



# ASLH Newsletter

*Summer 2004*

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## 2004 ANNUAL MEETING, AUSTIN, TEXAS

The Society’s thirty-fourth annual meeting will be held Thursday-Saturday, October 28-30, in Austin, Texas. Registration materials and the draft program for the meeting are bound in the center of this newsletter. Be sure to return the registration forms by the dates indicated.

The chair of the local arrangements committee is Roy Mersky, University of Texas <[rmersky@mail.law.utexas.edu](mailto:rmersky@mail.law.utexas.edu)>; the chair of the program committee is Vicky Woeste, American Bar Foundation <[vswoste@abfn.org](mailto:vswoste@abfn.org)>. Additional, and updated, information about the annual meeting is available on the web <<http://aslh2004.abfn.org/public/program.html>>.

The local arrangements committee has additional information available on the web <<http://tarlton.law.utexas.edu/aslh2004/welcome.html>>. The committee calls special attention to two events

occurring the weekend of the annual meeting:

1. The Ninth Annual Texas Book Festival, October 28-31, 2004. See the festival's website at <http://www.texasbookfestival.org/> for details.

2. Halloween (October 31) evening when 6th Street is closed off and a huge crowd (some years as many as 70,000) fills the street to party. It's something of a "mini Mardi Gras". Some ASLH attendees might want to stick around, others might want to flee. The Driskill is on 6th Street. Those heading for the airport on Sunday may want to plan accordingly, to avoid the congestion.

## INFORMATION ABOUT LOCAL ARRANGEMENTS

Blocks of rooms are reserved for the Society's meeting at the Driskill Hotel and the Stephen F. Austin hotel. The hotels are a block apart. Room rates at the same at both hotels – \$145 single/double, plus 15% tax.

**IF YOU DO NOT WANT TO PARTICIPATE IN THE ROOM-SHARE PROGRAM, YOU MUST MAKE YOUR OWN RESERVATIONS DIRECTLY WITH EITHER THE DRISKILL HOTEL (512-474-5911 OR 800-252-9367) OR THE STEPHEN F. AUSTIN (512-457-8800) , NO LATER THAN SEPTEMBER 28<sup>TH</sup>.**

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## BALLOT

The ballot, bound at the center of this newsletter, seeks votes the President-Elect, for members of the Society's Board of Directors, and for the Nominating Committee. Many thanks to this year's nominating committee for their conscientious work.

## NOMINEES FOR BOARD OF DIRECTORS

**R. B. Bernstein** is adjunct professor of law at New York Law School, where he has taught since 1991. He was educated at Amherst College, receiving his B.A. in American Studies in 1977; in 1980, he received the J.D. degree from Harvard Law School. After three years of practice, he returned to academia, specializing in the constitutional history of the early American republic with extensive work in public history during the bicentennials of the Constitution, the federal government, and the Bill of Rights. From 1984 to 1997 he was on the staff of *The Papers of John Jay* at Columbia University. From 1984 to 1987, he was research curator of the Constitution Bicentennial Project of The New York Public Library, Astor, Lenox, and Tilden Foundations. From 1987 through 1989 he was historian for the New York City Commission on the Bicentennial of the U.S. Constitution, and from 1989 through 1990 he was research director for the New York State Commission on the Bicentennial of the U.S. Constitution. From 1997 to 2004 he was a book review editor for H-LAW, and he continues as a member of H-LAW's editorial board.

His many books on aspects of the legal and constitutional history of the early American republic include *Are We to Be a Nation? The Making of the Constitution* (with Kym S. Rice) (Harvard University Press, 1987); *Contexts of the Bill of Rights* (coedited, with Stephen L. Schechter, NY State Comm'n, 1990); *Roots of the Republic: American Founding Documents Interpreted* (contributor and co-editor, with Stephen L. Schechter and Donald S. Lutz, Madison House, 1990); *Amending America: If We Love the Constitution So Much, Why Do We Keep Trying to Change It?* (Times Books/Random House, 1993; Univ. Press of Kansas, 1995); *Thomas Jefferson and Bolling v. Bolling: Law and the Legal Profession in Pre-revolutionary America* (Huntington Library/NYU Law School, 1997) (coedited, with Barbara Wilcie Kern and the late Bernard Schwartz); and *Thomas Jefferson* (Oxford University Press, 2003). Books-in-progress include *To the People: The Federalist and the American Experiment*; *Debts, Loyalty, and Federalism: Rutgers v. Waddington and Chisholm v. Georgia*; *John Adams and the Divine Science of Politicks*; and *"Conven'd in Firm Debate": the First Congress as an Experiment in Government*.

In addition to his scholarly activities, Bernstein is director of online operations at Heights Books, Inc., in Brooklyn, New York, where he has lived since early 1981. Bernstein has been a lifetime member of the American Society for Legal History since 1989.

**Paul Finkelman** is the Chapman Distinguished Professor of Law at the University of Tulsa College of Law. Before coming to Tulsa, he held the John F. Seiberling Chair in Constitutional Law at the University of Akron and taught at a number of other law schools and in a number of history departments including Washington University in St. Louis, the University of Texas at Austin, and Virginia Tech. He received his B.A. in American Studies from Syracuse University (1971) and his M.A. and Ph.D. in U.S. History from Chicago (1972, 1976) and was a fellow in law and

humanities at Harvard Law School (1982-83). He is the author or editor of more than fifteen books on legal history and especially the law of slavery. His book *An Imperfect Union: Slavery, Federalism, and Comity* (North Carolina, 1981, reprinted 2001) appeared in the Society's series Studies in Legal History. His most recent books include *Defending Slavery* (Bedford, 2003); *Landmark Decisions of the United States Supreme Court* (co-authored) (CQ Press, 2003); and the co-authored *Library of Congress Desk Reference to the Civil War* (Simon and Schuster, 2002). He is also the co-author of three text books: *American Legal History: Cases and Materials* (Oxford, 3rd ed. 2004); *A March of Liberty: A Constitutional History of the United States* (Oxford, 2002); and *Constitutional Law in Context* (Carolina Academic Press, 2003). He has written more than one hundred scholarly articles and book chapters. He is the editor of the series Law, Society, and Politics in the Midwest with Ohio University Press, and the co-editor of Studies in the Legal History of the South at the University of Georgia Press. He has held fellowships from the National Endowment for the Humanities, the American Philosophical Society, the American Bar Foundation, and the Japan Society of the Promotion of Science. He was an expert witness in the lawsuit over who owned Barry Bonds' 73rd home run ball and in the Alabama Ten Commandments monument case. He has previously served as chair of the Membership Committee and of the Nominating Committee of the ASLH.

**Thomas P. Gallanis** is Professor of Law, Professor of History, and Director of the Center for Law and History at Washington and Lee University. He has been active in the ASLH for many years, chairing panels and presenting papers at several annual meetings. He has served as chair of the Nominating Committee and as chair of the Sutherland Prize Committee, and has been appointed co-chair of the Program Committee for the 2005 annual meeting in Cincinnati. He is also a member of the Selden Society, which awarded him the David Yale Prize for his article on "The Rise of Modern Evidence Law," 84 *Iowa Law Review* 499 (1999). He received a B.A. with Distinction in History from Yale, a J.D. from the University of Chicago, where he was a Bradley Fellow in Legal History, and LL.M. and Ph.D. degrees from Cambridge University. At Cambridge, he was awarded the Hamson Prize in Comparative Law, the Wright and Hughes Prizes for academic excellence, and the Mansergh Prize for best historical essay. He has been a professor at Ohio State University, a visiting professor at the University of Michigan, and a Mellon Fellow at the Institute for Advanced Study, Princeton. He teaches and writes in the areas of English and European legal history, property, trusts and estates, and elder law. A recent article reflecting one intersection of his historical and modern concerns is "The Future of Future Interests," 60 *Washington and Lee Law Review* 513 (2003).

