

ASLH Newsletter, Volume 27, #2, Winter 1997

NEWS OF THE SOCIETY

This is Volume 27, no. 2 of the NEWSLETTER of the American Society for Legal History. It was sent by first class mail to US members on March 18, and to foreign members on March 20.

NEWS OF THE SOCIETY

Officers and Directors, 1997

President: Paul L. Murphy, University of Minnesota Vice-President: Laura Kalman, Univ. of California, Santa Barbara
Secretary-Treasurer: Michael de L. Landon, Univ. of Mississippi

Board of Directors:

Harold Hyman (Immediate Past President), Rice University Carol Chomsky (1999), University of Minnesota Law School Cornelia Dayton (1997), University of California, Irvine Mary L. Dudziak (1997), University of Iowa College of Law Kermit Hall (1997), Ohio State University Cynthia Herrup (1999), Duke University Paul R. Hyams (1997), Cornell University Craig Joyce (1999), University of Houston Law Center Maeva Marcus (1998), Supreme Court Historical Society Arthur McEvoy (1998), University of Wisconsin School of Law John McLaren (1999), University of Victoria Faculty of Law William J. Novak (1998), University of Chicago John Orth (1999), University of North Carolina School of Law Victoria Saker Woeste (1998), American Bar Foundation Harry Scheiber (1997), Univ. of California School of Law, Berkeley

Sandra VanBurkleo (1998), Wayne State University

ASLH E-Mail and Telephone Information

The ASLH office phone number is (601) 232-5600, and has a voice mail service.

The e-mail address is mlandon@olemiss.edu
Fax messages may be sent to (601) 232-7033.

H-LAW Notice

To subscribe to H-LAW (our electronic bulletin board), send the following message to [<listserv@msu.edu>](mailto:listserv@msu.edu):

Subscribe H-LAW\ Your name\ Your institution

1997 Annual Meeting

The Society's 1997 Annual Meeting will be held October 16-18 in Minneapolis, Minnesota, at the Regal Minneapolis Hotel.

1996 Annual Meeting

A total of 208 persons attended our Society's twenty-sixth Annual Meeting held October 17-19 at the Omni-Richmond Hotel in Richmond, Virginia.

Board of Directors Meeting

In accordance with custom, the Society's Officers and Directors met at 7:30 p.m. on the opening evening of the Annual Meeting, in the Potomac Room G at the Omni Richmond Hotel.

In the absence of President PAUL L. MURPHY due to a delayed plane flight, the Meeting was called to order by Vice-

In the absence of President ROE MORNITT due to a delayed plane flight, the meeting was called to order by Vice-President LAURA KALMAN. Present were Secretary-Treasurer MICHAEL LANDON, and the following Board Members: CORNELIA DAYTON, KERMIT HALL, DAVID KONIG, MAEVA MARCUS, ARTHUR MCEVOY, KENT NEWMYER, WILLIAM NOVAK, JAMES OLDHAM, VICTORIA SAKER WOESTE, HARRY SCHEIBER, CHRISTOPHER TOMLINS and SANDRA VANBURKLEO. Directors unable to be present were: HAROLD HYMAN, MARY DUDZIAK, A. LEON HIGGINBOTHAM and PAUL HYAMS.

Also present were MEL UROFSKY, 1996 Local Arrangements Committee Chairman; MICHAL BELKNAP, 1996 Program Committee Chairman; ROBERT KACZOROWSKI, 1997 Program Committee Chairman; JOHN MCLAREN, Chairman of the Committee on Conferences and the Annual Meeting; VICTORIA LIST, Sutherland Prize Committee Chairwoman; RAYMAN SOLOMON, representing the Committee on Documentary Preservation; DAVID SEIPP, Chairman of the Nominating Committee; CHRIS WALDREP, Editor of the H-Law net; HENDRIK HARTOG, Co-Editor of the "Studies in Legal History" series; LEWIS BATEMAN, Executive Editor for the University of North Carolina Press; and ANN LOWRY, Journals Manager for the University of Illinois Press.

On behalf of the 1996 Local Arrangements Committee, the Secretary-Treasurer reported that an unprecedentedly large number of publishers had requested exhibit space for this year's Meeting. He proposed, and it was generally agreed, that, beginning next year, exhibitors (other than the UNC Press) should be charged a fee of \$100 for exhibit space. The 1997 Local Arrangements Committee were asked to see if some rooms at cheaper rates than those available at the headquarters hotel, the Regal Minneapolis, could be made available in nearby hotels.

John McLaren reported on behalf of the Committee on Conferences and the Annual Meeting that they proposed that the Society's 1998 Annual Meeting be held in Seattle, where ERIC A. CHIAPPINELLI, of the University of Puget Sound School of Law, had volunteered to serve as Local Arrangements Chairman. The proposal was moved, seconded and approved. He also reported that the Committee was considering Montreal, Canada, as a Meeting site for 1999, and, in response to queries, promised that they would look into such matters as language and insurance requirements.

The Secretary-Treasurer reported to the Board, on behalf of Surrency Prize Committee Chairwoman CONSTANCE BACKHOUSE that the winner of the 1996 Prize was BARBARA WELKE of the University of Oregon, for her article "When All the Women Were White and All the Blacks Were Men: Gender, Class and Race on the Road to Plessy, 1855- 1914," published in the vol. 13, no. 2 issue of LAW AND HISTORY REVIEW (pp. 261-316). Victoria List reported on behalf of the Sutherland Prize Committee that this year's winner was JOAN R. KENT of Sweet Briar College, for her article "The Centre and the Localities: State Formation and Parish Government in England, ca. 1640-1740," published in the HISTORICAL JOURNAL, vol. 38, no. 2.

Rayman Solomon presented a brief written report from MICHAEL CHURGIN, Chairman of the Committee on Documentary Preservation. The Secretary-Treasurer reported that ROBERT J. HAWS, editor of the ASLH NEWSLETTER, welcomed any suggestions concerning it or material for insertion in it.

The Secretary-Treasurer presented a written report on the state of the Society's three accounts. He noted that the Smith Memorial Fund was in good shape, and that a combination of generous donations and higher interest rates had raised the Sutherland Prize Fund to a level where it was possible this year to raise the money amount of the Prize back up to \$500. The General Account, however, was barely breaking even, and some consideration probably needed to be given to raising membership dues.

David Seipp presented a written report from the Nominating Committee. With regard to the report, the Secretary-Treasurer told the Board that of the ballots mailed out in the Summer/96 NEWSLETTER, 107 had been returned by the due date. The five new Board Members elected were: CAROL CHOMSKY, CYNTHIA HERRUP, CRAIG JOYCE, JOHN MCLAREN and JOHN ORTH. SARAH B. GORDON was elected to fill the single vacancy on the Nominating Committee. Chairman Seipp also told the Board that his Committee had been confused by some ambiguities in the wording of the current By-Laws, and had referred then to the AD HOC Committee on the By-Laws, chaired by Vice-President Kalman. He also noted that a majority of the Nominating Committee favored the idea of a contested election for the position of Vice-President.

H-LAW Editor Chris Waldrep presented a detailed written report on the net's activity during the past twelve months, after which the board voted to thank him most heartily for his continuing hard work with and dedicated effort towards improving and extending the scope of the net.

James Oldham presented to the Board a written report prepared by M. LES BENEDICT (who was on sabbatical leave in England) on the activities of the Publications Committee. Christopher Tomlins and Ann Lowry presented written

reports on the Society's official journal LAW AND HISTORY REVIEW, and Ms. Lowry also reported on the Society's membership and dues figures for the current year. Hendrik Hartog and Lew Bateman presented reports on the current status of the "Studies in Legal History" Series. All of the above were thanked by the Officers and Board for their continuing hard work and dedication.

Under "Old Business," the Secretary-Treasurer reported that preparation of the Society's archival records for deposit in the University of Illinois Library's Special Collections Department was proceeding, albeit rather slowly. With regard to electronic publication of the REVIEW, the Board authorized the Publications Committee to pursue contract negotiations with LEXIS/NEXIS for a contract allowing them to reproduce it electronically that would not conflict with the already existing contracts with WESTLAW and with the Hein Company. By a unanimous vote the Board also delegated to the President and the Executive Committee authority to approve such a contract on their behalf when it is ready.

With regard to "New Business," the report of the Ad Hoc Committee on the By-Laws was taken into consideration. A motion was moved, seconded and passed, approving a change in Article III, Section 1, of the By-Laws that will make it clear that the provision that "whenever there is only a single position to be filled, at least three nominees shall be presented to the membership" applies only to elections to the Board of Directors and the Nominating Committee. Also, a motion was moved, seconded and passed with only one abstention to approve amending the By-Laws, as necessary, to convert the "Vice-President" into a "President Elect." A motion approving the shortening of the terms of the President and President Elect to a single year was defeated by 7 votes to 6. A motion approving making the Secretary-Treasurership an appointive office for a three-year term was approved unanimously. The Secretary-Treasurer reminded the Board that, in accordance with Article V, Section 8 of the current By-Laws, their recommended amendments to the By-Laws, before going into effect, had to be approved by a ballot, "by a two-thirds majority of those members voting." A mail-back ballot on the recommended changes is included in this NEWSLETTER.

Nominating Committee Chairman David Seipp asked the Board for their reaction to a suggestion from "Studies in Legal History" Co-Editor THOMAS GREEN that both the Nominating Committee and the Program Committee each year should include at least one medievalist or a representative of another struggling but vital area of legal history. The general consensus of the Board was that such a policy should be followed.

A motion was passed, seconded, and approved to refer the issue of whether LAW AND HISTORY REVIEW should be published three times a year instead of biannually, or biannually in an expanded format, to the Publications Committee for consideration, and that their recommendation be presented at the next Board meeting.

Finally, with reference to the Secretary-Treasurer's report that the General Account was now only barely bringing in sufficient income to meet the Society's needs, the Board voted, in accordance with Article I, Section 4 of the By-Laws, to raise Regular membership dues to \$40 per year and Student and Emeritus membership dues to \$15 per year starting in 1997; and Institutional membership dues to \$55 (\$60 non-U.S.) -- since the 1997 rate had already been advertised -- beginning in 1998.

There being no further business, the Meeting was adjourned at 9:50 p.m.

NOTE: Any member who would like to have a copy of any of the written reports submitted to the Board should contact the Secretary-Treasurer (Department of History, Bishop 310, University, MS 38677; tel: (601)232-5600; fax: (601)232-7033; e-mail: mlandon@olemiss.edu).

Treasurer's Report

GENERAL ACCOUNT

Balance in hand 12/31/95 \$21,780

Income through 12/31/96

| | |
|------------------------|----------|
| CD/NOW interest | \$ 1,794 |
| Dues/Mailing lists | 14,967 |
| Annual Meeting surplus | 5,532 |
| | 44,073 |

Expenses through 12/31/96

| | |
|---------------------------------|----------|
| Postage/Telephone | \$ 5,263 |
| Commodities | 6,558 |
| Travel (ACLS) | 756 |
| Wages (M.E. Hutchinson) | 5,471 |
| H-Law subsidy | 1,000 |
| Refund to Houston | 454 |
| Bank Charges (credit card fees) | 346 |
| Miscellaneous | 271 |
| Dues (ACLS, NHA) | 1,650 |
| | (21,769) |

Balance in hand 12/31/96 \$22,304

Surplus balance \$ 524

SMITH MEMORIAL FUND

Balance in hand 12/31/95 \$31,676

Income through 12/31/96

| | |
|------------------|----------|
| NOW Interest | \$ 264 |
| FNB CD-76 (4.8%) | 1,657 |
| FNB CD-83 (5.0%) | 251 |
| Donations | 220 |
| | \$ 2,392 |

Expenses through 12/31/96

| | |
|---------------------|----------|
| 1996 Surrency Prize | \$500 |
| Bank Charges | 60 |
| | (\$ 560) |

Balance in hand 12/31/96 \$33,508

Surplus Balance \$ 1,832

ASLH Newsletter, Part 2 of 11**SUTHERLAND PRIZE FUND**

Balance in hand 12/31/95 \$ 9,233

Income through 12/31/96

| | |
|--------------------------|--------|
| Savings Account Interest | \$ 20 |
| UP Bank CD (6.25%) | 125 |
| NationsBank CD (5.4%) | 374 |
| Donations | 205 |
| | \$ 724 |

Expenses through 12/31/96

| | | |
|-----------------------|--------|----------|
| 1996 Sutherland Prize | \$ 500 | (\$ 500) |
|-----------------------|--------|----------|

Article II ("Directors and Officers"), section 5 presently reads: The officers are president, vice-president, and secretary-treasurer, elected biennially by a majority vote of the members voting. In case of a tie, the officers and directors at the first annual meeting following the election shall by majority vote determine the choice. The terms of office for the president and vice-president are for two years commencing on the first day after the closing day of the annual meeting following their election. The term of office for the secretary-treasurer is for two years commencing on the first day of the calendar year following her or his election. The powers and duties of these officers are those usually held by officers of like organizations and those assigned by the directors or members. If the office or president becomes vacant, the vice-president shall immediately become president for the unexpired term. If any other office becomes vacant, the president shall fill the office by appointment with the approval of the executive committee. The terms of such office shall be for the unexpired period, commencing with their approval by the executive committee.

Amend to read:

The Officers are president, president-elect, and secretary-treasurer. The president and president-elect each serve two-year terms, with the president-elect being elected biennially and automatically succeeding to the presidency. Both of their terms commence on the first day following the closing day of the annual meeting immediately following the biennial election. The secretary-treasurer is appointed by the president, on the recommendation of the Nominating Committee, to a three-year term commencing on the first day of the calendar year after her/his appointment, and the current holder of the office is eligible for re-appointment. The powers and duties of these officers are those usually held by officers of like organizations and those assigned by the directors or members. If the office of president becomes vacant, the president-elect shall immediately become president for the remainder of the unexpired term. If any other office becomes vacant, the president shall fill the office by appointment with the approval of the executive committee. The terms of such office shall be for the unexpired period, commencing with their approval by the executive committee.

Amendment 2:

Article III ("Elections"), section 1, reads (in part): ". . . The nominees receiving the highest number of votes for the available position(s) shall be elected but whenever there is only a single position to be filled at least three nominees shall be presented to the membership . . ."

Amend to read (in part):

". . . The Nominees with the highest number of votes for the available position(s) shall be elected. In years when only one position needs to be filled on the Nominating Committee, at least three nominees shall be presented to the membership."

