filling out a form that had an https address rather than an http address.

(4) Even less techy is simply to have the form on the unsecure web. Folks fill out the form and either

(a) print it out and send it in by snail mail [what happened with this year's election] or

(b) send it in electronically, in which case it could be possible to design a deposit bin at my email account that counts the votes and matches them to a previously known email address and either send it to the head of Membership, or the Secretary, to check to make sure

(i) that there no duplicates and

(ii) that the email address is on our list of paid-up members.

This is basically option (2) with a bit more tech, in the sense that people don't have to download the form, fill it out on their computers (or fill it out by hand and scan it) and then send it in by email.