**Bill Jones** is the Nagel Professor Emeritus of International and Comparative Law at the Washington University School of Law in St. Louis. He received his undergraduate degree from Yale, and his law degree from Harvard. He did graduate work at the University of Chicago Law School from which he received the S.J.D degree. The title of his dissertation was "The Settlement of Mercantile Disputes by Merchants: An Approach to the History of Commercial Law." He has taught most of the private law curriculum, as well as legal history, comparative law, and Introduction to Law, in the United States. In Europe (mostly at the International Association for the Teaching of Comparative Law) and in China (at National Taiwan University, Wuhan University, the Chinese University of Political Science and Law, Jiao Tong, Shanghai University, and the Hopkins-Nanjing Center), he has also taught public law courses such as constitutional law. He spent a year in Japan at Tokyo University and the Institute for Developing Economies. Since 1966, his primary interest has been Chinese law. He has studied both traditional and contemporary Chinese law, and published in both areas. His principal work on traditional law is *The Great Qing Code* (Oxford U.P., 1994). His most recent publication is a chapter: "Chinese Law and Liberty in Comparative Historical Perspective" in William C. Kirby, ed., *Realms of Freedom in Modern China* (Stanford U.P., 2004). His current research is on the way in which modern Chinese tort law, which is supposedly governed by a German-style civil code, is influenced by traditional Chinese concepts. He began this work with the Ritholz lecture at the Harvard Law School in 1999. The title was "Chinese Civil Law: The Pandektenwissenschaft with Chinese Characteristics?"

**Joyce Malcolm** is Professor of Early Modern English and Colonial American Legal and Constitutional History at Bentley College, Senior Advisor at the MIT Security Studies Program and Fellow of the Royal Historical Society. This past year she was James Madison Fellow and Visiting Professor at Princeton University. Malcolm is author of six books including *To Keep and Bear Arms: The Origins of an Anglo-American Right* (Harvard University Press), *Guns and Violence: The English Experience* (Harvard University Press), editor of the two-volume collection, *The Struggle for Sovereignty: Seventeenth-Century English Political Tracts* (Liberty Classics) and has written some forty articles for law reviews, historical journals and the press. She is presently at work on two books, *Stepchild of the Revolution: A Slave Child in Revolutionary America* (forthcoming from Yale University Press) and *Null and Void: The Origins of American Judicial Review*. She has received fellowships and grants from, among others, Harvard Law School, the National Endowment for the Humanities, the Huntington Library, the Radcliffe Institute, and the American Bar Foundation. She is a long-time member of the ASLH and has served on the Program and Nominating

## Committees.

**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 published work includes articles on aspects of the history of the jury. Revised versions of these articles, plus new writing on juries and determinations of damages, will be published in 2005 by NYU Press under the title, *Trial by Jury: Anglo-American Legal History and the Seventh Amendment*. 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*.

Professor Oldham has long been active in the affairs of the Society, having previously served on the board of directors and its executive committee. He was Program Chairman for the meeting in Charleston in 1988. He has delivered papers and served as commentator and panel chair at many Society meetings, and will do so again at the Fall 2004 meeting in Austin. He also serves currently as a member of the Board of Editors of the Society's *Law and History Review*.

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. Recently he was named as the grievance arbitrator for the National Hockey League and the NHL Players' Association.

**Reva Siegel** is Nicholas deB. Katzenbach Professor of Law and Professor of American Studies at Yale University, where she teaches constitutional law, antidiscrimination law, and legal history. Her writing analyzes law's role in challenging and preserving status inequality, in areas including the regulation of reproduction, family, work, and suffrage in the nineteenth and twentieth centuries. Relevant publications include "A Short History of Sexual Harassment," her introduction to *Directions in Sexual Harassment Law* (co-edited with Catharine A. MacKinnon) (Yale Press, 2004); "Equality Talk: Antisubordination and Anticlassification Values in Constitutional Struggles over Brown," *Harvard Law Review* (2004); "She the People: The Nineteenth Amendment, Sex Equality, Federalism, and the Family," *Harvard Law Review* (2002); "Why Equal Protection No Longer Protects: The Evolving Forms of Status-Enforcing State Action" *Stanford Law Review* (1997); and "The Rule of Love: Wife Beating as Prerogative and Privacy," *Yale Law Journal* (1996). Much of her recent work draws on the civil rights conflicts of the 1960s and 1970s to examine the life of the Constitution outside the courts—including a series of articles on the legislative enforcement of the Fourteenth Amendment with Robert Post (e.g. "Legislative Constitutionalism and Section Five Power: Policentric Interpretation of the Family and Medical Leave Act," *Yale Law Journal* (2003)), and works in progress on the role of social movements in constitutional change. She is a board member of *Law and History Review* and of the National Constitution Center, and, as faculty chair of Yale's chapter of the American Constitution Society, has been working on a variety of projects concerning the Constitution in 2020.

**Victor Uribe-Uran** is Associate Professor in the Department of History and the College of Law at Florida International University, Miami. He holds a law degree, a master's in political science, and a Ph.D in history. His books include *'Honorable Lives.' Lawyers, Family and Politics in Colombia, 1780-1850* (University of Pittsburgh Press, 2000); *State and Society in Latin America During the Age of Revolution* (Scholarly Resources, 2001); and *Naciones, gentes y territorios. Ensayos de historia comparada de America Latina y El Caribe* (Universidad de Antioquia, 2000). His essays pertaining to the social history of lawyers and the law have appeared in the *Journal of Latin American Studies*, *The Americas*, the *Latin American Research Review*, and *Comparative Studies in Society and History*, and the *Journal of Social*. His most recent article appeared in *Historia y Sociedad* (Spring, 2003). He has been a Fulbright scholar, received two Andrew Mellon Fellowships and one of his articles was recently awarded the Antonine Tibeazar Prize. Recently he spent a sabbatical year in Seville, Spain, funded by an NEH fellowship to finish research for a book on the social and legal history of domestic violence in Mexico, Colombia and Spain from 1750 to 1850. He has been a member of the board of editors of the *Law and History Review*, co-chair of the 'Law and Society' section of LASA, the Latin American Studies Association, and track chair of the Law and Jurisprudence section within the LASA International Conference of 2004.

## NOMINEES FOR BOARD OF DIRECTORS – GRADUATE STUDENT POSITION

**Lyndsay Campbell** is a Ph.D. candidate in the Jurisprudence and Social Policy Program at UC Berkeley. Her

dissertation is on the regulation of speech, through legal and extra-legal means, in the early-to-mid-nineteenth century in Massachusetts and Nova Scotia. Libel law, church discipline, mob actions, and the decisions of newspaper editors loom large in this work. Lyndsay holds an LL.B. and an LL.M. from the University of British Columbia. The most glamorous part of her LL.M. thesis appears as "A Slub in the Cloth: R. v. St. Clair and the Pursuit of a Clean Theatre in Toronto, 1912-1913," 15 *CJLS/RCDS* 187 (2000). Lyndsay clerked for the British Columbia Court of Appeal before being called to the BC bar. She has taught Australian and Canadian legal history and practiced human rights law. She has belonged to the ASLH for three years, and she gained some experience in lobbying for grad students as the student member of the board of the Canadian Law and Society Association in 2002-03.