ANNUAL MEETING SESSIONS

The NAACP and the Law

October 18, 1996 8:45-10:15 a.m.

ROBERT A. PRATT (University of Georgia) writes:

This panel focused attention on the NAACP's litigation strategies in the areas of public school education and police brutality in the generation preceding the civil rights movement. While the first paper provided a different perspective on a subject that has received enormous scholarly attention, the second paper offered insights into an area that has gotten far less historical analysis and inquiry.

In "Seizing the 'Equal' in 'Separate but Equal': The NAACP and Public Schools -- Virginia in the 1940s," PETER WALLENSTEIN discussed the world of "separate but equal" from the perspective of some of Virginia's black civil rights attorneys in the years preceding the Brown decision. Beginning with litigation seeking the equalization of black and white teachers' salaries, the essay told of efforts in the late 1940s in a number of Virginia counties to secure the equalization of black and white schools, both in terms of physical facilities and curricula. The end of this phase of the story came in 1950-51, when the University of Virginia was forced to admit black Gregory Swanson to its law school and the NAACP changed its tactics and began to challenge segregation head on. In sum, Wallenstein concluded that the 1940s was a critical transition time for black lawyers who tried to squeeze greater equality out of the old "separate but equal" formula.

In "The NAACP and Police Violence, 1930-1950: The Origins of a Federal Strategy," ERIC RISE examined the

NAACP's efforts to combat police brutality. Initially, the NAACP emphasized three remedies -- dismissal of the offending officers, civil damage suits against the officers, and criminal prosecutions of the officers in state courts. These tactics produced a few successes, but NAACP attorneys were often disappointed by the intransigence of local authorities and the unpredictability of juries. By 1940 the NAACP had begun to pressure the federal government to prosecute police officers for violations of reconstruction-era civil rights statutes, but again this strategy had only limited success. But NAACP lawyers remained undaunted nevertheless, hoping that litigation costs to individual officers and departments and the negative publicity generated by the lawsuits would deter the more egregious forms of police misconduct.

In his comment, JOHNIE SMITH noted that Wallenstein's paper underscored the important link between the NAACP's national campaign and the struggle at the local level, but Smith also pointed out that many of these issues have been analyzed exclusively from the perspective of the attorneys without considering the dedicated involvement of the respective communities (and local activists). Smith also noted that Rise's paper, like Wallenstein's, used case results to measure success, and tended to downplay the extent to which the NAACP saw these cases as a means to inform, motivate, and mobilize the communities. In her comment RUTH ANNE THOMPSON praised Wallenstein's well-executed paper, but said she noted some tension between the NAACP lawyers and the community, something that Wallenstein might pay more attention to. It did appear at times that the community wanted the broad assault on segregation, while the lawyers seemed willing to wait for more favorable times and venues to make their stand. In assessing Rise's paper, Thompson noted that his subject has not received as much attention, perhaps because there was no single pinnacle of success such as Brown to celebrate; still, his paper raised some good questions that beg more detailed answers, such as why the federal strategy in combating police harassment never quite developed into the "potentially formidable weapon" that it might have become. Nonetheless, both papers revealed the NAACP's efforts to serve the black community within the boundaries of segregated America, and demonstrated that the organization's story has not been fully told and is worthy of further study.

The session was well attended, and the audience made good use of the fifteen or so minutes that remained by asking penetrating questions, and the discussion spilled out into the lobby. The presenters and commentators are to be commended for adhering to the specified time limits, which is the key to ensuring maximum audience participation and a successful conference.

Nuremberg Fifty Years Later: Rule v. Role of Law

October 18, 1996 10:30-12:00 p.m.

JONATHAN LURIE (Rutgers University) writes:

The session featured papers by MICHAEL SCHARF (New England School of Law) and MARK MARTINS (Judge Advocate General's School for the U.S. Army). Professor EDWARD WISE (Wayne State University Law School) and RUTH WEDGWOOD (Yale Law School) commented on both offerings. In opening the session, Jon Lurie cited Max Frankel's comments in 1995 that at Nuremberg, "the winners were producing a false image of justice, a theatre of the absurd [. . .] a retroactive jurisprudence that would surely be unconstitutional in an American Court." He invited both speakers to consider Frankel's opinion as a sort of contextual framework within which the continuing significance of Nuremberg might be viewed.

Scharf's paper focused on the relevance of Nuremberg for the ongoing Balkan war crimes trials. He cited three criticisms that had been levelled against the earlier proceedings: a) that Nuremberg was "a victor's tribunal before which only the vanquished were called to account;" b) that "the defendants were prosecuted and punished for crimes expressly defined for the first time in an instrument adopted by the victors at the conclusion of the war;" and c) that the Nuremberg Tribunal functioned under limited procedural rules that "inadequately protected the rights of the accused." Scharf considered all three criticisms by and large to be valid, but urged -- as did Professors Wise and Wedgwood -- that Nuremberg be judged not by today's contemporary standards but through the prism of history. He noted Robert Jackson's admission that "many mistakes have been made and many inadequacies must be confessed," yet Jackson believed that "in proceedings of this novelty, errors and missteps may also be instructive to the future." Finally, Scharf examined how the ongoing Balkan war crimes proceedings had built upon the Nuremberg legacy -- including copious evidence and documentation, along with vigilant cross examination, greater concern for due process insuring a trial record that Scharf believes "can endure the test of time and resist the forces of revisionism."

Martins noted the enduring significance for what he called several "Nuremberg Principles." These included prosecutions not just for the crime of aggressive war, but for crimes "against humanity"; judicial proceedings against leaders who might otherwise have faced simple execution -- an alternative seriously considered by FDP Churchill

readers who might otherwise have faced simple execution -- an alternative seriously considered by Hitler, Churchill and Stalin --; and enforcement of international law against individuals rather than "merely against states." Even more important, Martins emphasized the Nuremberg legacy of "setting a standard by which commanders could be held responsible for the war crimes of subordinates; rejecting the defenses of military necessity and superior orders." He further described how current American military concern with procedure and process has built upon the Nuremberg trials, accepting the need to incorporate a number of differing views drawn from military, governmental, academic and indeed, basic humanitarian perspectives. Such interdisciplinary influence, Martins concluded, may make future military manuals into sources that stand a "far better chance of actually influencing human conduct" in a positive sense.

In Blackacre's Wake: Lawyers and American Agriculture, 1820-1945

October 18, 1996 10:30 a.m. - 12:00 p.m.

VICTORIA SAKER WOESTE (American Bar Foundation) reports:

ANN FIDLER, Ohio University, presented a paper entitled "Pleaders v. Plowmen: Lawyering and Farming in the Old Northwest, 1820-1860." The goal of the paper was to study the evolution of occupational culture amongst antebellum attorneys through a comparative study of popular images associated with farming and lawyering in the Old Northwest. Fidler argued that Antebellum attorneys were never completely insulated from the concerns, claims, and assumptions of occupations outside the professional fold. As a result, an amination of how particular vocational images formed and their used as both a means of consolidating identity and constructing a discourse between different types of jobs enriches our understanding of the development of occupational cultures.

ASLH Newsletter, part 3 of 11

Victoria Saker Woeste delivered a paper called "Law, Regulation, and the State: Outsider Lawyers and Agricultural Policy, 1918-1945." The essay tracked the career of a Jewish lawyer, Aaron Sapiro, in promoting the formation of farmers' cooperatives during the 1920s. As Sapiro's personal fame among farmers grew, he asserted a central role in national agricultural politics, serving as legal counsel to cooperatives and unofficial advisor to the American Farm Bureau Federation and the U.S. Department of Agriculture. Sapiro's star faded as quickly as it had risen, however; he alienated powerful figures in farm politics who perceived him as domineering and egocentric. Indeed, Sapiro saw cooperation as the centerpiece of his mission to serve the public. To him, his identity as a Jew and his role as a lawyer were equally important components of that mission. Sapiro's highly public (and not uncontroversial) activism on behalf of farmers unwittingly stoked the active anti-Semitism of the era. When Henry Ford's company newspaper, the Dearborn Independent, published a year-long series of articles accusing Sapiro of heading an international conspiracy to take control over American agriculture and turn it over to Communists, Sapiro sued for libel in federal court. The case was ultimately settled out of court, but the episode raises important questions about the relationship of identity and the legal profession to the changing administrative state.

WES PUE, University of British Columbia, began his comments on the papers with a thumbnail sketch of the different historical schools associated with study of legal professions. He described Woeste and Fidler's papers as being part of a new approach concerned with understanding how culture influenced the evolution of the bar. Rather than shunting subjects such as religion and political values to one side, Pue argued for their inclusion and urged the authors of the papers to continue a vigorous exploration of these issues. RAY SOLOMON, Northwestern University, also believed that the study of culture would provide greater insights into the "real work" performed by lawyers. Speaking as a lawyer, residing in the Old Northwest, and raised in a Jewish farming family, Solomon suggested that future research for both projects should look closely at agency, periodization, and the construction of cultural tropes. Solomon praised both papers for providing thick descriptions of lawyers' actual practice, something not seen in previous works on the history of the profession. The papers raised the question, he said, of how ideology and material interest interact to produce action. Both played the images of the "good farmer" and the "bad lawyer" off against each other, to great effect.

Courts in Colonial and Early National Virginia

October 18, 1996 1:30-3:00 p.m.

BRENT TARTER of the Library of Virginia reports:

This session consisted of two excellent papers and two thought-provoking commentaries arising from detailed analyses of the contexts in which Virginia courts decided one late eighteenth century case and one set of interrelated

mid-seventeenth century cases.

Professor CHRISTOPHER DOYLE of American International College opened the session with "Judge St. George Tucker and the Case of Tom v. Roberts: Blunting the Revolution's Impact in Virginia's District Courts." Tucker, the future compiler of the first American edition of Blackstone's Commentaries, had to decide whether relevant Virginia laws and practices, the peace treaty that ended the American Revolution, or the laws governing married women and property controlled a complicated case that arose after the Revolution. In 1782, a woman who had remained loyal to Virginia and resided in Virginia during the Revolution, acting under a new and liberal state manumission law, freed several slaves she had inherited prior to her marriage. Her husband, who had remained loyal to the King and fled Virginia in 1775, returned in 1783, disavowed his wife's action, then recovered and sold the slaves. Had Virginia's wartime confiscation act deprived the husband of his slave property in his absence? Did the peace treaty protect his right to recover and dispose of his property as he chose after the war? Did the supremacy clause of the new United States Constitution settle any discrepancies between federal and state power in favor of the peace treaty? Did the fact that the wife had owned the slaves before the marriage give her a right to dispose of them in the absence of the loyalist husband as if his flight constituted a de facto dissolution of the marriage? Did the abolition of the law of entail in Virginia in 1776 reduce the wife's ability to dispose of her inherited slaves while her husband was still alive, even if absent? What, if any, judicial notice should the court take of the deliberate inactivity of the local authorities to hinder the action of the woman in freeing her slaves or in attempting to return the freed people to slavery? Judge Tucker, sitting in the state district court, weighed all the conflicting claims and assertions and opted to base his decision entirely on the traditional Virginia understandings of the Common Law interpretation of the rights of married women, giving an importance to that rule of law over all the others. Tucker ruled in favor of the husband, holding that the husband's flight and Virginia's laws had not destroyed his right as husband to the disposal of the family's property or invested the temporarily abandoned wife with authority over the property that she would not have otherwise possessed. Doyle concluded that as a judge, Tucker, who was otherwise often at the forefront of republican reforms of Virginia's laws and judicial system, "consistently put aside progressive ideals while in the courtroom," even to the extent of undermining the force of the state's manumission statutes so that he could "uphold traditional social institutions and the patriarchal order."

Professor JOHN PAGAN of the Global Law School Program, New York University School of Law, followed with "Law and Illegitimacy in Seventeenth-Century Virginia," a detailed analysis of four complicated cases decided in the county courts on the Eastern Shore of Virginia arising from the births of an indentured servant's illegitimate twins in 1664. At each turn in the long-running series of cases, the Virginia justices departed from English precedents and practices. The first case was decided before the birth of the twins. The justices forced the man who had sold the servant's indenture before her pregnancy became conspicuous to take back ownership of the indenture (and with ownership the responsibility for the servant's health care) rather than to pay damages to the unwitting purchaser of the indenture, which would have been the remedy that an English court would have awarded to an unknowing purchaser of a servant who was going to require medical attention. Later in 1664, after the servant had identified the father during childbirth, according to established rules of proof for ascertaining paternity, the county judges refused to find the reputed father "factually guilty" of fathering a bastard child because the birth of apparently fully developed twins (one of whom soon died) took place only eight months after the sexual intercourse described by the mother in childbirth; nevertheless, because of the mother's identification of the man during childbirth, the judges found him "legally guilty" and therefore liable to support the surviving child. Moreover, in 1665 the local justices of the peace refused to permit the reputed father to rid himself of the guilt by the traditional ceremony of "purgation" on what may have been a mistaken interpretation of a recent act of Parliament, resulting in the practical abolition in the colony of that legal means of exculpation. The responsibility for the care of the illegitimate children was an expensive one that the courts wished to keep out of the public charge, but the justices were also unwilling to burden a party with that expense unfairly, and it appears that they took that consideration into account at several stages in the evolution of the cases. The practical effects of the liberties that the Virginia justices took with English laws and practices in the complicated cases that came before them produced a revolution in the ways in which some classes of sex-related cases were handled in the seventeenth century Virginia courts. If men could no longer use "purgation" to rid themselves of guilt, they were left essentially powerless to exculpate themselves when charged with fornication and bastardy when there were no witnesses other than the woman who brought the charge. On the other hand, if an unmarried woman were made pregnant (and virtually all indentured servants were unmarried) otherwise than by rape, there was no way for her to deny taking part in an illegal sexual intercourse. Evidently, to avoid trying men who could make no adequate legal defense, the number of prosecutions for sex crime fell off rapidly after the 1660s. More significantly, the number of prosecutions and convictions of men fell off seriously, but the number of prosecutions and convictions of women did not fall off to a corresponding extent. Before the 1660s men were prosecuted for fornication and other sex-related crimes roughly four times as often as women on the Eastern Shore of Virginia, but after the 1670s women were prosecuted more than ten times as often as men. Pagan concluded that in many respects the justices of the peace tried "to strike a socially acceptable balance between fairness and efficiency" and that "fairness appears to have played a predominant role in shaping legal rules"; but when forced to allocate

responsibility for child support "on an irrefutable presumption of paternity arising from a woman's uncorroborated accusation, though, they subordinated fairness to efficiency."