**Rebecca Rix** is a Ph.D. candidate in U. S. history at Yale University, currently working on her dissertation, "Gender and Reconstitution: The Individual and Family Basis of Democracy Contested, 1880-1932." Previously, as a Yale Law School Legal History Fellow, Ms. Rix organized and moderated the 2002-2003 Legal History Forum. She studied western European and American intellectual history, literature, and political science at Reed College (M.A.L.S.) and Portland State University (B.A.) and worked as a paralegal and law off and co-authored *Sexual Abuse Litigation: A Practical Resource for Attorneys, Clinicians, and Advocates* (Haworth 2000) and has published and presented on topics related to the role of cultural narratives, including constructions of gender, in shaping social, legal, and political change. Her awards include the American Historical Association Littleton-Griswold Grant in Legal History; research fellowships from the Schlesinger Library on the History of Women, the Gilder-Lehrman Institute of American History, and the Massachusetts Historical Society; and the Robert M. Leylan Dissertation Fellowship.

## NOMINEES FOR NOMINATING COMMITTEE

**Daniel W. Hamilton** is an Assistant Professor at Chicago-Kent College of Law, where he teaches courses in legal history and property. His main research interest is American property ideology and the legal and constitutional issues raised by the Civil War. He received a Ph.D. in American legal history from Harvard University, where he was a resident tutor in history and law at Harvard College. He received a J.D. from George Washington University and B.A. from Oberlin College. In 2003-2004 he was a Golieb Fellow in legal history at the New York University School of Law. His book, *The Limits of Sovereignty: Legislative Confiscation in the Union and the Confederacy* is forthcoming from the University of Chicago Press. He has a forthcoming article in the *Journal of Supreme Court History* for which he received the Hughes-Gossett prize from the Supreme Court Historical Society. He has written, or is writing, reviews and review essays for the *Law and History Review*, *Law and Social Inquiry*, the *Journal of Interdisciplinary History*, the *Journal of National Security Law*, H-LAW and H-SHEAR. Organizations offering him research support include the Littleton-Griswold Fund at the American Historical Association, the Huntington Library, the Gilder-Lehrman Institute for American History, the Mark DeWolfe Howe Fund, and the Boston Athenaeum. Research presentations include talks at the Law and Society Association, the University of Alabama Conference on Race and Place, the Society for History in the Federal Government, and several guest lectures at Harvard Law School. He has been a member of the ASLH since 1995 attending meetings faithfully, even rain-soaked San Diego, and has twice presented papers at the annual meetings.

**Sanford Levinson** is the W. St. John Garwood and W. St. John Garwood Jr. Centennial Chair in Law at the University of Texas Law School and Professor of Government at the University of Texas. He is the author, most recently, of *Wrestling With Diversity* (Duke U. Press 2003) and the editor of *Torture: A Collection* (Oxford U. Press 2004).

**Kenneth Mack** is an Assistant Professor of Law at Harvard Law School, where he has taught since the 2000-2001 academic year. During the 2004-05 academic year he will be a Faculty Fellow at the Center for Ethics and the Professions, Harvard University. He is Co-Director of the Harvard Law School Legal History Colloquium. He is a member of the Board of Overseers of the Massachusetts Supreme Judicial Court Historical Society. His teaching fields are Property, American Legal History, and the History of the Legal Profession. His scholarly work focuses on the relationship between professionalization and civil rights lawyering in the early twentieth century United States. His work has been published in the *Cornell Law Review*, *Law and Social Inquiry*, and has been reprinted in several anthologies of interdisciplinary legal scholarship. He earned a B.S. in Electrical Engineering from Drexel University, a J.D. from Harvard Law School, and an M.A. in History from Princeton. He has held research fellowships from Harvard Law School, the Woodrow Wilson Foundation at Princeton University, and the Ford Foundation. In 1999, he served on the program committee for the ASLH annual meeting. In 2003, he delivered the annual Hugo L. Black Lecture at the University of Alabama Law School.

**Wesley Pue** is currently Associate Dean for Graduate Studies and Research, and Nemetz Professor of Legal History at the University of British Columbia's Faculty of Law. He was educated at Oxford, Alberta, and York Universities and has held full-time teaching positions or visiting positions in Canada, the United Kingdom, the USA and Australia. His research and publications in the fields of English and Canadian legal history (with particular emphasis on histories of legal professions), law and geography, and constitutionalism, policing, politics, and the rule of law appear in U.S.A., Australian, British, and Canadian journals & books. Current enthusiasms include cultural histories of legal professions; lawyers, colonialism and state formation; geography and law; comparative legal history, and public law. Previous service to the ASLH include membership of the *Law and History Review* Advisory Board and service on the Surrency Prize Committee. A former President of the Canadian Law and Society Association/ Association canadienne droit et société and general editor of the University of British Columbia Press "Law and Society" book series ([http://www.ubcpres.ca/books/series\\_law.html](http://www.ubcpres.ca/books/series_law.html)), he is committed to breaking down the disciplinary and national barriers that confine scholarship.

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### 2003 ANNUAL MEETING, WASHINGTON, D.C.

The following report on a session at the 2003 annual meeting was omitted from the previous newsletter:

#### *Author Meets Reader: John Langbein. The Origins of Adversary Criminal Trial*

Thomas Green (University of Michigan, Law and History) chaired this panel on John Langbein's recent pathbreaking book, *The Origins of Adversary Criminal Trial*.

Albert Alschuler (University of Chicago Law School) noted that much of the history of the criminal trial in England and America can be told in Langbein's memorable terms "accused-speaks trial," "lawyerization," and "testing-the-prosecution trial." He observed that the courts' allowance of defense counsel and their development of protective rules of evidence in the eighteenth century were nearly simultaneous responses to the core defects of a justice system that still depended heavily on private policing and private prosecution. Ad hoc private and public adjustments to this rapidly failing system produced scandals and injustice. Ad hoc responses to the scandals and injustice ultimately deprived factfinders of the accused's version of the events and defeated the truth in other ways. The tale is one of unintended consequences piled upon unintended consequences.

Langbein maintains that his historical tale illuminates two central defects of adversary criminal procedure — the combat effect and the wealth effect. Alschuler considered the virtues and dangers of drawing normative lessons from one's own historical work, rejecting the claim that a "presentist" perspective almost inevitably poisons the history.

David Lemmings (University of Newcastle, Australia) considered the consequences of the criminal trial's lawyerisation for the experience of government. Developing Langbein's characterisation of the lawyer-free trial, he emphasized the role of citizen prosecutors and citizen defendants as 'representative' partners with jurors, in the sense that they argued for themselves as free subjects. Besides its decision-making function, the criminal trial was therefore a point of exchange between central government and the common people at a time when the institutions of representative government were hardly democratic. But by 1800 the intervention of lawyers was producing a more formalized trial, wherein even the jurors' role was reduced, and the voices of victim and accused were controlled by professionals. Lemmings argued this shift was one element of a more general change in the cultures of British government between 1700 and 1830, whereby direct participation and agency were being replaced by professionalization and mere symbolic participation.

Allyson May (Toronto, Canada) supplemented Langbein's critique of the 'lawyerization' of the criminal trial by examining the opinions of eighteenth and early-nineteenth-century Old Bailey counsel. Debate in the 1830s reveals that these counsel, and the bar as a whole, shared Langbein's distrust of professional adversarialism in the criminal courts. Charles Phillips and other critics pointed precisely to the 'two striking defects,' the 'combat effect' and the 'wealth effect,' that Langbein identifies in adversary procedure (1). Why then did the bar not also recognize the alternative he suggests? '[L]awyerization of the trial,' he writes, 'was a response to the failure to understand that criminal investigation should be a public good' (333). But making criminal investigation a public function means making it a state function, and the English have quite simply feared the state more than they have feared criminals. This fear explains why they were disinclined to believe that state-instigated pretrial inquiries would further truth or justice.

John Langbein (Yale Law School) thanked the Society for convening the program and the panelists for their kind remarks. He recounted the adventitious circumstances by which, in 1977, he found his way to the Old Bailey Sessions Papers, the criminal trial sources from which he drew much of the material for the book. He noted that the Sessions Papers have now been made available on line, and he suggested that a future ASLH panel might be devoted to the experience of other scholars in using that important new resource in teaching and research.

Langbein acknowledged Alschuler's observations about the potential dangers of the path taken in the book, in which Langbein combines a normative critique of adversary criminal procedure with his historical account of its origins. Because the history so illumines the defects of the system, Langbein said, he found it compelling to make the linkage, but he hoped that the historical work would find favor even with supporters of adversary procedure.

Langbein agreed with Lemmings that the lawyerization of the Anglo-American criminal trial had suppressed the voices of laypersons (accused, witnesses, jurors). He cautioned, however, that this outcome was not an inevitable consequence of professionalization, but rather an attribute of the distinctively English adversary system of trial. Langbein pointed to the nonadversarial systems in Northern Europe, where the reformed trial procedures instituted in the nineteenth and twentieth centuries allow much larger roles to witnesses, accused, and lay jurors than in the English-derived systems. The grand discriminant, he emphasized, was not professionalism but adversary control of the gathering and production of evidence.

Responding to May, Langbein spoke of the importance of her new book on the Old Bailey bar. He resisted May's claim that preoccupation with civil liberties adequately explains the English reluctance to institute professional policing and prosecution in time to head off the lawyers' capture of the trial. All criminal justice systems strike a balance between safeguard and repression, he said, and the puzzle about early modern times was why England alone resisted developing (until the later nineteenth century) a workable system of state-funded and state-conducted investigation of crime. The privatized adversary system arose in consequence of that failure.

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## ANNOUNCEMENTS

### SOCIETY'S ON-LINE MEMBERSHIP DIRECTORY

REMINDER: The Society now has an online membership directory. You can get a view of how the complete system works by going to <http://www.press.uillinois.edu/journals/lhr/directory/>. You will be asked for your subID (which is the number on the mailing address for this newsletter) for this "first time" login. Next, you'll need to provide a personal password to use for subsequent logins. That's it; you can forget your subID from this point forward. For those who misplace their password, the manger of the directory has installed an auto-reply system to email the password to the address on file. You'll also notice the check-box option to remember your login information at this point so that your future connections will go directly into the database. However, you will still need to re-type your password if you chose to edit your personal record. This is an added safety measure to only give access to edit your personal account information.

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**NOTE: IF YOU DO NOT WANT YOUR MEMBERSHIP INFORMATION DISPLAYED, CONTACT  
PAUL ARROYO <PARROYO@UILLINOIS.EDU>**

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### HISTORY OF COURT OF APPEALS FOR THE FEDERAL CIRCUIT

The Federal Circuit Historical Society, an incorporated charitable organization composed of practicing attorneys, wishes to commission a history of the United States Court of Appeals for the Federal Circuit from its creation in 1982 through 1991 (the tenure of its first Chief Judge). The creation of a federal court with nationwide jurisdiction is a relatively unique event and a history of the court presents an opportunity to provide lessons for similar future efforts.

Further information is available from:

David M. Cohen  
 434 Severnside Drive  
 Severna Park, Md., 21146  
 202-514-7300 (O)  
 410-987-0393 (H)  
 David.M.Cohen@usdoj.gov

## 17<sup>TH</sup> BRITISH LEGAL HISTORY CONFERENCE

As announced in Dublin in 2003 the Seventeenth British Legal History Conference will take place in London. It will run from Monday 4 July to Thursday 7 July 2005 and will be based at UCL. Professor Sir John Baker QC FBA will deliver the 2005 Selden Society lecture in the context of the Conference and a programme of visits is in active preparation.

The overall title of the Conference is "Law in the City". There will be a number of sub-themes, for which panels of speakers are being arranged, not all of which are urban-related:

Legal Education in the Nineteenth century  
 The Development of the Common law in the Nineteenth century  
 Thirteenth century legislation  
 Law in the City of London

Submissions of papers within these broad categories and also within the overall theme of "Law in the City" are especially encouraged but, as usual, work of quality in whatever field of British and related Legal History will be considered. We expect to have a number of general sessions, including one of shorter communications reflecting work by doctoral or immediately post-doctoral scholars. All submissions will be considered by a panel drawn from amongst the organising committee. To this end submissions should consist of a short synopsis (500 words maximum) of the proposed paper. Submissions should be made by September 15th 2004 to Professor Andrew Lewis either by email to <a.d.e.lewis@ucl.ac.uk> or to the address below.

The conference website is at: <http://www.ucl.ac.uk/laws/history/>

Accommodation in London poses especial difficulties both of cost and convenience. Places in Halls of Residence will be available and a list of conference hotels local to Bloomsbury will be provided in our next circular, planned for Autumn 2004. However those coming from abroad and perhaps intending to spend some additional time in London are encouraged not to delay making their arrangements. These may find useful the list of hotels recommended by UCL at <http://www.procurement.ucl.ac.uk/public/hotels/listofhotels4.htm>

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### ***Draft Program*** **Thursday, October 28<sup>th</sup>**

3:00-6:00 pm  
 Registration

6:00-9:00 pm  
 Board of Directors Meeting

### **Friday, October 29<sup>th</sup>**

7:30-8:45 am  
 Continental Breakfast

8:00 am-3:00 pm  
 Registration



8:00 am-5:00 pm  
Book Exhibits

**Session #1**  
**8:30 am - 10:15 am**

**Law at Sea**

Chair: David Bederman; Law, Emory University; [lawdjb@law.emory.edu](mailto:lawdjb@law.emory.edu)

“Germany and the International Debates about the Codification of Maritime Law, 1904-1914”  
Alexander Rindfleisch; History and Political Science, University of Cologne; [arindfleisch@gmx.net](mailto:arindfleisch@gmx.net)

“The United States, the Declaration of Paris, and the ‘Guerrillas of the Seas’: The Abolition of Privateering Reconsidered”

Jan Martin Lemnitzer; History, University of Heidelberg, Germany; [Jan.Lemnitzer@web.de](mailto:Jan.Lemnitzer@web.de)

Discussant: Elizabeth Bogwardt; Law, University of Utah; [lizborg@uclink.berkeley.edu](mailto:lizborg@uclink.berkeley.edu)

**Race, Citizenship, and Liberty in Global Contexts**

Chair: Christopher Waldrep; History, San Francisco State University; [cwaldrep@sfsu.edu](mailto:cwaldrep@sfsu.edu)

“‘La decision de casarse con un chino . . .’: Contesting Citizenship, Race, and Gender in Mexico, 1900-1940”  
Kif Augustine-Adams; Law, Brigham Young University; [adamsk@lawgate.byu.edu](mailto:adamsk@lawgate.byu.edu)

“In Pursuit of the Other Freedom: Gandhi and the Discourse of Law in Modern India”  
Mithi Mukherjee; History, University of Colorado at Boulder; [mithi.mukherjee@colorado.edu](mailto:mithi.mukherjee@colorado.edu)