The first commentator, Professor DAVID T. KONIG of Washington University, praised both papers for opening up new lines of investigation into the operations of trial courts and in the investigation of how the cases transformed accepted legal practices and produced new rules and procedures that took account of the law's traditional requirements of justice and fairness as well as accommodating them to the values and needs of the local communities as exemplified in the practices of the local courts and in the rulings of the judges. With Doyle, Konig looked forward to a reinvestigation of the motives behind, and extent of, the movement for judicial reform in Virginia during the early national period.

The second commentator, Professor CORNELIA HUGHES DAYTON of the University of California, Irvine, called pointed attention to the neglect in the discussion of these and like cases of the rights and roles of the women. The care taken in the protection of the rights of the men in the bastardy cases stands in stark contrast to the care taken in the protection of the rights of the women. The cases and the papers contain valuable information about women and about the influence women had (often inadvertently) on the evolution of legal processes, particularly in the use of testimony obtained during the distress of childbirth. They also suggest that it would be important to explore the investigative procedures for discovering what the members of society understood about the means employed for ascertaining the truth.

Members of the audience were disappointed that there was no time available after the presentation of papers and commentaries for consideration of the many questions and comments that immediately bubbled up from the audience at the conclusion of the second commentary. Even as the participants in the subsequent session were entering the room and bringing this stimulating session to a premature conclusion, members of the audience were crowding around the participants and all talking at once.

Capital Punishment and Social Control in Europe and America

October 18, 1996 1:30-3:00 p.m.

PAUL FINKELMAN (University of Miami) chaired this session.

MICHAEL PFEIFER (University of Iowa) presented a paper entitled "Lynching and Criminal Justice in North Louisiana, 1880-1910." Describing the relationship between lynching and the criminal justice system as "complex," Pfeifer said rates of lynching cannot be correlated with execution rates. In one parish, for example, no prosecutions for rape occurred at a time when lynchers did murder alleged rapists.

DERRYN MOTEN (University of Iowa) described the execution of three African American soldiers for the rape of a 17-year-old white girl. All three soldiers had been drafted from Alabama. Moten described these executions, carried out at Camp Dodge, Virginia, as "semiotic lynchings," a form of legal lynching. Local commanders ordered the entire 92 division, a black unit, to watch the executions.

JUERGEN MARTSCHUKAT (University of Hamburg) began his paper by describing the execution of the would-be assassin of King Louis XV in France. Martschukat described the execution as a "theater of pain" carried out for the entertainment and education of crowds.

FITZHUGH BRUNDAGE (Queens University) commented, reporting that all three papers offered interesting insights. Pfeifer contextualized the lynchings in his study, taking a sociological approach. Brundage wondered why whites in southern Louisiana relied on courts while whites in the northern part of the state did not. Pfeifer documented an interesting pattern. Looking at Moten's paper, Brundage wondered why the military continued public executions after southern civil courts ended public executions. Martschukat also wrote about the semiotics of executions. Punishment represented an articulation of power, but it's not clear audiences consumed the lesson without revision. Authorities probably did not expect crowds to see executions in a carnival-like atmosphere.

Paul Finkelman commented that all three papers show that hanging dishonored victims. To the extent you hide the execution, you extend honor to the victim.

Canadian-American Comparative Legal History

October 18, 1996 1:30-3:00 p.m.

JOHN MCLAREN, Faculty of Law, University of Victoria, B.C., reports:

BERNARD HIBBITTS (University of Pittsburgh School of Law) in his paper "Her Majesty's Yankees: American Authority in the Supreme Court of Nova Scotia, 1837-1901" examined the phenomenon of the relatively frequent appeal to U.S. decisions in the jurisprudence of the Nova Scotia Supreme Court up to 1875, and then its fading through the rest of the century. In a study which considers every reported case between 1837 and 1901, Hibbitts has considered the factors which in the first period made American law an attractive repository of ideas for the judges of this maritime colony and province. Some of the reasons have to do with the relative sparsity of English and Nova Scotian authority and text book writings on a range of legal matters, as well as the fact that, particularly in the realm of legislation, inspiration to legislators in Halifax had often come from south of the border, and so it was natural enough to see what courts in states with similar enactments had done. More intriguing as a reason, because less obvious, was the attachment that Nova Scotian judges from the first half of the 19th century felt to New England culture, including its law. It is easy, suggested the author, to forget that the foundation of this colony preceded the American Revolution, was partially settled by New Englanders and that its people, including those in the elite, had family and commercial contacts with the northeastern states. The reasons for the decline in reference to American authority after 1875, suggested Hibbitts, had to do not only with the loosening of these older ties, but also with Nova Scotia's new political and legal reality, that she was part of the Canadian confederation. This meant that in addition to the felt need to look to English authority (now perhaps accentuated with the emergence of late Victorian imperialism), there was an increasing tendency to look to the legal solutions devised and followed elsewhere in Canada, in particular Ontario.

ASLH Newsletter, part 4 of 11

In his commentary, DELLOYD GUTH (Law Faculty, University of Manitoba) noted that Hibbitt's paper was less an exercise in comparative legal history than in tracing and explaining a process of legal colonialism, but none the less important in showing the phenomenon of external influences on Canadian legal cultures. He did raise the question of "typicality," i.e., what this study means in quantitative terms, suggesting that it would be helpful to have at least a sampling from particular years of how often American authority was cited in proportion to the number of reported cases for those periods. Only then, he suggested, would we be able to determine whether the less than flattering view of Nova Scotian judges as dependent and lazy is proven or not.

The paper presented by RANDE KOSTAL (Law Faculty, University of Western Ontario) "The Law of Steel: A Comparative Legal History of the Cleveland, Ohio and London, Ontario, Street Railway Strikes of 1899" is a unique comparative study in that the antagonists in both cities were the same, the Street Railway Workers Union on the one side and a bloody-minded American capitalist, Mr. Everett, who owned both railways, on the other. Interesting insights were thus provided into the differences and comicalities in political and legal culture in the two jurisdictions. What Kostal in his presentation went on to demonstrate, however, was how insignificant the cultural differences became during the "Gilded Age," when the capitalist entrepreneur decided to play "hard ball" and to resist any accommodation at all with workers. In both these strikes, notwithstanding that the workers had and were able to maintain significant support among the general populace, including the middle class of their respective cities, the employer ground them down. The result was frustration manifesting itself ultimately in violence. The political elite in both places were thus provided with the excuse to call in the militia to restore order. This move effectively broke the back of union resolve, and so thwarted their respective campaigns which, as Kostal noted, were limited and conservative, directed simply at forcing the employer to negotiate a contract with them. The paper was also interesting in showing how the invocation by the employer of "managerial science" in running a transportation business with tight schedules and long hours produced reaction among workers, who felt aggrieved both by the additional work pressures placed on them, and catching the blame when the result was injury to members of the public.

In his comments, John McLaren raised a short list of questions arising from the stories which, he felt, were worth further exploration. What was the nature of the relationships of both the larger business community and political elite with capitalist moguls of the Everett type (were they effectively in his hip pocket all along)? McLaren was also puzzled at the apparent lack of interest by state and provincial authorities in what was going on in two important cities of their respective jurisdictions. Was this a reflection of actual disinterest, or were they actually engaged in backroom maneuvering? Finally, he wondered whether drawing general conclusions about judicial ideology about labour relations in the two countries from the words and actions of individual judges was helpful, suggestion that the record needed to be related to more general patterns of decision making in the two jurisdictions in question. Apart from these questions, McLaren felt that paper was both engaging and fascinating, providing a model for further work on the legal historical significance of economic integration across the Canadian-US border.

Legal History of Australia and New Zealand

October 18, 1996 3:15-4:45 p.m.;

DAVID BOGEN of the University of Maryland School of Law reports:

These three papers drew our attention once more to the disparity between law in the books and law in action, and illustrate the complexity of the interaction. In "Resistance to Law under Autocracy," Professor BRUCE KERCHER (Macquarie University School of Law) examined the way in which popular ideas of law interacted with formal law in the autocratic system of New South Wales during the early foundation years from 1788 to 1814. While the colony's law in these years was recognizably English in many of its details, much of it was also created or altered locally. The governors made formal orders which contradicted English law, and the colony's judges created a new debt recovery system, for example. The legal ideas of ordinary people interacted with the colony's formal law in subtle ways, the impetus for change sometimes coming from popular resistance to law and authority rather than through official direction.

In "Pigs and Negativism," Professor PETER KARSTEN (University of Pittsburgh) explored the gap between the formal law of animal trespass and popular behavior in North America and the Antipodes, 1700-1900. Karsten argued that in the earliest stages of frontier development, social isolation got in the way of accommodation. Eventually social bonds developed among most settlers who settled such trespass disputes in ways that Ronald Coase had predicted and Robert Ellickson had discovered in modern California. But Coasian theory does not work well when the neighbors were from strikingly different cultures, as in New Zealand, where the formal law required that Pakehas (settlers) both fence their animals out of Maori crops and fence their fields in from Maori animals. Law & Economics theory does not give enough weight to perceptions of "fairness," which can prove a crucial motivational force. In "Much mischief can be done": legal semantics, the police and prostitution in early twentieth century New Zealand," BRONWYN DALLEY (Historical Branch of the New Zealand Department of Internal Affairs) examined the 'legalization' of a particular form of brothel-keeping in New Zealand in the first decade of the twentieth century. From 1908, women could operate brothels without prosecution for brothel-keeping, so long as only one woman were involved. These 'one-woman brothels,' or 'brothels- at-law' became a feature of New Zealand's main cities during the 1910s. Powerless to charge the women with brothel-keeping, police sought diverse ways to close the establishments or to bring the women before the courts. Prostitution and brothel- keeping were both ambiguous terms, made more complex by legal semantics and arbitrary action on the part of police. In his comment Justice PETER YOUNG (New South Wales

Supreme Court) suggested that the papers illustrated the operation of informal law where an arm of government at the highest level fails to function properly.

Law and the Sexual Revolution

October 18, 1996 3:15-4:45 p.m.

ROBERT N. STRASSFELD (Case Western Reserve University, School of Law) reports:

The two papers presented at the "Law and Sexual Revolution" panel originated in an American legal history seminar at Samford University's Cumberland School of Law. In "Hair" WINSTON W. EDWARDS explored the litigation of the 1960s and 1970s that focused on school dress codes, and especially on hair grooming standards for males. He described the various constitutional strategies adopted by students and their lawyers, including First Amendment, substantive due process, equal protection, and Griswold-invoking privacy claims, and the mixed success that the students had in the courts. He characterized the Supreme Court's failure to take certiorari in any of these cases as a lost opportunity to resolve issues that have recently reemerged in a different guise.

BETHANY VAUSE in "The Validity of Massage Parlor Legislation in the 70s" explored the frustrations of local communities in their efforts to eradicate massage parlor prostitution. She vividly described the impediments faced by undercover police in their attempts to enforce prostitution laws against massage parlor workers and owners. Thus stymied, local authorities turned to massage parlor and masseuse licensing, public nuisance laws, and outright bans on opposite sex massages to combat parlor prostitution.

Both commentators, THOMAS MACKKEY (University of Louisville) and BETH BAILEY (Barnard College), applauded the authors' efforts and encouraged them to enrich their papers with greater historical perspective and attentiveness to relevant secondary literature. Mackey saw the common thread of the two papers as their concern with questions on the borderlands of law and sexuality and society studies, as well as their focus on instances of legal efforts to eradicate perceived evils. Mackey encouraged both authors to engage more fully the relevant historiography. Specifically, he asked Edwards to better situate his paper in the history of youth culture and to take more seriously the courts' federalism concerns in approaching the issues of local concern. Mackey noted that Vause assumed that the massage parlor problem was a product of the sexual revolution. He encouraged her to delve further into vice history to give better historical focus to the question why massage; parlors become important when they did. Unfortunately, Beth Bailey was unable to attend the conference, but she submitted written comments to be read at the session. Bailey noted the odd pairing of papers on massage parlor regulation and school grooming codes under the rubric "Law and the Sexual Revolution." While Bailey noted that the session's organizing concept echoed the view of many people who during the 1960s and 1970s saw both boys' hair length and massage parlors as emanations of a

sexual revolution, she challenged the authors to consider how their analyses might change if not framed in terms of the sexual revolution. Specifically, she asked Vause to consider massage parlor regulation as part of the history of prostitution in the U.S., rather than as a product of the sexual revolution, and to explore from that perspective how prostitution and the legal responses to it changed in the 1960s and 1970s. She similarly urged Edwards to shift his focus from a romanticized vision of the 1960s to the history of youth culture and to consider how earlier clashes between young people and adults over questions of grooming and dress differed from those that he described. Additionally, she encouraged him to make explicit the link between his subject and the sexual revolution by considering the place of anxiety over changing gender roles in the fight over hair length. Finally, both Mackey and Bailey encouraged the authors to explore the questions of who sought regulation and what interests did regulation further.

New Perspectives on Southern Women and the Law During Reconstruction

October 19, 1996 8:45-10:15 a.m.

JUDITH SCHAFER (Murphy Institute of Political Economy), panel chair reports:

"If I had not been as strong as I am': African American and Poor White Women's Legal Claims in Post-emancipation North Carolina" This paper, by LAURA EDWARDS of the University of South Florida, examines the cases brought by poor white and African-American women in North Carolina's local courts after emancipation. During these years, cases involving women crowded local court dockets. Although some women were hauled in to answer charges against them, many initiated suits themselves, usually for assault, domestic violence, attempted rape, and rape. Together, these cases recast our understanding of political participation during Reconstruction. Until recently, scholars of the period assumed women were politically insignificant because they were excluded from traditional political arenas -- ballot boxes, podiums, legislative floors, and even party rhetoric. But as local court cases suggest, women joined their menfolk in the fight to secure full civil rights by actually claiming them in court. In this way, women helped give substance to the Republican party's rhetorical promises. They also articulated their own political

concerns as women. Republican party leaders tended to focus on manhood rights. Thus empowered, men would secure to their women the privileges of maintenance, protection and respect. African-American and poor white women, however, made it clear that they were unwilling to accept men's unlimited power as the price of protection. Instead, they advanced a very different notion of their rights as women, insisting on defining the content of male protection by assuming a direct public presence as citizens in their own right.

"Sexual Assault, Fraud, and Womanhood in the Victorian South," by PETER W. BARDAGLIO of Goucher College, examines state legislation and appellate court opinions from the nineteenth century involving black and white men accused of committing fraud in sexual assaults on women. Southern states during the mid- nineteenth century passed legislation making it a crime to administer to a woman, "without her knowledge or consent, some substance producing unnatural sexual desire, or such stupor as prevents or weakens resistance." In addition, fraud included any "stratagem by which the woman is induced to believe that the offender is her husband." Following the enactment of these laws, a number of cases came before the state supreme courts dealing with rape by fraud. In many of these cases, the defendants were charged with attempting to have intercourse with women who were asleep; others involved the use of chloroform on the women or fictitious marriage ceremonies. The new legislation on impersonating a husband, in particular, underscored the fact that a married man could not be convicted of raping his wife because he gained the right of sexual access upon marriage. The relevant statutes and state supreme court opinions, then, provide a revealing window on attitudes toward sexual violence, marriage, race and gender.

"Vagrancy and Gender: The Virginia Freedmen's Bureau and the Black Women's Obligation to Labor," underscores the importance that both gender and Freedmen's Bureau vagrancy policies played in the emergence of free labor in post-Civil War Virginia. MARY FARMER of Bowling Green State University concludes that despite the Virginia Bureau's policy that its agents aid the freedpeople "by advice and information in every way possible, to secure permanent homes and lucrative employment in their own or neighboring communities" and to "treat as vagrants" those who refused such offers, it was reluctant to take that last step when it came to freedwomen. The prosecution of black women as vagrants assumed that they were obligated to enter the workforce. While a notion that white northerners in the Freedmen's Bureau shared with white southerners, it nonetheless confounded Nineteenth-century Victorian assumptions about gender. The prosecution of freedwomen as vagrants also defied the realities of the labor market throughout much of Virginia in 1865 and 1866. Moreover, the prosecution of unemployed freedwomen who were part of a productive family unit as vagrants interfered with and challenged freedmen's authority over their own families. In its creation of a new labor system in Virginia, the Bureau came to consider only unemployed black men as "vagrants" who would not be tolerated. As for unemployed and often destitute black women, however, the Bureau was not so sure. Though it no doubt wanted them to find employment or support from sources other than the government or charity, the Virginia Freedmen's Bureau did not -- and probably could not -- treat these women as vagrants. As a result, the Bureau regarded these black women as "dependents on the government" and its responsibility instead. Although seemingly gender-neutral labor policies aimed at combating idleness among blacks

responsibility instead. Although seemingly gender neutral labor policies aimed at combating racism among blacks, then, their implementation illustrates the distinct role that gender played in the emergence of free labor in post-Civil War Virginia.

ASLH Newsletter, part 5 of 11

Law in the Heartland

October 19, 1990 8:45-10:15 a.m.

GORDON MORRIS BAKKEN (California State University, Fullerton) writes:

The "Law in the Heartland" panel offered a spirited analysis of the impact of legal developments in Iowa on Supreme Court Justice Samuel F. Miller and the evolution of Great Plains fence law. Law in America's heartland clearly offers continuing research challenges and promises rich rewards.

MICHAEL A. ROSS (University of North Carolina) placed Justice Miller's jurisprudence squarely in the context of a Madisonian Iowa experience. In "Preserving a Madisonian Heartland: Iowa's Samuel F. Miller on the United States Supreme Court, 1863-1890" Ross argued that Miller's U.S. Supreme Court decisions stemmed from a struggle to reconcile rural Iowa's confrontations with a new market economy and a Madisonian ideal of prosperous farmers feeding the world yet maintaining a general equality of wealth in a stable, healthy and moral society. In particular, Miller's experience with Keokuk, Iowa's fortunes of location reaping the profits of the river trade and misfortunes of municipal bonding to lure a railroad enterprise that never arrived, molded his anti-railroad attitudes and opinions. Miller was diametrically opposed to the America envisioned by Stephen J. Field, an America of grasping capitalists and corrupt legislative bodies wrenching hard-earned yeoman dollars from those who labored and delivering them to those who reaped where they did not sow.

YASUhide KAWASHIMA (University of Texas, El Paso) also found legislatures, courts, railroads, and the stewards of grass and grain at odds. In "Fence Law and the Railroad on the Great Plains, 1865-1900" Professor Kawashima plowed through multifaceted fields of law finding a variety of conflicts between legislatures producing bumper crops of statutes favoring the farmers and ranchers of the Great Plains and courts questioning the remedies and constitutionality of those yields. The appellate cases demonstrated the wide variety of judicial approaches to problems suggesting that continued research promises a bountiful harvest.

RICHARD AYNES (C. Blake McDowell Law Center, University of Akron) commented that Justice Miller's work clearly deserved the attention that Michael Ross had given and suggested that perhaps a more nuanced interpretation would fully give Miller his proper place in the Court's history.

Gordon Morris Bakken commented that the trial court records in the Great Plains states were a better source for assessing the struggle between the railroads and their rural foes. Railroad attorneys and corporate officers felt under siege in the late nineteenth century due to a much broader legislative and judicial assault upon their position.

Criminal Responsibility in Europe, 1380-1800

October 19, 1996 8:45-10:15 a.m.

JAMES OLDHAM (Georgetown Law Center), panel chair, reports:

At this session, two papers were presented, both examining the rhetoric of criminal defendants in explaining or attempting to excuse their acts, predominantly in homicide trials. DANA RABIN, a recent Ph.D. graduate from the University of Michigan and currently an Instructor in the Department of History at Millersville University of Pennsylvania, spoke on "Justification or Excuse: Criminal Responsibility in England, 1660-1800." She was followed by SUSANNE POHL, a Ph.D. candidate at the University of Michigan, speaking on "Justification or Excuse? Defendants and Their Self-Fashioning in the Homicide Trials of Zurich, 1380- 1600." Although the two studies addressed disparate times and places, they were remarkably complementary.

By examining thousands of depositions from the Yorkshire Assizes as well as the Old Bailey Sessions Papers, Dr. Rabin discerned "a language of diminished responsibility" reflecting "the effort of defendants to fashion a diminished responsibility based on popular perceptions of mental illness which differed from exculpatory insanity as defined by the law and in legal commentary." She was able to observe the language of nonresponsibility become more widespread throughout the 18th century, corresponding to other developments acting to mitigate the harshness of the

"bloody code" of capital offenses that became the law of the land in the early part of the century. The claims of diminished responsibility were mainly of two types-- those that resembled, and may have borrowed the language of, insanity pleas, and those that argued that the actors were helpless to act otherwise than they did because of their abject and hopeless poverty. The "semi-insanity" pleas included one common situation--the defendant who claimed that he acted while he was "in liquor." The extent to which this "excuse" was efficacious is unclear. Indeed, the most difficult assessment is how the justices and jurors "heard" the language of excuse and assimilated it, if they did, in their decisions. Dr. Rabin hypothesizes that this language served "as a means of sorting those offenders perceived to be less threatening from those who were considered a serious danger to the community." She notes also that 18th century reformers employed language that resembled the language of excuse that she located in the depositions and in the OBSP.

Susanne Pohl's study of Zurich trial records from the 14th century to 1600 demonstrated a transformation from a regime of honor and vengeance to one of civic responsibility emphasizing the need for urban peace. This transformation is traced by Ms. Pohl through the self-representations of the defendants, or the language of excuse, where it existed. At the outset, there was little such language, not even of self-defense, in situations allowed by the deciding body (a 24-member city council) as legitimized vengeance, termed "honest manslaughter." The injured party had the option of seeking blood vengeance, or of negotiating an extra-judicial settlement with the slayer. If the case was brought before the city council, a fine would be assessed, which was payable to the city. In these official investigations, the slayer was not faced with an injured opponent, and this fact may have contributed to "a proud rhetoric of honor" in homicide trials.

Ms. Pohl's study shows that, near the end of the 15th century, a new economic elite in Zurich emerged, with political power in the hands of a small number of guilds, and the city council "showed a growing desire to establish a monopoly over the execution of violence." One step was to establish a new category of homicide called "dishonest manslaughter," where the fine was doubled for slayers who entered a fray in aid of a participant. This step and others in the early 16th century culminated in a new statute in 1533 "that remained the guideline for the punishment of homicide in Zurich well into the seventeenth century." These developments "influenced the rhetoric employed by slayers in front of the court," so that "slayers drew their arguments from an urban discourse promoting the virtues of the city peace, the same discourse that the council used to legitimate its growing control over the affairs of citizens."

Both papers were praised and supplied with constructive suggestions by commentators JAMES COCKBURN of the History Department of the University of Maryland, and DAVID SEIPP of the Boston University Law School.

Civil Liberties in the South During the Civil War and Reconstruction

October 19, 1996 10:30 a.m. - 12:00 p.m.

DONALD NIEMAN (Bowling Green State University) chaired this panel.

JAMES PAULSEN (South Texas College of Law) presented a paper entitled "Challenges to Confederate Conscriptation in the Texas Supreme Court." Paulsen argued that states rights lost in Texas during the Civil War. By the end of the war, Confederate judges wrote opinions as deferential to centralized power as any written in the North.

JONATHAN SARRIS (University of Georgia) presented a paper entitled "Violence and Justice in the Civil War South: Changing Concepts of Law and Order in a Divided Georgia Community." Sarris described looting by Confederate soldiers in northern Georgia, near east Tennessee. Civil authorities could not keep order. In such an environment, vigilantism seemed to make sense. Postbellum grand juries refused to indict pro-CSA vigilantes and lynchers.

LOU WILLIAMS (Kansas State University) gave a paper entitled "Federal Enforcement and Local Resistance in Post-Redemption South Carolina." The national government enforced civil rights laws vigorously for a decade after 1877. But the federal government could not overcome white southern resistance.

MARK NEELY (St. Louis University) commented, praising Williams for her use of legal history to reveal fundamental beliefs in white southern society. A sobering but convincing paper, he concluded. Neely thought Sarvis' concept of "lawlessness" too vague to characterize southern resistance to the Confederates. Neely urged Paulsen to add context to his paper. Neely went on to say that 37 lawyers held in their hands the fate of liberty in the South. There were just 37 state supreme court justices and no CSA supreme court ever sat. All three papers show that the southern obsession with individual liberty is greatly exaggerated.

Legal Rights of Indigenous Peoples

October 19, 1996 10:30 a.m. -12:00 p.m.

SIDNEY L. HARRING of the City University of New York Law School reports:

Professor RICHARD BOAST of Victoria University of Wellington, New Zealand set a broad comparative common law tone to the session, presenting, "The Tenural Revolution in New Zealand, 1865-1909." While New Zealand, like the United States, has a treaty based relationship with Indigenous peoples, the treaty rights of the Maori proved hollow in the face of immense demand by white settlers for Maori land. New Zealand law, in a variety of ways, failed to protect Maori land tenure, leading to the loss of most lands.

Professor THOMAS WESSELL of Montana State University in "The Supreme Court's Decisions in the Cherokee Cases and Indian Property Rights" presented a detailed analysis of the common law origins of the Cherokee cases. Delving deeply into the common law of land tenure in England, this analysis clearly showed a number of ways in which common law doctrines structured Chief Justice Marshall's views of Indian land tenure in the foundational cases in federal Indian law.

Two discussants, LINDSAY ROBERTSON of the University of Virginia and JOHN WUNDER of the University of

Nebraska, offered comments. The papers remind us that the common law structured colonial relationships with Indigenous peoples in a wide variety of settings, itself taking different forms as it did so. While the discussants generally agreed with Professor Wessell's central thesis, there was some disagreement about the characterization of which common law land tenure doctrines were central to Marshall's views, and exactly how they structured his opinion. The conference tour of John Marshall's house provided some immediacy of place to the proceedings.

INFORMATION SUPER HIGHWAY BILLBOARD

National Digital Library Program Awards Contract

for Digital Conversion

On August 6, 1996, the Library of Congress National Digital Library (NDL) Program, working with the Library's Contracts and Logistics Services, awarded to Preservation Resources the first of several major scanning contracts. This contract is for the production of digital images of selected collections from the Library's extensive holdings of 35mm microfilm.

The contract award is for one year plus four option years, during which time approximately 1 million grayscale and bitonal images are to be produced and made available by the National Digital Library Program over the Internet. The microfilm of the historical collections, which will be scanned for the NDL Program, was produced between 1950 and 1994. The first collection to be scanned under this contract will be the Presidential Papers of George Washington from the Library's Manuscript Division. Other collections to follow will be from the holdings of the Music Division and the Presidential Papers of Thomas Jefferson and Abraham Lincoln, also from the Manuscript Division. Various less extensive collections and individual titles will also be scanned.

Preservation Resources, a division of the OCLC Online Computer Library Center, is a not-for-profit organization devoted to the reformatting or conversion of library and archival materials. Originally called MAPS (Mid-Atlantic Preservation Service), the organization was established in 1985 to serve the preservation microfilming needs of five Mid-Atlantic research libraries – Columbia University Libraries, Cornell University Library, Princeton University Library, New York State Library and the New York Public Library. It has been a division of OCLC Inc. since 1994 and is based in Bethlehem, Pa.

The contract award is in full compliance with all provisions of the Federal Acquisition Regulation and the Buy American Act.

Since 1985, Preservation Resources has completed preservation microfilming projects for institutions throughout the country, filming approximately 200,000 volumes, largely for preservation projects supported by the National Endowment for the Humanities' Division of Preservation and Access.

In 1994, Preservation Resources began experimenting with digital imaging and providing scanning services in parallel with its extensive micrographic services. It undertook several research and demonstration projects: scanning issues of a 19th century newspaper from existing microfilm to produce an indexed CD-ROM of the images; a project with the

New York Public Library to develop cost models and to evaluate the quality and throughput of currently available microfilm scanners for scanning retrospective microfilm; and a project to film and scan highly illustrated texts with graphics in color and continuous tone.

ASLH Newsletter, part 6 of 11

New NHPRC Web Site

The National Historical Publications and Records Commission made its presence known on the World Wide Web with the opening of its site located at <http://www.nara.gov/nara/nhprc> at the end of June.

The site provides, among other things, up-to-date information on the Commission, its staff and programs, guidelines and application forms for prospective applicants, information about funded projects, work of the Council of State Historical Records Coordinators, links to archives and documentary editing projects, and copies of publications.