“Legislating People into Existence: The Idea of Citizenship in Chilean Legal and Political Thought (1812-1925)”  
Hugo A. Maureira; History, Georgetown University; [ham6@georgetown.edu](mailto:ham6@georgetown.edu)

Discussant: Thomas J. Davis; History, Arizona State University; [tjdavis@asu.edu](mailto:tjdavis@asu.edu)

**Marriage, Sexuality, and Women’s Rights in American History**

Chair: Norma Basch; History, Rutgers University; [nbasch@mindspring.com](mailto:nbasch@mindspring.com)

“‘Immoral Purposes’: Prostitution, Concubinage, and Legal Definitions of Morality”  
Ariela Dubler; Law, Columbia University; [aduble@law.columbia.edu](mailto:aduble@law.columbia.edu)

“Bentham in America (At Last): Married Women’s Property Rights and Reform of the Common Law”  
Kathleen Sullivan; Political Science, Ohio University; [sullivak@ohio.edu](mailto:sullivak@ohio.edu)

“Marriage and the American Constitutional Order, 1900-1950”  
Gretchen Ritter; Government, University of Texas at Austin; [ritter@mail.utexas.edu](mailto:ritter@mail.utexas.edu)

Discussant: Julie Novkov; Political Science, University of Oregon; [novkov@oregon.uoregon.edu](mailto:novkov@oregon.uoregon.edu)

**Rights Entitlements and Regulation in the Progressive Era**

Chair and Discussant: Thomas Haskell; History, Rice University; [thaskell@rice.edu](mailto:thaskell@rice.edu)

“Nationalism, Constitution, and the Redefinition of Rights in the American Liberal State”

William Novak; History, American Bar Foundation and University of Chicago; [w-novak@uchicago.edu](mailto:w-novak@uchicago.edu)

“Crystal Eastman and the Internationalist Beginnings of American Civil Liberties”  
John Witt; Law, Columbia University; [jwitt@law.columbia.edu](mailto:jwitt@law.columbia.edu)

“Helping Ourselves: Disaster Relief and the Origins of the American Welfare State”  
Michelle Landis Dauber; Law, Stanford University; [mldauber@law.stanford.edu](mailto:mldauber@law.stanford.edu)

**Session #2**  
**10:30 a.m. – 12:15 p.m.**

**Perspectives on Latin American Legal History**

Chair: Charles Venator-Santiago; Politics, Ithaca College; [csantiago@ithaca.edu](mailto:csantiago@ithaca.edu)

“Case Decisions as Sources in Mexican Legal History”  
Matthew C. Mirrow; Law, Florida International University; [mirowm@fiu.edu](mailto:mirowm@fiu.edu)

“Iglesia me llamo: Church Asylum, Crime, Law, and Daily Life in Colonial Latin America, 1500s-1700s”  
Victor Uribe-Uran; History and Law, Florida International University; [Uribev@fiu.edu](mailto:Uribev@fiu.edu)

“Brazil and the United States: Civil Rights Law at the Half-Century Mark”  
Robert Cottrol; Law, George Washington University; [bcottrol@law.gwu.edu](mailto:bcottrol@law.gwu.edu)

Discussant: Peter Reich; Law, Whittier Law School; [preich@law.whittier.edu](mailto:preich@law.whittier.edu)

**Legal Bonds and Broken Homes**

Chair: Michael Grossberg; History and Law, Indiana University; [grossber@indiana.edu](mailto:grossber@indiana.edu)

“Breaking Promises: Legislative Divorce, Marital Contracts, and Constitutional Limitation in Nineteenth-Century America”  
Sandra F. VanBurkleo; History, Wayne State University; [svanbur@earthlink.net](mailto:svanbur@earthlink.net)

“Legal and Extra-Legal Aspects of Family Violence in Colonial New England”  
Elaine Crane; History, Fordham University; [ecrane@fordham.edu](mailto:ecrane@fordham.edu)

Discussant: Sharon Block; History, University of California, Irvine; [sblock@uci.edu](mailto:sblock@uci.edu)

Discussant: David Langum; Law, Samford University; [djlangum@samford.edu](mailto:djlangum@samford.edu)

**Law Reform in Nineteenth-Century England**

Chair: Barbara Shapiro; Rhetoric, University of California at Berkeley; [bshapiro@socrates.berkeley.edu](mailto:bshapiro@socrates.berkeley.edu)

“Exploring the Borderline between Criminal and Civil Law Reform, 1830-1850”  
Michael Lobban; Law, University of London; [m.j.lobban@qmul.ac.uk](mailto:m.j.lobban@qmul.ac.uk)

“The Bank of England and the Reform of the English Criminal Law, 1800-1835”  
Randall McGowen; History, University of Oregon; [rmcgowen@oregon.uoregon.edu](mailto:rmcgowen@oregon.uoregon.edu)

“The Transformation of the Preliminary Inquiry in England, 1800-1850”  
Bruce Smith; Law, University of Illinois; [smithb@law.uiuc.edu](mailto:smithb@law.uiuc.edu)

Discussant: James Oldham; Law, Georgetown University; [oldham@law.georgetown.edu](mailto:oldham@law.georgetown.edu)

## **Crime, Prosecution, and Politics in Nineteenth and Early Twentieth Century New York City**

Chair: Michael Willrich; History, Brandeis University; [willrich@brandeis.edu](mailto:willrich@brandeis.edu)

“Gender, Discretion, and Crime Control: Public Responses to Intimate Homicide in the Metropolis”  
Carolyn Ramsey; Law, University of Colorado; [Carolyn.Ramsey@colorado.edu](mailto:Carolyn.Ramsey@colorado.edu)

“Anthony Comstock and Moral Reconstruction: Obscenity Prosecutions in 1870s New York”  
Donna Dennis; Law, Rutgers University; [ddennis@kinoy.rutgers.edu](mailto:ddennis@kinoy.rutgers.edu)

“The Politics of Criminal Justice Reform and the Origins of the Penal State in Progressive New York City”  
Allen Steinberg; History, University of Iowa; [allen-steinberg@uiowa.edu](mailto:allen-steinberg@uiowa.edu)

Discussant: Lawrence Friedman; Law, Stanford University; [lmf@stanford.edu](mailto:lmf@stanford.edu)

## **Social Science and Legal Pragmatism in the New Deal and World War II**

Chair: Sally Clarke; History, University of Texas, Austin; [sclarke@mail.utexas.edu](mailto:sclarke@mail.utexas.edu)

“Knowledge and Policy: Pragmatism, Law, and Social Science in New Deal America”  
Jessica Wang; History, University of California, Los Angeles; [jwang@ssc.ucla.edu](mailto:jwang@ssc.ucla.edu)

“The Rule of Lawyers at the Office of Price Administration and War Production Board”  
Daniel Ernst; Law, Georgetown University; [ernst@law.georgetown.edu](mailto:ernst@law.georgetown.edu)

“Legally Yours: Morris Ernst, Birth Control, and the Role of the Lawyer in a Social Movement”  
John Balz; American Studies, University of Texas, Austin; [jpbalz@hotmail.com](mailto:jpbalz@hotmail.com)

Discussant: John Henry Schlegel; Law, State University of New York at Buffalo; [schlegel@acsu.buffalo.edu](mailto:schlegel@acsu.buffalo.edu)

Discussant: Bartholomew Sparrow; Government, University of Texas, Austin; [bhs@mail.la.utexas.edu](mailto:bhs@mail.la.utexas.edu)