Some may find of particular interest the Executive Summary of the Council of State Historical Records Coordinators' recently completed report *Maintaining State Records in an Era of Change: A National Challenge*.

Comments and questions about the site may be directed to Commission staff member Laurie A. Baty on e-mail at laurie.baty@arch1.nara.gov

In other NHPRC news, the following product from NHPRC-supported documentary editing projects has been received in the Commission office: *Documentary History of the First Federal Congress of the United States of America, Vol. 14: Debates in the House of Representatives, Third Session, December 1790-March 1791 Biographies of Members*, (The Johns Hopkins University, 1995).

UK 1689 Bill of Rights Now Online

(November 18, 1996) The World Wide Legal Information Association announces today the opening of the full, verbatim 1689 English Bill of Rights online. The Bill of Rights, which can be found at <http://www.islandnet.com/~wwlia/uk-billr.htm>, joins the Declaration of Independence as two significant historical legal documents now available on the WWLIA system. Both documents are referred to in the History of the Law section of the WWLIA site (<http://www.islandnet.com/~wwlia/hist.htm>).

The WWLIA is a non-profit organization dedicated to making legal information available to the world, via the Internet. All material on the WWLIA site has been authored by lawyers.

For more information, please e-mail the WWLIA at wwlia@islandnet.com or visit the main WWLIA page at <http://www.islandnet.com/~wwlia/wwlia.htm>.

Library of Congress Expands Access to Internet

The Library of Congress has increased the number of public access terminals in its reading rooms that provide free access to the Internet.

In five reading rooms and the Computer Catalog Center, the Library now provides unlimited access to the Internet for all those permitted to do research in the Library.

The initial 10 stations in six locations represent the first phase of this effort. The reading rooms are Prints and Photographs in the Madison Building; Hispanic, Local History and Genealogy and Main Reading Room in the Jefferson Building; and Science in the Adams Building. The Computer Catalog Center is in the Jefferson Building. These have been added to augment the public access workstation made available in the Madison Building's Newspaper and Current Periodicals Reading Room in 1993.

The Library has had a direct Internet connection for more than six years and has been providing Internet services for more than four years to researchers outside the institution: In 1992 an anonymous FTP site was established, and several e-mail discussion groups were created. In 1993, the Library created a Gopher service called LC MARVEL. That year also marked the release of LOCIS over the Internet. LOCIS (Library of Congress Information System) has been widely available on site for research since 1977; it comprises the complete on-line catalog and many other files, including files for copyright information, federal legislation, science bibliographies, records for materials for those

including files for copyright information, federal registration, science bibliographies, records for materials for those unable to read standard print, and selected legal citations and articles from some foreign countries. In 1994 the Library began its National Digital Library Program, whose initiatives are available on the World Wide Web at <http://www.loc.gov/>. Among its offerings are the American Memory historical collections and THOMAS, a congressional information service.

Although LOCIS has been available for many years to researchers in the Library's reading rooms, technical and other constraints, such as legal issues, prevented the provision of widespread access to the Library's other electronic services.

LCMARVEL, LC Web and the anonymous FTP site provide not only access to a wealth of information about the Library of Congress and its activities, but also to digital collections, various ways to search the Library's on-line catalog and links to numerous sites elsewhere on the Internet.

Addresses for other on-line initiatives are: LOCIS: <telnet://locis.loc.gov> or tn3270://locis.loc.gov LCMARVEL: <gopher://marvel.loc.gov>
Anonymous FTP: <ftp://ftp.loc.gov>

These services can also be reached through the main home page at <http://www.loc.gov/>

NDLF Constituted as Charter Organization,

Adopts Three Point Agenda

August 15, 1996. The National Digital Library Federation (NDLF) has been constituted as a charter organization and has identified three areas for its immediate attention to help a wide spectrum of libraries provide readers with access to new bodies of digital resources. The areas, recommended by the NDLF Planning Task Force, are: (1) the discovery and retrieval of digital information, (2) intellectual property rights management and economic models for the provision of digital information, and (3) the archiving of digital information.

The decision to adopt the agenda and proceed as a charter group was made by the NDLF Policy Board, composed of the directors of the participants, at a meeting June 19, 1996, in Atlanta. The NDLF participants include 12 university libraries, The Library of Congress, the National Archives and Records Administration, The New York Public Library, and the Commission on Preservation and Access.

The NDLF Planning Task Force put forward the agenda based on a year of studying the prerequisites for building a coherent network of scholarly information resources and services from the broadest possible set of individually designed and developed projects. The work of the task force has been supported in large part by a planning grant from the IBM Corporation.

In the area of discovery and retrieval, the task force concluded that the heterogeneity of the information available in digital form – different data structures, search engines, vocabularies for access – significantly challenges users in their ability to identify and retrieve needed resources. It has charted a multi-step course of action to lower the barriers to access for digital materials and to provide cross-collection search capability.

In the area of intellectual property rights and economic models, the task force found that most of the technical requirements for the management of intellectual property rights are now, or will shortly become, available. Therefore, it recommended that the federation concentrate on putting in place a clear and articulate policy to regulate rights relationships among federation institutions. Such a policy would have the effect of organizing common access to digital objects and creating incentives for institutions to make digital objects they hold readily accessible via the federation infrastructure.

Finally, the task force stated that the greatest test of adherence to the goal of creating a national digital library very likely is a commitment to preserve culturally significant digital information as a part of the national heritage. In the area of archiving of digital information, it suggested that the federation should foster and facilitate a commitment to digital archiving among participants.

The NDLF evolved into a federated organization after several years of exploration, research and development. Such a consortium was first discussed among a group of university libraries known as the LaGuardia Eight in 1990. Most of the current federation participants conducted projects under contract to the Commission on Preservation and Access, with the work progressing cumulatively.

The federation anticipates that its agenda will provide a framework for broad participation in actual digital library projects. The agenda includes such necessary common elements as:

- *the need for focused initial investment in technology R&D;
- *dialogue among libraries, archives, museums, government

agencies, and major technology vendors to determine standards and best practices;

*demonstration and prototype projects to define and solve problems before large-scale implementation; and most importantly

*learning how to enable different kinds of institutions with different kinds of collections to create digital library information resources that are genuinely useful for education and research because they are consistent, coherent, and high quality.

To advance the federation agenda, participants are providing institutional staff time and travel and annual financial contributions to support a program officer and research associate to work exclusively on NDLF matters. The staff will be centered at the Commission on Preservation and Access, which is affiliated with the Council on Library Resources. The plan provides for some research and demonstration activities, as well as a comprehensive communications program that promotes collaboration among participants and informs the broader library, archival and higher education communities.

For more information, contact Deanna B. Marcum, President of the Commission on Preservation and Access, 1400 16th Street, NW, Suite 715, Washington DC 20036.

NEWS NOTES

New Visiting Professorship at Wofford College

The Wofford History Department announces the establishment of the Lewis Pinckney Jones Visiting Professorship to begin in the academic year 1996-97. The professorship will bring to the Wofford College campus a distinguished historian for a residency of one semester each academic year. Professors will teach one course, give two public lectures, and be available for various activities with history majors and the general college community. Prof. Dewey W. Grantham, Professor Emeritus at Vanderbilt University, will be the first Lewis P. Jones Visiting Professor for the Spring semester of 1997.

New OAH/ASLH Ad Hoc Committee on Access to Lawyers' Files

The following is the text of a letter from Linda Kerber, President of the OAH to Ray Solomon, Dean, Northwestern University School of Law.

July 31, 1996

Dear Ray:

I am writing to confirm that you will co-chair on a newly established Joint Organization of American Historians/American Society for Legal History Ad Hoc Committee on Access to Lawyers' Files.

As you know, in one form or another, the ASLH and the OAH have been working on these matters for a very long time. Twelve years ago the ASLH committee took up the issue. In 1991 the Executive Board of the OAH formed the Ad Hoc Committee on Access to Lawyers' Files. It directed the committee to report on and make recommendations regarding the problems that historians and other scholars and researchers face in gaining access to the files of lawyers and law firms. The committee last met in Washington, DC during the OAH Annual Meeting in April, 1995, and proposed to the Executive Board the formation of a National Task Force on Access to Lawyers' Files. The OAH Executive Board determined that it was unable to fund the large enterprise which the committee had envisioned. In January, 1996, the Chair of the committee, Natalie Hull, resigned for health reasons.

You also know that the American Society for Legal History also sustains a Committee on Documentary Preservation, whose charge includes responsibilities which are similar to those of the OAH Committee. Many of its members are

also members of the OAH; indeed, most of the membersnt face="Arial" size="2">In consultation with Professor Paul Murphy, President of the ASLH, and Professor Mike Churgin, who chairs the ASLH Committee on Documentary Preservation, we are establishing a new Joint OAH/ASLH Ad Hoc Committee on Access to Lawyers' Files. I am delighted that you will serve as co-chair for the OAH, along with Mike Churgin of the University of Texas for the ASLH.

The OAH representatives are Paul Finkleman, Maeva Marcus, and Stan Katz; all are simultaneously members of the ASLH. The ASLH will ask Harold Hyman, Mary Dudziak, and Michael McReynolds of NARA -- also members of the OAH -- to serve on the Joint Committee. Professor Gerda Ray, who chairs the OAH Committee on Research and Access to Historical Documentation, will serve on the Joint Committee ex officio.

The Joint Committee structure maximizes energy and avoids duplication. I look forward to working with you all as this important project proceeds.

ASLH Newsletter, part 7 of 11

LAW AND SOCIAL INQUIRY Paper Competition

The editors of LAW AND SOCIAL INQUIRY are pleased to announce a competition for the best journal-length paper in the field of sociolegal studies written by a graduate student. The winning paper will be published in LAW AND SOCIAL INQUIRY, and the author will receive a cash prize of \$500. Submissions will be judged by the editorial board, and the winning submission will be internally reviewed for publication. The author must be a graduate student or law student at the time of submission. Entries should be received by March 1, 1997. The winner will be announced by May 1. LAW AND SOCIAL INQUIRY publishes both empirical and theoretical studies of sociolegal processes from a variety of disciplinary perspectives.

Please send your best work to:

The Editors, LAW AND SOCIAL INQUIRY,
American Bar Foundation,
750 N. Lake Shore Drive,
Chicago, IL 60611.

For further information send e-mail to lsi-abf@nwu.edu or call (312) 988-6559.

American Council of Learned Societies

The American Council of Learned Societies is a private, nonprofit federation of 58 national scholarly organizations in the humanities and social sciences and the maintenance and strengthening of relations among the national societies devoted to such studies.

Through its various activities, ACLS draws together learned societies and affiliates for consideration of shared concerns, particularly those related to maintaining and improving conditions for scholarship, learned society activities with regard to teaching and learning, and the transition in the scholarly world to publishing and communication in electronic form.

The Council directly supports humanistic scholarship through sponsorship of fellowship competitions, international exchange programs, conferences, and the creation of scholarly reference works and resources. It sponsors a general fellowship competition which annually awards more than one million dollars to post-doctoral scholars. It also sponsors the Luce/ACLS Dissertation Program in American Art History. With the Social Science Research Council, it jointly sponsors programs related to international and foreign area studies. Through its American Studies Program, through a special Vietnam Fulbright Program, and through co-sponsorship of the Council for International Exchange of Scholars and the Committee on Scholarly Communication with China, ACLS serves as a channel for conducting academic exchanges

- including the Fulbright Scholar (Faculty) Program. Its publishing projects have resulted in standard reference works such as the Dictionary of Scientific Biography, the Dictionary of the Middle Ages, and the Dictionary of American Biography. A new work, the American National Biography, will appear in 1998.

Each member society elects a Delegate, who is its representative. The Delegates meet annually to elect a 15-member Board of Directors which sets policies, administers funds, and reports on all decisions to the constituent

societies. The principal staff members of the constituent societies comprise the Conference of Administrative Officers (CAO), which meets in the fall and again in the spring at the Annual Meeting. The ACLS is supported by income from an endowment, dues from constituent societies, subscriptions from associates and affiliates, royalties from the scholarly reference works it publishes, private and public grants, government contracts, and private gifts.

Both at home and abroad, the Council represents and speaks in support of the humanities and social sciences. As an advocate for the humanities, ACLS has broadened support for humanistic study in the United States. In 1962, R.M. Lumiansky, then chairman of the ACLS Board of Directors, proposed the creation of the National Endowment for the Humanities (NEH) and led the movement toward its establishment in 1965. ACLS is a member of the Union Academique Internationale, the Conference Board of Associated Research Councils, and the National Humanities Alliance. It is also an observer at meetings of the Humanities Subcommittee of the European Science Foundation. The Council communicates broadly with the world of the humanities through a Newsletter, a series of Occasional Papers, and a World Wide Web site (<http://www.acls.org>).

ACLS Constituent Societies

African Studies Association, 1957
 American Academy of Arts and Sciences, 1780 American Academy of Religion, 1909
 American Anthropological Association, 1902 American Antiquarian Society, 1812
 American Association for the Advancement of Slavic Studies, 1948 American Comparative Literature Association, 1960 American Dialect Society, 1889
 American Economic Association, 1885
 American Folklore Society, 1888
 American Historical Association, 1884
 American Musicological Society, 1934
 American Numismatic Society, 1858
 American Oriental Society, 1842
 American Philosophical Association, 1900 American Philosophical Society, 1743
 American Philological Association, 1869 American Political Science Association, 1903 American Psychological Association, 1892 American Society for Aesthetics, 1942
 American Society for Eighteenth-Century Studies, 1969 American Society for Legal History, 1956 American Society for Theatre Research, 1956 American Society of Comparative Law, 1951 American Society of International Law, 1906
 American Sociological Association, 1905 American Studies Association, 1950
 Archaeological Institute of America, 1879 Association for Asian Studies, 1941
 Association for Jewish Studies, 1969
 Association for the Advancement of Baltic Studies, 1968 Association of American Geographers, 1904 Association of American Law Schools, 1900 Bibliographical Society of America, 1904 College Art Association, 1912
 College Forum, NCTE, 1911
 Dictionary Society of North America, 1975 Economic History Association, 1940
 German Studies Association, 1976
 Hispanic Society of America, 1904
 History of Science Society, 1924
 Latin American Studies Association, 1966 Linguistic Society of America, 1924
 Medieval Academy of America, 1925
 Metaphysical Society of America, 1950
 Middle East Studies Association of North America, 1966 Modern Language Association of America, 1883
 Organization of American Historians, 1907 Renaissance Society of America, 1954
 Sixteenth Century Studies Conference, 1970 Society for Cinema Studies, 1959
 Society for Ethnomusicology, 1955
 Society for French Historical Studies, 1956 Society for the History of Technology, 1958 Society of Architectural Historians, 1940 Society of Biblical Literature, 1880
 Society of Dance History Scholars, 1979 Sonneck Society for American Music, 1983

At its October 18-19 meeting, the Board of Directors of the American Council of Learned Societies discussed issues of academic freedom and tenure. The discussion was prompted by the changes in regulations concerning tenure proposed by the Board of Regents of the University of Minnesota. At the conclusion of the discussion, the ACLS Board unanimously approved the following Resolution.

In common with so many other teachers and scholars across the country, the members of the Board of Directors of the American Council of Learned Societies (ACLS) have been following with dismay the direction taken by the current initiative to revise the University of Minnesota's Regulations concerning Faculty Tenure.

The American Council of Learned Societies is a private, nonprofit federation of national scholarly organizations in the humanities and social sciences whose purpose is "the advancement of humanistic studies in all fields of learning and the maintenance and strengthening of relations among national societies devoted to such studies."

The concept of tenure evolved in response to the perceived need to protect the intellectual freedom of professors in the classroom in their writing and thinking. That need still exists. Thinkers have to think. Without the liberty to pursue the byways of knowledge, they cannot make intellectual discoveries; they cannot advance learning.

In 1963, and in pursuit of that principle, ACLS endorsed the 1940 "Statement of Principles and Academic Freedom and Tenure" which had been developed jointly by the American Association of University Professors (AAUP) and the Association of the American Colleges. We continue to believe that this statement, and related documents ("Statement on Procedural Standards in Faculty Dismissal Proceedings" and "Recommended Institutional Regulations on Academic Freedom and Tenure") set the standard for the best practice in the formulation of regulations concerning academic freedom and tenure.

We strongly urge the Board of Regents of the University of Minnesota to hold to that standard and to refrain from adopting the proposed revisions in their current defective form. Several of them clearly violate the AAUP's long-standing policies and run counter to sound and widely accepted personnel practices.

We firmly believe that the University of Minnesota would be exceedingly ill-served by so unfortunate a departure from those time-tested policies and practices.

Woodrow Wilson International Center for Scholars

Annual Report, 1994-95: Fellows and Guest Scholars

Fellows include:

Judith A. BAER, Texas A&M University, Political Science: Our Lives before the Law: Constructing a Woman-centered Jurisprudence

James A. HENRETTA, University of Maryland at College Park, Priscilla Alden Burke Professor of American History: Law and the Liberal State in America, 1800-1940

Guest Scholars include:

Juan WILLIAMS, Correspondent, Washington Post, Washington, D.C.: A Biography of Thurgood Marshall

Kennan Regional Exchange Scholars include:

Natalia Pavlovna Soyunen, Juridicial Department, Legislative Assembly of the Republic of Karelia, Russia: Judicial Reform in Russia

AJHA Call For Papers

Annual Convention: October 16-18, 1997, Mobile, Alabama

The American Journalism Historians Association invites paper entries, panel proposals and abstracts of work in progress on any facet of media history, including electronic media and film, advertising and public relations. Among topic areas in which papers are invited is Southern Journalism. Because the AJHA aims to present original material at its conventions, research papers and panels submitted to the convention should not have been submitted to or accepted by another local, regional or national conference, convention or publication.

Research entries should be completed papers not exceeding 25 typewritten double-spaced pages, including references. Although use of the Chicago Manual of Style is recommended, it is not required. Four copies of each paper should be submitted as well as a stamped, self-addressed postcard for notification of receipt. Each paper should include a cover sheet indicating the paper's title, the author's name and address, and the author's institutional affiliation as well as the author's position at that institution, and four single-page abstracts. Only the title should

appear on the paper and the abstract; the author's name should appear only on the cover page.

Authors of accepted papers are expected to attend the convention and must register for the convention to present their research. Authors should bring 25 copies of their papers to distribute at the conference. Awards for outstanding research include: the Robert Lance Award for the best student paper; the William Snorgrass Award for the best research paper on minority journalism; the Best Research Paper; and awards for the top three research papers.

Panel proposals should include a brief description of the topic, the names of the moderator and participants, and a brief summary of each participant's presentation. The topic of the panels as well as the content of the individual presentations should not have been submitted or presented elsewhere. Panel participants are expected to attend the conference and must register to make their presentations.

Research in progress should be submitted in abstract form (no more than 350 words, two copies) and should focus on significant research under way. Oral presentations of research in progress will be limited to five minutes and will be accomplished by a paper of three to five pages in length (excluding bibliography) for distribution at the meeting.

Send Research Papers to: Prof. Patrick S. Washburn, School of Journalism, Ohio University, Athens, OH 45701.
Send Panel Proposals to: Prof. Tracy Gottlieb, Dept. of Communication, Seton Hall University, South Orange, NJ 07079. Send Research in Progress to: Prof. Eugenia Palmegiano, History Dept., St. Peter's College, Jersey City, NJ 07306.

ASLH Newsletter, part 8 of 11

News from the Institute of International Education

RICHARD M. KRASNO, President and CEO of IIE, reports:

The U.S. Information Agency (USIA) has approved the Institute of International Education's proposal to enter into an administrative affiliation with the Council for the International Exchange of Scholars (CIES). Through this new affiliation, effective January 1, 1997, IIE will provide administrative oversight of CIES, which manages the Fulbright Senior Scholar Program under a grant from USIA. The existing administrative affiliation between CIES and the American Council of Learned Societies will continue through December 31, 1996.

The Fulbright Senior Scholar Program sends approximately 800 American academics to more than 125 countries annually. Scholars lecture and conduct research for up to one year in a variety of academic and professional fields. In 1996-97 these fields range from journalism and urban planning to business administration, philosophy and American studies. An equal number of foreign visiting academics are also placed in U.S. colleges and universities to teach or carry out research. The Fulbright Program is funded by contributions from the U.S. Government, foreign governments and private sector institutions in the U.S. and overseas.

The new CIES/IIE affiliation will provide important opportunities to streamline administration, develop program synergies, and reduce costs. It does not signify a definitive merger of Fulbright Programs. There will continue to be a Fulbright Senior Scholar Program and a Fulbright Student Program, each responsive to different constituencies and individual country requirements. CIES will retain its identity within IIE. Its close working relationships with its academic constituencies will not change, and it will continue to work with the Conference Board and the existing CIES Advisory Board. Contact persons and numbers/addresses are unchanged.

IIE is proud to have been asked by USIA to assume these new responsibilities and pledges to bring to the Fulbright Senior Scholar Program the same administrative excellence, dedication, advocacy, and fundraising support that for over 50 years it has provided to Fulbright student, young professional, and mid-career professional exchanges.

OAH Annual Meeting

The Organization of American Historians will hold their annual meeting in 1998 (April 2-5) in Indianapolis, Indiana. In keeping with the scholarly interests of the 1998 President, George Fredrickson, the theme of the meeting is "Boundaries." The call for papers can be found on the OAH web page at <http://www.indiana.edu/~oah>

Thirteenth British Legal History Conference (1997)

The Thirteenth biennial meeting of the British Legal History Conference will be held this summer, July 2-5, 1997, in

The thirteenth biannual meeting of the British Legal History Conference will be held this summer, July 2-5, 1997, in Trinity Hall Cambridge and Cambridge University's Sidgwick law buildings. Organized around the theme "Learning the Law -- Legal Education and the Transmission of Legal Knowledge," the conference will feature some 45 papers, ranging in time from medieval to early twentieth century. Areas to be explored include texts and teaching, formal teaching in law faculties and the Inns of Court, apprenticeship and pupillage, the transmission of legal knowledge by lesser officials and laity, learning in pluralistic legal systems, informal and non-institutional learning, and common law learning and teaching overseas. Most papers focus on British topics, but a number address colonial, American, or commonwealth issues. Confirmed speakers include J.H. Baker, Paul Brand, James Brundage, Richard Helmholz, James Oldham, Wilfred Prest, Alan Watson, and others.

Further information (provisional program and registration material) will be sent next month (March '97) to all persons who received last year's BLHC Call for Papers, including all members of the ASLH. Persons who were not contacted last year or who need to make their plans before March should feel free to contact either of the conference co-organizers at the addresses given below, as should persons desiring general information about the BLHC conference series:

Prof. Jonathan Bush, c/o Research Institute, US Holocaust Memorial Museum, 100 Raoul Wallenberg Pl. SW, Washington DC 20024-2150, fax: 202-479-9726, e-mail: jbush@ushmm.org

Prof. Alain Wijffels, Rijks Universiteit, Juridisch Studiecentrum Gravensteen, B-1348 Leiden, Netherlands, fax: 31-71-5277444.

MONEY AVAILABLE

Library Seeks Applications for New Mellon Foreign Area Fellowship

Research Awards

The Andrew W. Mellon Foundation has awarded the Library of Congress \$330,000 to enable it to seek applications for the Mellon Foreign Area Fellowship research awards, aimed at U.S. citizens with Ph.D. degrees who are interested in pursuing research in the Library's unrivaled foreign-language and area studies collections. The Mellon Foundation grant finances three years of competition for the fellowships.

In addition to the requirements of U.S. citizenship and possession of a doctoral degree, the awards are for scholars who are proposing or working on a second major research project with a focus on foreign-language materials. The fellowships will last from five to eleven months and can begin no sooner than Aug. 1, 1997. Stipends of \$3,000 per month, up to a maximum of \$33,000 for 11 months, will be awarded and may be used to extend the research period supported by other funds.

"These fellowships for younger scholars will play a major role in sustaining our understanding of other cultures at a critical time," said Director of Scholarly Programs Prosser Gifford. "They also make possible the arrival of fellows when we can provide new scholarly facilities in the Jefferson Building." The Office of Scholarly Programs will administer the program and ensure that fellows have opportunities to meet other scholars with experience in the relevant language areas and disciplines.

The Library of Congress is already committed to working with foreign scholars pursuing research in the collections through its Congressional Research Service and Law Library as well as through support from the Soros, Korea and Thatcher Foundations.

Selection for the fellowships will be made by a five-member committee including at least three outside members appointed by the Librarian of Congress and chaired by the Director of Scholarly Programs. Mellon Foreign Area Fellows will be brought together once every other month to discuss work in progress, research strategies, and findings.

Fellows are expected to reside in the greater Washington area during the course of their research and to devote full time to their projects. They will have access to special research facilities at the Library of Congress.

The application deadline is March 15, 1997. Forms may be obtained from the Office of Scholarly Programs, Library of Congress, 101 Independence Ave., S.E., Washington DC 20540-4860; telephone (202) 707-1517; fax (202) 707-3595; e-mail: pgif@loc.gov

Applications may be submitted by mail, fax or e-mail. Additional information will be available at the Library's home page at <http://www.loc.gov/>

Two MLA Awards Open

1995-96 Morton N. Cohen Award

Open to Members and Nonmembers of the Association

The Committee on Honors and Awards of the Modern Language Association invites editors to compete for the fourth Morton N. Cohen Award for a Distinguished Edition of Letters. The award was established in 1989 by a gift from Morton N. Cohen, professor emeritus of English at the City University of New York. The award is presented each odd-numbered year. For the current award the committee solicits entries of important collections of letters published in 1995 or 1996. A multivolume edition is eligible if at least one volume has been published during that period. Editors can apply regardless of the fields they and the authors of the letters represent, and membership in the MLA is not required.

Under the terms of the award, the winning collection will be one that provides readers with a clear, accurate, and readable text; necessary background information; and succinct and eloquent introductory material and annotations. The edited collection should be in itself a work of literature. The 1995-96 Morton N. Cohen Award, which consists of a check for \$1,000 and a certificate, will be presented to the winning editor at the association's annual convention in December 1997.

To enter an edition into competition, send four copies of each eligible volume to the Morton N. Cohen Award, Modern Language Association, 10 Astor Place, New York, NY 10003-6981. Entries will be accepted until May 1, 1997. No book or edition may compete for more than one MLA prize, but a multivolume edition that competed for the Cohen Award in a prior year may compete again if a new volume was published during the award period. For further information, write or call Richard Brod, Director of Special Projects, Modern Language Association (212 614-6406; awards@mla.org).

1995-96 MLA Prize for a Distinguished Scholarly Edition

Open to Members and Nonmembers of the Association

The Committee on Honors and Awards of the Modern Language Association invites editors to compete for the second MLA Prize for a Distinguished Scholarly Edition. The award was established in 1994. It is presented each odd-numbered year. For the current award, the committee solicits submissions of editions published in 1995 or 1996. A multivolume edition is eligible if at least one volume has been published during that period. The prize will be given without regard to the field or language either of the editor or of the text presented in the edition. The editor need not be a member of the MLA.

To qualify for the award, an edition should be based on an examination of all available relevant textual sources; the source texts and the edited text's deviations from them should be fully described; the edition should employ editorial principles appropriate to the materials edited, and those principles should be clearly articulated in the volume; the text should be accompanied by appropriate textual and other historical contextual information; the edition should exhibit the highest standards of accuracy in the presentation of its text and apparatus; and the text and apparatus should be presented as accessibly and elegantly as possible. The prize, which consists of a check for \$1,000 and a certificate, will be presented to the winning editor at the association's annual convention in December 1997.

To enter an edition into competition, send four copies and a letter identifying the work to the MLA Prize for a Distinguished Scholarly Edition, Modern Language Association, 10 Astor Place, New York, NY 10003-6981. Entries

will be accepted until 1 May 1997. Publishers may enter more than one title, but no book or edition may compete for more than one MLA prize. A multivolume edition that competed in a prior year may compete again if a new volume was published during the later award period. For further information, write or call Richard Brod, Director of Special Projects, Modern Language Association (212 614-6406; awards@mla.org).

MONEY AWARDED

ACI S Fellowship Program. 1995-96 Competition

The American Council of Learned Societies, in a national competition, has awarded fifty-five ACLS Fellowships for postdoctoral research in the humanities and social sciences. >From 536 applicants, awards were made to twenty-nine women and twenty-six men for research periods of a semester to an academic year. Forty-nine of the recipients are affiliated with forty institutions in the United States, one with a university in Canada, and five are independent scholars. The program is partially supported by endowment grants received from the Ford Foundation, the Andrew W. Mellon Foundation, the National Endowment for the Humanities, and the Rockefeller Foundation.