**12:30-1:45 pm      Committee lunches**

**Session #3  
2:00 p.m. – 3:45 p.m.**

## **Federal Tax Policy in the Great Depression**

Chair: Joseph Thorndike; Tax Analysts, Arlington, Virginia; [joe\\_thorndike@tax.org](mailto:joe_thorndike@tax.org)

“The Rise and Fall of Publicity of Income Tax Information in the 1930s”  
Marjorie Kornhauser; Law, Tulane University; [mkornhause@law.tulane.edu](mailto:mkornhause@law.tulane.edu)

“Tax, Corporate Governance, and Norms: Lessons from the New Deal”  
Steven Bank; Law, University of California, Los Angeles; [bank@law.ucla.edu](mailto:bank@law.ucla.edu)

“Tax Justice New Deal Style: FDR, the Treasury Department, and Family Taxation in the 1930s”  
Dennis Ventry; O’Melveny & Myers LLP; [dv327@nyu.edu](mailto:dv327@nyu.edu)

Discussant: Reuvan Avi-Yonah; Law, University of Michigan; [aviyonah@umich.edu](mailto:aviyonah@umich.edu)

## **Comparative Perspectives on the Evolution of Corporate Governance**

Chair: David Abraham; Law, University of Miami; [dabraham@law.miami.edu](mailto:dabraham@law.miami.edu)

“The Determinants of Corporate Dividend Policy in the United Kingdom”  
Brian Cheffins; Law, University of Cambridge; [brc21@cam.ac.uk](mailto:brc21@cam.ac.uk)

“Corporate Finance and Governance in the Heyday of the German Industrialization: New Evidence and New Perspectives”  
Caroline Fohlin; Economics, Johns Hopkins University; [fohlin@jhu.edu](mailto:fohlin@jhu.edu)

“The Icarus Effect”  
David Skeel; Law, University of Pennsylvania; [dskeel@law.upenn.edu](mailto:dskeel@law.upenn.edu)

Discussant: Adam Winkler; Law, UCLA; [winkler@law.ucla.edu](mailto:winkler@law.ucla.edu)

## **Presidential Panel: Herbert Johnson and the Writing of American Constitutional History**

Chair: Harry Scheiber; Law, University of California at Berkeley; [scheiber@law.berkeley.edu](mailto:scheiber@law.berkeley.edu)

“Some Thoughts on Herb Johnson’s Favorite Court”  
Kent Newmyer; Law, University of Connecticut; [knewmyer@law.uconn.edu](mailto:knewmyer@law.uconn.edu)

“Herbert Johnson: A Legal Historian’s Work and Times”  
Tony Freyer; Law, University of Alabama; [tfreyer@law.ua.edu](mailto:tfreyer@law.ua.edu)

“Herbert Johnson as Editor”  
Hamilton Bryson; Law, University of Richmond; [bryson@uofrlaw.richmond.edu](mailto:bryson@uofrlaw.richmond.edu)

Discussant: Herbert Johnson; History, University of Tennessee; [janeherb@dnet.net](mailto:janeherb@dnet.net)

## **Race, Land, and Citizenship in Hawaii and the Mainland U.S.**

Chair and Discussant: William Forbath; Law, University of Texas; [wforbath@mail.law.utexas.edu](mailto:wforbath@mail.law.utexas.edu)

“Native Identity, Citizenship and Land Allotment in the Early Twentieth Century U.S.”  
Ariela Gross; Law, University of Southern California; [agross@law.usc.edu](mailto:agross@law.usc.edu)

“Preparing to be Colonized: Land Tenure and Legal Strategy in Nineteenth-Century Hawaii”  
Stuart Banner; Law, UCLA School of Law; [banner@law.ucla.edu](mailto:banner@law.ucla.edu)

“The Boundaries of Citizenship: Asian Americans and U.S. Citizenship Policy, 1868-1935”  
Lucy Salyer; History, University of New Hampshire; [Lucy.Salyer@unh.edu](mailto:Lucy.Salyer@unh.edu)

Discussant: Sarah Barringer Gordon; Law and History, University of Pennsylvania; [sgordon@law.upenn.edu](mailto:sgordon@law.upenn.edu)

**Session #4**  
**4:30 p.m. – 6:00 p.m.**

## **Plenary Session: Law and Religious Pluralism**

Moderator: Douglas Laycock; Law, University of Texas

“Law and Religious Tolerance: Islamic Normativity as a Constitutional Principle”  
Baber Johansen; Ecole des Hautes Etudes en Sciences Sociales, Paris; [johansen@ehess.fr](mailto:johansen@ehess.fr)

“Historical Facts and Fictions of the Separation of Church and State”

John Witte; Law, Emory University; [jwitte@law.emory.edu](mailto:jwitte@law.emory.edu)

“Toleration, Pluralism, and Research on Religion in America”

Carol Weisbrod; Law, University of Connecticut; [cweisbro@law.uconn.edu](mailto:cweisbro@law.uconn.edu)

### Saturday, October 30<sup>th</sup>

7:30-8:45 am

Continental Breakfast

8:00 am - noon

Registration

8:00 am - 4:30 pm

Book Display

#### Session #5

8:30 a.m. – 10:15 a.m.

#### **Adaptations to Romano-canonical Procedure in the Middle Ages: Customary law, Inquisitio and Lombard law**

Chair: James Brundage; History, University of Kansas; [jabrun@ku.edu](mailto:jabrun@ku.edu)

“Local Knowledge and the Rise of Customary Law in Champagne, 1150-1300”

Richard Keyser; History, Western Kentucky University; [rick.keyser@wku.edu](mailto:rick.keyser@wku.edu)

“Inquisitorial Procedure and the Testimony of Children in the Middle Ages: The Case of Ermessenda Sabater”

Marie Kelleher; History, California State University, Long Beach; [mkellehe@csulb.edu](mailto:mkellehe@csulb.edu)

“Ut feratur definitiva sententia: Judicial Duel, Lombard Law and Truth in a Fourteenth Century Legal Treatise”

Jasonne Grabher O'Brien; History, Fairleigh Dickinson University; [jgobrien@fdu.edu](mailto:jgobrien@fdu.edu)

Discussant: Richard Helmholz; Law, University of Chicago; [dick\\_helmholz@law.uchicago.edu](mailto:dick_helmholz@law.uchicago.edu)

#### **Naming Needs, Redefining Rights: Reform, Reaction, and the Politics of Work and Family in the Twentieth-Century U.S.**

Chair: Christopher Tomlins; History, American Bar Foundation; [clt@abfn.org](mailto:clt@abfn.org)

“Transforming Family and State: Women’s Vision for Universal Childcare, 1966-1971”

Deborah Dinner; History and Law, Yale University; [deborah.dinner@yale.edu](mailto:deborah.dinner@yale.edu)

“The Invisible Woman: Gender, Race, and the Family in the Affirmative Action Debates, 1964-1980”

Serena Mayeri; History and Law, Yale University; [serena.mayeri@yale.edu](mailto:serena.mayeri@yale.edu)

“Routing Progressive Constitutionalism? Family-Based Republicanism in 1920s American Policy and Law”

Rebecca Rix; History, Yale University; [rebecca.rix@yale.edu](mailto:rebecca.rix@yale.edu)

Discussant: Laura Kalman; History, University of California, Santa Barbara; [kalman@history.ucsb.edu](mailto:kalman@history.ucsb.edu)

#### **Texas Supreme Court Historical Society: Texas Supreme Court History Project**

Chair: Joseph McKnight; Law, Southern Methodist University; [jmcknigh@mail.smu.edu](mailto:jmcknigh@mail.smu.edu)