The American Council of Learned Societies, with offices at 228 East 45th St., New York, NY, 10017-3398, is a private, nonprofit federation of fifty-eight scholarly associations devoted to the advancement of humanistic studies in all fields of learning.

Paul D. LOCKHART. Associate Professor of History, Wright State University. "Church and state in Denmark, 1536-1660: Lutheranism and the rise of absolute monarchy."

Robert L. WOODS. Associate Professor of History, Pomona College. "Forging a culture of law and order: the Justices of the Peace in England, 1470-1537."

ASLH Newsletter, part 9 of 10

BIOGRAPHY DATABASE, 1680-1830

The Biography Database has been created upon simple and pragmatic lines for the support of historical, genealogical and social research. It brings together, under especially designed software, sources which are so large as to inhibit comprehensive use unless machine held. The first five annual issues of BD will gather together in one file: All the records of UK and US directories, national, town and trade to 1830; All UK and US book subscription lists to 1830; All birth, marriage, death, promotional and bankruptcy records in the Gentleman's Magazine and similar journals to 1870; and All UK and US society membership lists to 1830. The first CD-ROM contains over 100 directories, over 1500 book subscription lists, records from the Gentleman's Magazine from 1731-1750, plus other material. It holds roughly 900,000 records.

The records are searchable: by name, personal or corporate; by title; by office; by occupation; by address; and by keyword from all these elements of the raw data exactly as offered in the original source. Gender has been added to every personal record so that the relative participation of men and women in any trade or in their choice of reading may be examined. All occupations have also been entered into general categories so that, for example, all concerned in the food and drinks trade may be searched at once, without preparing a list of all the possible job titles. One can also examine an individual source in detail.

PRICE: \$125, including p. & p.

THE NINETEENTH CENTURY SHORT-TITLE CATALOGUE, Series I & II, 18n English, translated from English and works in all languages published in Britain, its colonies and the United States of America held in the British Library, the Bodleian Library, the University Library, Cambridge, the National Library of Scotland, Edinburgh, Trinity College Library, Dublin, the University Library, Newcastle-upon-Tyne, Harvard University Library and the Library of Congress of the period 1801-1870.

The CD holds over 663,000 records and well over 1 million separate editions of books published within the parameters. The records are searchable by author, author epithet, subject(s), Library, the Bodleian Library, the University Library, Cambridge, the National Library of Scotland, Edinburgh, Trinity College Library, Dublin, the

University Library, Newcastle-upon-Tyne, Harvard University Library and the Library of Congress of the period 1801-1870.

The CD holds over 663,000 records and well over 1 million separate editions of books published within the parameters. The records are searchable by author, author epithet, subject(s), title, place of publication, date of imprint, by keyword, by library location and catalogue and by published reference number separately or by any combination of these features.

PRICE: \$165, including p. & p.

ORDERS AND INQUIRIES TO

ORDERS AND INQUIRIES TO:

Avero Publications Ltd., 20, Great North Road, Newcastleupon -Tyne NE2 4PS. Tel: UK 0191-2615790; Fax: UK 0191-2611209; e-mail: nstc@newcastle.ac.uk

Two Approaches to Teaching American Legal History

DREW L. KERSHEN, Earl Sneed Centennial Professor of Law at the University of Oklahoma College of Law, writes:

I have taught American Legal History for eighteen years. I have used many different approaches and books during these eighteen years because I completely change the course every other year. Two approaches that I have never used are as follows: Teach American Legal History through books that discuss a particular case; Teach American Legal History through books that discuss a particular judge or lawyer. Most likely these books are biographies, but not necessarily.

To gain suggestions for cases or biographies, I wrote to the one hundred twenty-six law professors listed in the AALS Directory of Law Teachers as having taught American Legal History for more than six years. I asked each professor to send me a list of five suggested books for each proposed approach. Thirty professors responded. Most professors gave fewer than five suggestions per approach; a few gave more than five. Most responded to one approach; some responded to both. Adding myself to the list, thirty-one responded.

I thank my American Legal History colleagues who responded. (Many responded with very warm and informative letters about their courses and pedagogy.) Many also stated that they would be interested in learning the results of my query. Others who teach American Legal History may also have an interest in a compilation of the suggested books.

I have now compiled tables which show the number of times a particular book was suggested and bibliographic information about the book. The bibliographic information comes from the 1996 Edition of Books In Print. (I struggled with deciphering the Books in Print information. I hope I deciphered the information correctly.) When two publishers are listed, the first publisher is the original publisher, the second publisher is the publisher from whom the book is currently available.

I provide a table for the course on Judges & Lawyers and a separate table for the course on Cases. Forty-six books are on the list for the Judges & Lawyers course; twenty-nine books are on the list for the Cases course.

ASLH Members who would like a copy of either or both tables should write to Professor Kershen at the University of Oklahoma Law Center, 300 Timberdell Road, Norman, OK 73019-0701; tel: (405) 325-4784; fax: (405) 325-6282.

UNC Press Titles

--SEE ORDER FORM INSERT--

30% Discount and Special Offers

Books in the series Studies in Legal History, coedited by Thomas A. Green and Hendrik Hartog

(Listed alphabetically by title; discount prices in bold) Some quantities may be limited. To order, use tear-out sheet included with this NEWSLETTER and mail to UNC Press.

New! The People's Welfare

Law and Regulation in Nineteenth-Century America by William J. Novak
408 pp., \$55.00 cl \$38.50

An Imperfect Union

Slavery, Federalism, and Comity
by Paul Finkelman
385 pp., \$14.95 pa \$10.47

Custom, Kinship, and Gifts to Saints

The Laudatio Parentum in Western France, 1050-1150 by Stephen D. White
333 pp., \$39.95 cl \$27.97

English Law in the Age of the Black Death, 1348-1381 A Transformation of Governance and Law
by Robert C. Palmer
468 pp., \$49.95 cl \$34.97

Faithful Magistrates and Republican Lawyers Creators of Virginia Legal Culture, 1680-1810 by A. G. Roeber
311 pp., \$37.50 cl \$26.25

Governing the Hearth
Law and the Family in Nineteenth-Century America by Michael Grossberg
Littleton-Griswold Prize in American Law and Society, American Historical Association
436 pp., \$19.95 pa \$13.97

The Invention of Free Labor
The Employment Relation in English and American Law and Culture,

1350-1870
by Robert J. Steinfeld
286 pp., \$14.95 cl \$10.47

Laboratories of Virtue
Punishment, Revolution, and Authority in Philadelphia, 1760-1835 by Michael Meranze
352 pp., 2277-9 \$45.00 cl \$31.50
Published for the Institute of Early American History and Culture, Williamsburg, Virginia

Law, Land, and Family
Aristocratic Inheritance in England, 1300 to 1800 by Eileen Spring
Choice Outstanding Academic Book
212 pp., \$29.95 cl \$20.97

Laws Harsh as Tigers
Chinese Immigrants and the Shaping of Modern Immigration Law by Lucy E. Salyer
360 pp., \$45.00 cl \$31.50; \$17.95 pa \$12.57

The Mansfield Manuscripts and the Growth of English Law in the

Eighteenth Century
by James Oldham
In Two Volumes
1,734 pp., \$150.00 cl Special Price \$55.00

The Mansfield Manuscripts and the Growth of English Law in the

Eighteenth Century
by James Oldham
In Two Volumes
1,734 pp., \$150.00 cl Special Price \$55.00

Protecting the Best Men
An Interpretive History of the Law of Libel by Norman L. Rosenberg
380 pp., \$39.95 cl \$27.97; \$16.95 pa \$11.87

Public Property and Private Power
The Corporation of the City of New York in American Law,

1730-1870
by Hendrik Hartog
285 pp., \$37.50 cl \$26.25

Reconstructing the Household
Families, Sex, and the Law in the Nineteenth-Century South by Peter W. Bardaglio

Families, Sex, and the Law in the Nineteenth-Century South by Peter W. Baskagin
384 pp., \$45.00 cl \$31.50

The Roots of Justice

Crime and Punishment in Alameda County, California, 1870-1910 by Lawrence M. Friedman and Robert V. Percival
James Willard Hurst Prize in American Legal History, Law and Society Association
Robert G. Athearn Award, Western History Association 351 pp., \$37.50 cl \$26.25

The Right to be King

The Succession to the Crown of England, 1603-1714 by Howard Nenner
356 pp., \$39.95 cl \$27.97
For sale in the United States and its dependencies, Canada, and Philippines only

Shaping the Eighteenth Amendment

Temperance Reform, Legal Culture, and the Polity, 1880-1920 by Richard F. Hamm
352 pp., \$49.95 cl \$34.97; \$18.95 pa \$13.27

Sir Edward Coke and "The Grievances of the Commonwealth,"

1621-1628

by Stephen D. White
342 pp., \$39.95 cl \$27.97
For sale in the United States, its dependencies, and Canada only

Southern Slavery and the Law, 1619-1860 by Thomas D. Morris

608 pp., \$49.95 cl \$34.97
A Selection of the History Book Club

Transfers of Property in Eleventh-Century Norman Law by Emily Zack Tabuteau

455 pp., \$65.00 cl \$45.50

The Transformation of Criminal Justice

Philadelphia, 1800-1880
by Allen Steinberg
Littleton-Griswold Prize, American Historical Association Choice Outstanding Academic Book
350 pp., \$17.95 cl \$12.57

Women and the Law of Property in Early America by Marylynn Salmon

285 pp., \$32.50 cl \$22.75; \$14.95 pa \$10.47

The editors welcome submission of manuscripts for consideration by the Series. Please send to: Prof. Thomas A. Green/342 Hutchins Hall/University of Michigan/Ann Arbor MI 48109-1215; and to: Prof. Hendrik Hartog/Dept. of

History/129 Dickinson Hall/ Princeton University/Princeton NJ 08544-1017.

30% Discount

UNC Press Titles of Related Interest
(Listed alphabetically by title; discount prices in bold)

Beyond Confederation

Origins of the Constitution and American National Identity Edited by Richard Beeman, Stephen Botein, and Edward C. Carter II 376 pp., \$32.50 cl \$22.75; \$11.95 pa \$8.37

Black Votes Count

Political Empowerment in Mississippi after 1965 by Frank R. Parker
Foreword by Eddie N. Williams
McLemore Prize, Mississippi Historical Society; Silver Gavel Award, American Bar Association; Ralph J. Bunche Prize, American Political Science Association; V.O. Key, Jr. Award, Southern Political Science Association; Outstanding Book Award, Gustavus Myers Center for the Study of Human Rights in the United States 272 pp., \$34.95 cl \$24.47; \$14.95 pa \$10.47

Contested Culture

The Image, the Voice, and the Law

by Jane M. Gaines

Foreword by Alan Trachtenberg

Katherine Singer Kovacs Book Prize in Film, TV and Video Studies, Quarterly Review of Film and Video

360 pp., \$45.00 cl \$31.50; \$15.95 pa \$11.17 Cultural Studies of the United States

Not for sale in the British Commonwealth except Canada or in Europe

Delinquent Daughters

Protecting and Policing Adolescent Female Sexuality in the United States, 1885-1920

by Mary E. Odem

President's Book Award, Social Science History Association 288 pp., \$39.95 cl \$27.97; \$14.95 pa \$10.47 Gender and American Culture

ASLH Newsletter, part 10 of 11**The Establishment Clause**

Religion and the First Amendment

by Leonard W. Levy

Second Edition, Revised

300 pp., \$34.95 cl \$24.47; \$14.95 pa \$10.47

The First American Constitutions

Republican Ideology and the Making of the State Constitutions in the Revolutionary Era

by Willi Paul Adams

Translated by Rita and Robert Kimber,

Foreword by Richard B. Morris

Bicentennial Prize, American Historical Association 369 pp., \$45.00 cl \$31.50

Published for the Institute of Early American History and Culture, Williamsburg, Virginia

Lands, Laws, and Gods

Magistrates and Ceremony in the Regulation of Public Lands in Republican Rome

by Daniel J. Gargola

280 pp., \$39.95 cl \$27.97

Studies in the History of Greece and Rome

The Law's Conscience

Equitable Constitutionalism in America

by Peter Charles Hoffer

Choice Outstanding Academic Book

316 pp., \$34.95 cl \$24.47; \$13.95 pa \$9.77 Thornton H. Brooks Series in American Law and Society

A License To Steal

The Forfeiture of Property

by Leonard W. Levy

288 pp., \$29.95 cl \$20.97

The Limits of Judicial Power

The Supreme Court in American Politics

by William Lasser

365 pp., \$37.50 cl \$26.25

New!

Moonlight, Magnolias, and Madness

Insanity in South Carolina from the Colonial Period to the Progressive Era

by Peter McCandless

424 pp., 2251-5 \$55.00 cl \$38.50; 4558-2 \$19.95 pa \$13.97

The NAACP's Legal Strategy against Segregated Education, 1925-1950

by Mark V. Tushnet

Littleton-Griswold Prize in American Law and Society, American Historical Association

238 pp., \$12.95 pa \$9.07

The North Carolina State Constitution, with History and Commentary
by John V. Orth
With a Foreword to the Paperback Edition 212 pp., \$21.95 pa \$15.37

Property Rights and Poverty
Political Argument in Britain, 1605-1834 by Thomas A. Horne
296 pp., \$37.50 cl \$26.25

New!

Race and the Shaping of Twentieth-Century Atlanta by Ronald H. Bayor
350 pp., 2270-1 \$29.95 cl \$20.97
Fred W. Morrison Series in Southern Studies

Reading, Writing, and Race
The Desegregation of the Charlotte Schools by Davison M. Douglas
374 pp., \$39.95 cl \$27.97; \$15.95 pa \$11.17

The Supreme Court and Legal Change
Abortion and the Death Penalty
by Lee Epstein and Joseph F. Kobylka
436 pp., \$45.00 cl \$31.50; \$18.95 pa \$13.27 Thornton H. Brooks Series in American Law and Society

New!

Who Controls Public Lands?
Mining, Forestry, and Grazing Policies 1870-1990 by Christopher McGrory Klyza
224 pp., 2264-7 \$34.95 cl \$24.47; 4567-1 \$14.95 pa \$10.47

Women before the Bar
Gender, Law, and Society in Connecticut, 1639-1789 by Comelia Hughes Dayton
400 pp., \$49.95 cl \$34.97; \$18.95 pa \$13.27 Published for the Institute of Early American History and Culture,
Williamsburg, Virginia

Women, Crime, and the Courts in Early Modern England Edited by Jenny Kermode and Garthine Walker 224 pp.,
\$39.95 cl \$27.97; \$17.95 pa \$12.57 For sale in the United States and its dependencies only

Women and Law in Classical Greece
by Raphael Sealey
214 pp., \$29.95 cl \$20.97; \$12.95 pa \$9.07

LAW IN HISTORY: HISTORIES OF LAW AND SOCIETY

**EDITED BY DAVID SUGARMAN, (PROFESSOR OF LAW AND DIRECTOR, LAW IN HISTORY PROGRAMME,
LANCASTER UNIVERSITY, ENGLAND)**

**PUBLISHED BY: NEW YORK UNIVERSITY PRESS, NEW YORK, USA; AND DARTMOUTH PUBLISHING,
ALDERSHOT, SINGAPORE AND SYDNEY. 1996**

TWO VOLUMES. ISBN: 1 85521 403 2

This anthology brings together a wide range of insightful, representative and seminal essays to illuminate the history of law and society and some of the major contemporary approaches to the writing of those histories. The anthology illustrates some of the new and important sets of topics and questions, and the melting pot of influences, that increasingly characterize this interdisciplinary field of studies. With respect to those working on or interested in the history of law and society, I hope that the collection will enhance their appreciation of the choices in subject-matter and methodology that are at their disposal. I also hope that it will demonstrate the potential of the history of law and society to enrich more traditional legal history, the increasing sub-fields within the discipline of history as well as cognate areas, such as law, socio-legal studies, law and economics and sociology.

VOLUME ONE (pp. 621)

VOLUME ONE (pp. 65-1)

"Introduction: Histories of Law and Society" and "Beyond this Collection".

Sugarman, David.

Part 1: Law and Society in Pre-industrial England

Vinogradoff, Paul, "Frederic William Maitland", *English Historical Review*, (1907):280-89.

Poos, L. R. & Bonfield, L. "Law and individualism in medieval England." *Social History*, 1 (1986): 287-301.

Holdsworth, W.S. "A Neglected Aspect of the Relations Between Economics and Law." *Economic History Review* 1 (1927): 114-123.

Milsom, S.F.C. "An Old Play in Modern Dress." *Yale Law Journal* 84 (1975): 1585-1590.

Baker, John H. "Two Decades of English Legal History." *Zeitschrift fur Neuere Rechtsgeschichte* 8 (1986): 43-53.

Gordon, R. W. "Tribute: E.P Thompson's Legacies." *Georgetown Law Journal* 82 (1994): 2005-2011.

Part II: Theory and Politics in American Legal History

Gordon, Robert W. "Introduction: J. Willard Hurst and the Common Law Tradition in American Legal Historiography." *Law and Society Review* 10 (1975): 9-55.

Soiffer, Aviam. "Beyond Mirrors: Lawrence Friedman's Moving Pictures." *Law & Society Review* 22 (1988): 995-1016.

Sugarman, David. "Review Essay: M. J. Horwitz, *The Transformation of American Law, 1780-1860*." *British Journal of Law and Society* 7 (1980): 297-310

Gordon, Robert W. "An Exchange on Critical Legal Studies: Letter to William Nelson and Gordon's Response to Nelson." *Law and History Review* 6 (1988): 139-156, 169-183.

Nelson, William. "An Exchange on Critical Legal Studies: Letter to Robert Gordon and Second Reply to Gordon." *Law and History Review* 6 (1988): 157-168, 184-186.

Ernst, Daniel R. "The Critical Tradition in the Writing of American Legal History." *Yale Law Journal* 102 (1993): 1019-1076.

Part III: The New History of Criminal Justice

Hay, D. . "The Criminal Prosecution in England and its Historians." *47 Modern Law Review* (1984): 1-29.

Langbein, J. H. "Albion's Fatal Flaws." *98 Past and Present*, (1983): 96-120.

Linebaugh, Peter. "(Marxist) Social History and (Conservative) Legal History: A Reply to Professor Langbein." *New York University Law Review* 60 (1985): 212-244.

Innes, J. and J. Styles. "The Crime Wave: Recent Writings on Crime and Criminal Justice in 18th Century England" in A. Wilson (ed.), *Rethinking Social History: English Society 1570-1920 and its Interpretation* (Manchester, Manchester University Press, 1993) 201- 265.

Part IV: Writing "Law and Society" Histories: New Directions

Kelley, D. R. "Hermes, Clio, Themis: Historical Interpretation and Legal Hermeneutics." *Journal of Modern History* 55 (1983): 350-367.

Schulze, R, "European Legal History - A New Field of Research in Germany." *Journal of Legal History* 13 (1992) 270-295.

Hedley, S. "Superior Knowledge or Revelation: An Approach to Modern Legal History." 18 *Anglo-American Law Review*, (1989): 177-200.

Friedman, Lawrence M. "Opening the Time Capsule: A Progress Report on Studies of Courts Over Time." *Law & Society Review* 24 (1990): 229-240.

Hoffer, Peter Charles. "Text, Translation, Context, Conversation: Preliminary Notes for Decoding the Deliberations of the Advisory Committee that Wrote the Federal Rules of Civil Procedure." *American Journal of Legal History* 37 (1993): 409-439.

Cornell, S. "Moving Beyond the Canon of Traditional Constitutional History: Anti-Federalists, the Bill of Rights and the Promise of Post-Modern Historiography." *Law and History Review* 12 (1994): 1-28.

D'Cruze, Shani. "Approaching the History of Rape and Sexual Violence: Notes Towards Research." *Women's History Review* 1 (1993): 377-396

Tomlins, Christopher. "How Who Rides Whom. Recent "New" Histories of American Labour Law and What They Signify." *Social History* 20 (1995): 122.

Sugarman, D. "Writing 'Law and Society' Histories." *Modern Law Review* 55 (1992): 292-308.

VOLUME TWO: LAW AND SOCIETY (pp. 658)

Part 1: Law, History and the Construction of National Identity

Christianson, Paul. "Political Thought in Early Stuart England." *Historical Journal* 30 (1987): 955-970.

Helmholz, R. H. "Continental Law and Common Law: Historical Strangers or Companions?" *Duke Law Journal* 6 (1991): 1207-1228.

Murphy, W. T. "The Oldest Social Science? The Epistemic Properties of the Common Law." *Modern Law Review* 54 (1991): 182-215.

Goodrich, Peter. "Poor Illiterate Reason: History, Nationalism and Common Law." *Social and Legal Studies* 1 (1992): 7-28.

Farmer, Lindsay. "'The Genius of our Law...': Criminal Law and the Scottish Legal Tradition." *Modern Law Review* 55 (1992): 25-43.

Part II: Lawyers, Courts and the Cultural Significance of Legal Institutions

Bouwsma, William J. "Lawyers and Early Modern Culture." *American History Review* 78 (1973): 303-327.

Sugarman, David. "Simple Images and Complex Realities: English Lawyers and their Relationship to Business and Politics." *Law and History Review* 11 (1993): 257-301.

Roeber, A. G. "Authority, Law and Custom: the Rituals of Court Day in Tidewater Virginia, 1720 to 1750." *William and Mary Quarterly* 37 (1980): 2952.

Karpik, Lucien. "Lawyers and Politics in France 1814-1950: the State, the Market, and the Public." *Law & Social Inquiry* 13 (1988): 707-736.

Shapiro, Barbara. "The Concept "Fact": Legal Origins and Cultural Diffusion." *Journal of British Studies* 26 (1994): 1-26.

Brogden, Michael. "The Emergence of the Police: the Colonial Dimension." *British Journal of Criminology* 27 (1987): 4-16.

ASLH Newsletter, part 11 of 11

ASLH Newsletter, part 11 of 11

Thompson, E. P. "The Moral Economy of the English Crowd in the Eighteenth Century." *Past and Present* 50 (1971): 76-136.

Sonenscher, Michael. "Journeymen, the Courts and the French Trades 1781-1791." *Past & Present* 114 (1987): 77-97.

Part IV: Gender and the Law

Hunt, Margaret. "Wife Beating, Domesticity and Women's Independence in Eighteenth-Century England." *Gender and History* 4 (1992): 10-33

Erickson, A. L. . "Common Law Versus Common Practice: The Use of Marriage Settlements in Early Modern England." *43 Economic History Review*, (1990): 21-39.

Coombe, Rosemary J. "Contesting the Self: Negotiating Subjectivities in Nineteenth Century Ontario Defamation Trials." *Studies in Law, Politics and Society* 11, (1991): 3-40

Moran, Leslie J. "A Study in the History of Male Sexuality and the Law: Non-Consumation." *1 Law and Critique* (1990): 155-171

Part V: Law and Society

Parker, D. (1 989). "Sovereignty, Absolutism and the Function of the Law in Seventeenth-Century France." *Past & Present* 122: 36- 74.

Danzig, Richard. "Hadley v Baxendale: A Study in the Industrialization of the Law." *Journal of Legal Studies* 4 (1975): 249-284.

Carson, W. G. . "The Conventionalisation of Early Factory Crime. ." *7 International Journal of Sociology of Law*, 7 (1979): 37-60.

John, Michael. "The Peculiarities of the German State: Bourgeois Law and Society in the Imperial Germany." *Past & Present* 119 (1988): 105-131.

Hartog, Hendrick. "Pigs and Positivism." *Wisconsin Law Review* (1985): 899-935.

Recent Publications of Interest

Howard Ball. Hugo L. Black: Cold Steel Warrior. New York: Oxford University Press, 1996.

Marie R. Boes, "Public Appearance and Criminal Judicial Practices in Early Modern Germany," *Social Science History*, 20 (Summer 1996): 259-279.

Charles Bright. *The Powers that Punish: Prison and Politics in the Era of the 'Big House,' 1920-1955*. Ann Arbor: University of Michigan Press, 1996.

Calum Carmichael. *The Spirit of Biblical Law*. Athens: University of Georgia Press, 1996.

Neil H. Cogan (ed.). *The Complete Bill of Rights: The Drafts, Debates, Sources and Origins*. New York: Oxford University Press, 1997.

Norman Doe. *The Legal Framework of the Church of England: A Critical Study in Comparative Context*. Oxford: Oxford University Press, 1996.

Morton Gitelman, "The First Chancery Court in Arkansas," *Arkansas Historical Quarterly*, 55 (Winter 1996): 357-382.

G. Emlen Hall, "The Mismeasure of the Pecos River: Royce Tipton and the 1948 Pecos River Compact," *Western Legal History*, 9 (Winter/Spring 1996): 55-74.

R.H. Helmholz. *The Spirit of Classical Canon Law*. Athens: University of Georgia Press, 1996.

Jeffrey D. Hockett. *New Deal Justice: The Constitutional Jurisprudence of Hugo L. Black, Felix Frankfurter, and Robert H. Jackson*. Lanham, MD: Roman & Littlefield, 1996.

Charles F. Hobson. *The Great Chief Justice: John Marshall and the Rule of Law*. Lawrence: University Press of Kansas, 1996.

Michael H. Hoeflich. *Roman and Civil Law and the Development of Anglo-American Jurisprudence in the Nineteenth Century*. Athens: University of Georgia Press, 1997.

David E. Kyvig. *Explicit and Authentic Acts: Amending the U.S. Constitution, 1776-1995*. Lawrence: University Press of Kansas, 1996.

David J. Langum and Howard P. Walthall. *From Maverick to Mainstream: Cumberland School of Law, 1847-1997*. Athens: University of Georgia Press, 1997.

David Laven, "Law and Order in Habsburg Venetia, 1814-1835," *The Historical Journal*, 39 (June 1996): 383-404.

Kenneth F. Ledford. *From Special Estate to Special Interest: German Lawyers 1878-1933*. New York: Cambridge University Press, 1996.

David Lemmings, "Marriage and the Law in the Eighteenth Century: Hardwicke's Marriage Act of 1753," *The Historical Journal*, 39 (June 1996): 339-360.

Nancy Maveety. *Justice Sandra Day O'Connor: Strategist on the Supreme Court*. Lanham, MD: Roman & Littlefield, 1996.

Pauli Murray. *States' Laws on Race and Color*. Edited, with an introduction by Davison M. Douglas. Athens: University of Georgia Press, 1996.

Alan M. Paterson, "Water Quality, Water Rights, and History in the Sacramento-San Joaquin Delta: A Public Historian's Perspective," *Western Legal History*, 9 (Winter/Spring 1996): 75-96.

Leslie J. Reagan. *When Abortion was a Crime: Women, Medicine, and the Law in the United States, 1867-1973*. Berkeley: University of California Press, 1997.

David Reichard, "The Politics of Village Water Disputes in Northern New Mexico, 1882-1905," *Western Legal History*, 9 (Winter/Spring 1996): 9-33.

John Philip Reid. *Policing the Elephant: Crime, Punishment, and Social Behavior on the Overland Trail*. San Marino, CA: Huntington Library Press, 1996.

Philip Schwarz. *Slave Laws in Virginia*. Athens: University of Georgia Press, 1996.

Jefferson P. Selth. *Firm Heart and Capricious Mind: The Life and Friends of Etienne Dumont*. Los Angeles, CA: Dumont Press, 1997.

Thomas W. Simon. *Democracy and Social Injustice: Law, Politics and Philosophy*. Lanham, MD: Roman & Littlefield, 1996.

David Sugarman and R. Warrington, "Land Law, Citizenship and the Invention of 'Englishness': the Strange World of the Equity of Redemption," in John Brewer and Susan Staves, eds. *Early Modern Conceptions of Property*. Routledge, 1995: 111-144.

David Sugarman. *A Brief History of the Law Society*. London: The Law Society, 1995.

David Sugarman, "Bourgeois Collectivism, Professional Power and the Boundaries of the State: The Private and Public Life of The Law Society, 1825-1914," *International Journal of the Legal Profession*, 3 (1996): 81-135.

Daniel Tyler, "Delph E. Carpenter and the Principle of Equitable Apportionment," *Western Legal History* 9 (Winter/Spring 1996): 35-54.

Jenny B. Wahl, "American Slavery and the Path of the Law," *Social Science History*, (Summer 1996): 281-316.

Xi Wang. *The Trial of Democracy: Black Suffrage and Northern Republicans, 1860-1910*. Athens: University of Georgia Press, 1997.

Alan Watson. *The Trial of Stephen, The First Christian Martyr*. Athens: University of Georgia Press, 1996.

y combination of these features.