“Constitutional Issues in Reconstruction Texas, 1866-1882.  
Hans Baade; Law, University of Texas; [baade@arlut.utexas.edu](mailto:baade@arlut.utexas.edu)

“Review of State Regulations in the Progress Era, 1900-1911  
Mark Steiner; South Texas College of Law; [msteiner@stcl.edu](mailto:msteiner@stcl.edu)

Discussant: Gordon Bakken; History, California State University at Fullerton; [gbakken@fullerton.edu](mailto:gbakken@fullerton.edu)

### **New Meanings of Property in Legal History**

Chair: R. Ben Brown; Center for the Study of Law and Society, University of California at Berkeley;  
[rbrown@uclink.berkeley.edu](mailto:rbrown@uclink.berkeley.edu)

“Property, Marriage, and Emancipation in Ghana, 1860-1920”  
Dylan Penningroth; History, Northwestern University; [dcp@northwestern.edu](mailto:dcp@northwestern.edu)

“Squatters or settlers?: British colonial land settlement and peri-urban development in Africa and the Caribbean”  
Robert Home; Law, Anglia Polytechnic University, Chelmsford, UK; [r.home@apu.ac.uk](mailto:r.home@apu.ac.uk)

“Commodifying Captivity: Native American and European Law-ways Defining Women as Political Property”  
Juliana Barr; History, Rutgers University; [jbarr@rci.rutgers.edu](mailto:jbarr@rci.rutgers.edu)

Discussant: Adrienne Davis; Law, University of North Carolina; [davisad@email.unc.edu](mailto:davisad@email.unc.edu)

### **Roundtable: Ethical Problems and Legal Rules Surrounding the Use of Lawyers' Papers as Historical Sources**

Chair: Victoria Saker Woeste; History, American Bar Foundation; [vswoste@abfn.org](mailto:vswoste@abfn.org)

Participant: David Kirsch; Smith School of Business, University of Maryland; [dkirsch@rhsmith.umd.edu](mailto:dkirsch@rhsmith.umd.edu)

Participant: Susan Carle; Law, American University; [scarle@we1.american.edu](mailto:scarle@we1.american.edu)

Participant: Rayman Solomon; Law, Rutgers University-Camden; [raysol@camlaw.rutgers.edu](mailto:raysol@camlaw.rutgers.edu)

Participant: Michael Widener; Law Library Archives, University of Texas

**Session #6**  
**10:30 a.m. – 12:15 p.m.**

### **Law and Revolution in Comparative Context**

Chair: Charles Donahue; Law, Harvard University; [scohen@law.harvard.edu](mailto:scohen@law.harvard.edu)

“Separating Powers in the English Revolution: Judicial Discretion and Parliamentary Reform”  
Bernadette Meyler; Law, Cornell University; [bameyler@yahoo.com](mailto:bameyler@yahoo.com)

“A Revolution in Commerce: French Absolutism and the Rise of ‘le Commerce’ as Social Function”  
Amalia Kessler; Law, Stanford University; [AKESSLER@LAW.STANFORD.EDU](mailto:AKESSLER@LAW.STANFORD.EDU)

“The Making of the Haitian Constitution of 1801”  
Malick Ghachem; Clerk, U.S. Court of Appeals, 11th Circuit; [mwghachem@hotmail.com](mailto:mwghachem@hotmail.com)

Discussant: Harold Berman; Law, Emory University; [hberman@law.emory.edu](mailto:hberman@law.emory.edu)

### **The Making of Civil Rights Law Revisited**

Chair: Davison Douglas; Law, College of William & Mary; [dmdoug@wm.edu](mailto:dmdoug@wm.edu)

“Transformations in Civil Rights Lawyering and Politics, 1920-40”  
Kenneth Mack; Law, Harvard University; [kmack@law.harvard.edu](mailto:kmack@law.harvard.edu)

“The Work of Civil Rights in the 1940s”  
Risa Goluboff; Law, University of Virginia; [rlg3t@virginia.edu](mailto:rlg3t@virginia.edu)

Discussant: Martha Biondi; History, Northwestern University; [m-biondi@northwestern.edu](mailto:m-biondi@northwestern.edu)

Discussant: Mark Tushnet; Law, Georgetown University; [tushnet@law.georgetown.edu](mailto:tushnet@law.georgetown.edu)

### **Defining Gender, Judging Sex: Legal Rules and Popular Judgment in Early Twentieth-Century America**

Chair: Karen Engle; Law, University of Texas, Austin; [kengle@mail.law.utexas.edu](mailto:kengle@mail.law.utexas.edu)

“The ‘New’ Unwritten Law’: Chicago Husband-Killers 1900-1930”  
Marianne Constable; Rhetoric, University of California at Berkeley; [mc@socrates.berkeley.edu](mailto:mc@socrates.berkeley.edu)

“‘Dementia Americana’: Insanity and the Unwritten Law in the Trials of Harry Thaw”  
Martha Umphrey; Law, Jurisprudence, and Social Thought, Amherst College; [mmumphrey@amherst.edu](mailto:mmumphrey@amherst.edu)

Discussant: Susan Heinzelman; English, University of Texas, Austin; [sheinz@ccwf.cc.utexas.edu](mailto:sheinz@ccwf.cc.utexas.edu)

### **Moral Judiciary in the Gilded Age**

Chair: Felice Batlan; Law and History, Tulane University Law School; [fjb4873@nyu.edu](mailto:fjb4873@nyu.edu)

“The Tastes and Habits of an Aristocracy: The New York Bar and the Elected Judiciary in the Gilded Age”  
Renee Lettow Lerner; Law, George Washington University; [rlerner@law.gwu.edu](mailto:rlerner@law.gwu.edu)

“The Moral Common Law of the Gilded Age Anticodifiers”  
Lewis Grossman; Law, American University; [lewisg@wcl.american.edu](mailto:lewisg@wcl.american.edu)

“Lochner Era Revisionism, Revised”  
David Bernstein; Law, George Mason University; [dbernste@gmu.edu](mailto:dbernste@gmu.edu)

Discussant: Robert Gordon; Law, Yale University; [robert.w.gordon@yale.edu](mailto:robert.w.gordon@yale.edu)

### **English Justice and Its Problems in the Fifteenth Century**

Chair: Victoria List; History, Washington and Jefferson College; [vlist@washjeff.edu](mailto:vlist@washjeff.edu)

“Patterns and Problems in Fifteenth-Century Litigation: A View from the Year Books”  
David Seipp; Law, Boston University; [dseipp@bu.edu](mailto:dseipp@bu.edu)

“Greasing Justice in Fifteenth Century England: Sir John Fastolf’s Litigation and Will Contest”  
Jonathan Rose; Law, Arizona State University; [Jonathan.Rose@ASU.edu](mailto:Jonathan.Rose@ASU.edu)

Discussant: A. W. Brian Simpson; Law, University of Michigan; [sbrian@umich.edu](mailto:sbrian@umich.edu)

Discussant: David Millon; Law, Washington and Lee University; [millond@wlu.edu](mailto:millond@wlu.edu)

**Annual Luncheon  
12:30 – 1:45 p.m.**

**Session #7  
2:00 p.m. – 3:45 p.m.**

**Legal and Social Order in Modern France**

Chair and Discussant: Sarah Hanley; History, University of Iowa; [sarah-hanley@uiowa.edu](mailto:sarah-hanley@uiowa.edu)

“The Judicial Terror in the Criminal Courts of Provincial France, 1793 - 94”  
Robert Allen; History, Stephen F. Austin State University; [rballen@sfasu.edu](mailto:rballen@sfasu.edu)

“Sharing the Wealth: Marriage and Inheritance in Early Modern Paris”  
Janine Lanza; History, Wayne State University; [jmlanza@wayne.edu](mailto:jmlanza@wayne.edu)

Discussant: Julie Hardwick; History, University of Texas; [jhardwick@mail.utexas.edu](mailto:jhardwick@mail.utexas.edu)

**Law, Politics, and Reform in U.S. Legal History: Authors Meet Readers**

Chair: Barry Cushman; Law and History, University of Virginia; [bjc2r@cms.mail.virginia.edu](mailto:bjc2r@cms.mail.virginia.edu)

Author: Edward Purcell; Law, New York Law School; [epurcell@nyls.edu](mailto:epurcell@nyls.edu)

Author: Charles W. McCurdy; History and Law, University of Virginia; [cwm@virginia.edu](mailto:cwm@virginia.edu)

Reader: Clyde Spillenger; Law, University of California, Los Angeles; [spilleng@law.ucla.edu](mailto:spilleng@law.ucla.edu)

Reader: Alfred Brophy; Law, University of Alabama; [abrophy@law.ua.edu](mailto:abrophy@law.ua.edu)

**The Bloody Code: Its Relation to Reform of the Criminal Law and Reformers**

Chair: David Lieberman; Law and JSP, University of California at Berkeley; [dlieb@law.berkeley.edu](mailto:dlieb@law.berkeley.edu)

“Reforming the English Judicial System from Beneath 1750-1850”  
Peter King; History, University College Northampton; [pete.king@northampton.ac.uk](mailto:pete.king@northampton.ac.uk)

“Policing and Prosecution in London: the Bow Street Magistrates’ Court, 1770-1790”  
John Beattie; History and Criminology, University of Toronto; [j.beattie@sympatico.ca](mailto:j.beattie@sympatico.ca)

“The Condemned of the Old Bailey, 1714-1837: Statistical Perspectives”  
Simon Devereaux; History, University of Victoria; [simon\\_devereaux@yahoo.com](mailto:simon_devereaux@yahoo.com)

Discussant: Norma Landau; History, University of California, Davis; [nblandau@ucdavis.edu](mailto:nblandau@ucdavis.edu)

**Defining and Redefining State Protection of Children in Twentieth-Century U.S. Law**

Chair: Charles McClain; Legal Studies, University of California at Berkeley; [cwmccclain@uclink.berkeley.edu](mailto:cwmccclain@uclink.berkeley.edu)

“The American Family, the State, and Rise of Compulsory Attendance Laws, 1890-1940”  
Tracy Steffes; History, University of Chicago; [tsteffe@midway.uchicago.edu](mailto:tsteffe@midway.uchicago.edu)



“Can the Nation be a Parent? Delinquency, Federalism, and the Limits of Progressive Juvenile Justice”  
David Tanenhaus; History and Law, University of Nevada, Las Vegas; [tanenhaus@ccmail.nevada.edu](mailto:tanenhaus@ccmail.nevada.edu)

“Legal Thought on the Child and the State: 1967-1980”  
Ethan Sribnick; History, University of Virginia; [egs6e@virginia.edu](mailto:egs6e@virginia.edu)

Discussant: E. Wayne Carp; History, Pacific Lutheran University; [carpw@plu.edu](mailto:carpw@plu.edu)

**Session #8**  
**4:00 – 5:45 p.m.**

**Texts and Evidence in Medieval Contexts**

Chair: Daniel Klerman; Law, University of Southern California; [dklerman@law.usc.edu](mailto:dklerman@law.usc.edu)

“Torture and the Medieval City: Evidence from the Law Code of Toulouse”  
Christopher K. Gardner; History, George Mason University; [cgardne4@gmu.edu](mailto:cgardne4@gmu.edu)

“Summa est : Analysis of Glosses on Legal Procedure and Terminology in a Cambridge Manuscript of Ivo of Chartres’ Panormia (Cambridge, UL Ff iv 41)”  
Bruce C. Brasington; History and Political Science, West Texas A&M University; [bbrasington@mail.wtamu.edu](mailto:bbrasington@mail.wtamu.edu)

“Of the Worshipful Warrior: Criminal Sanctuary in the Central Middle Ages”  
Tricia Olsen; Law and History, Emory University; [Filpriros@aol.com](mailto:Filpriros@aol.com)

Discussant: Geoffrey Koizol; History, University of California at Berkeley; [gkoz@uclink4.berkeley.edu](mailto:gkoz@uclink4.berkeley.edu)

**Still Embarrassing After All These Years? The Future of Second Amendment Scholarship**

Chair: David Konig; History, Washington University; [dtkonig@artsci.wustl.edu](mailto:dtkonig@artsci.wustl.edu)

“Embarrassing Interpretations of the Second Amendment: Beyond the Myth of Constitutional Consensus”  
Saul Cornell; History, Ohio State University; [cornell.14@osu.edu](mailto:cornell.14@osu.edu)

“Whose is the Embarrassment?: The Framers and their Historians confront the Right of Revolution”  
Robert Churchill; Humanities, University of Hartford; [churchill@hartford.edu](mailto:churchill@hartford.edu)

“The Embarrassment of Reconstruction: The Second Amendment and State Formation after the Civil War”  
Carole Emberton; History, Northwestern University; [c-emberton@northwestern.edu](mailto:c-emberton@northwestern.edu)

Discussant: Sanford Levinson; Law, University of Texas; [slevinson@mail.law.utexas.edu](mailto:slevinson@mail.law.utexas.edu)

**Regulation and Political Economy in the Telephone Industry**

Chair: Catherine Fisk; Law, University of Southern California; [cfisk@law.usc.edu](mailto:cfisk@law.usc.edu)

“Nickel-in-the-Slot: The Political Economy of Urban Telephony, 1894-1907”  
Richard John; History, University of Illinois at Chicago; [rjohn@uic.edu](mailto:rjohn@uic.edu)

“The Second Industrial Revolution in Court: Building and Attacking National Patent Monopolies in the Telephone Industry, 1876-1897”  
Christopher Beauchamp; History, Cambridge University, England; [crb27@cam.ac.uk](mailto:crb27@cam.ac.uk)

Discussant: George Priest; Law, Yale University; [george.priest@yale.edu](mailto:george.priest@yale.edu)

Discussant: Milton Mueller; School of Information Studies, Syracuse University; [mueller@syr.edu](mailto:mueller@syr.edu)

### **Presidential Panel: Scandinavian Perspectives in Legal History**

Chair: Gregory Alexander; Law, Cornell University; [greg-alexander@postoffice.law.cornell.edu](mailto:greg-alexander@postoffice.law.cornell.edu)

“An American Dilemma’ and the Scandinavian Dream: The Citizen Meets Modernity and the Strong Nation State-A Study in Comparative Legal Cultures”

Kjell Modeer; Law, Lund University, Sweden; [Kjell\\_A.Modeer@jur.lu.se](mailto:Kjell_A.Modeer@jur.lu.se)

“Vilhelm Lundstedt-A Biographical Sketch”

Jan-Olof Sundell; Law, Stockholm University, Sweden; [jan-olof.sundell@juridicum.su.se](mailto:jan-olof.sundell@juridicum.su.se)

Discussant: Martin Shapiro; Law, University of California at Berkeley; [shapiro@law.berkeley.edu](mailto:shapiro@law.berkeley.edu)

Discussant: Rolf Nygren; Law, Uppsala University, Sweden; [RNY@jur.uu.se](mailto:RNY@jur.uu.se)

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