



ASLH Newsletter

Winter 1999

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NEWS OF THE SOCIETY

From the President's Desk

Greetings! I can report that under the inspired leadership of Sally Gordon and her superb associate, historian Allison Sneider, our able program committee is working round the clock to mount what looks to be a fantastic program in Toronto. If you haven't already marked your calendars, the dates are October 21-23, 1999.

In other news, the y2k program will take place at a site beloved by all members of the Ivy League, except those who attended Brown, Columbia, Cornell, Dartmouth, Harvard, Penn, and Yale. Many thanks to Craig Joyce, Stan Katz, Sally Gordon, Dirk Hartog, Don Nieman, Ray Solomon, Allison Sneider, and the members of the standing committee on conferences and the annual meeting for making it possible for us to gather in Princeton. Wear your Halloween colors!

On the technological front, we thank the stalwart Chris Waldrep and Dan Ernst (whom I will refrain from characterizing again as decanal material, lest he hurt me) for their outstanding job in mounting abstracts of papers given at our conferences on the ASLH web page.

On publications, I report the obvious: with the assistance of Diane Clay and a subsidy from the American Bar Foundation, Chris Tomlins continues to mount blockbuster issue after blockbuster. We are very grateful to Diane, the ABF, Chris, the University of Illinois Press, and its ever-helpful journals manager, Ann Lowry, for doing so well by us. Thanks also go to our gifted negotiator (and unofficial parliamentarian), Les Benedict, and members of the Publication Committee for their work in developing a new contract that enables the Society to continue its productive and

amicable relation with the press well into the future.

We have equally good news with respect to Studies in Legal History. Series editors Tom Green and Dirk Hartog may not yet have had anyone in "the industry" (as we California cogniscenti say) option one of their books, but they have edited prize-winner after prize-winner. We also salute UNC Press's indomitable Lewis Bateman, who has just begun his third (I) decade with the series.

his third (!) decade with the series.

By now, you should have received a letter from Lawrence Friedman with news of our latest quest, the establishment of a Willard Hurst Memorial. We envision a Hurst Memorial Institute, staffed by senior scholars from the society, which will meet for two-three weeks each summer and offer stipends to graduate students and other junior legal historians that enable them to attend. Some substantial checks have been coming in (many thanks!), and there is already a possibility that we could have the use of a chateau in Brittany that comes complete with its own golf course as a possible site, but of course, we need more money to make this dream a reality. So . . . please send your checks made out to the ASLH to Lawrence at Stanford, and if you have any suggestions about the form of the institute, please direct them to Avi Soifer (soifera@bc.edu), who is chairing our Hurst implementation committee.

Send us your news!

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Officers and Directors, 1999

President: Laura Kalman, University of California, Santa Barbara

President-Elect: Thomas A. Green, University of Michigan

Secretary-Treasurer: Donald G. Nieman, Bowling Green State University

Board of Directors

Mary Sarah Bilder (2000), Boston College
 Carol Chomsky (1999), University of Minnesota
 Robert J. Cottrol (2000), George Washington University
 Cynthia Herrup (1999), Duke University
 Harold M. Hyman (Immediate Past-President), Rice University
 Herber A. Johnson (2001), University of South Carolina
 Craig Joyce (1999*), University of Houston
 Yasuhide Kawashima (2001), University of Texas, El Paso
 Michael de L. Landon (2000*), University of Mississippi
 Bruce Mann (2001), University of Pennsylvania
 John P.S. McLaren (1999), University of Victoria
 John V. Orth (1999), University of North Carolina, Chapel Hill
 David Rabban (2000), University of Texas
 Aviam Soifer, Boston College (2001)
 Sue Sheridan Walker (2001*), Northeastern Illinois University
 Carol Weisbrod (2000), University of Connecticut

* Executive Committee Member

() Indicates year term expires

ASLH Committees, 1999

Nominating Committee

Victoria List (2000), Washington and Jefferson College, Chair
 Sarah Barringer Gordon (1999), University of Pennsylvania
 Mary Dudziak (2001), University of Southern California
 Michael Grossberg (2000), Indiana University
 Philip Hamburger (2001), George Washington University

() Indicates year term expires

1999 Program Committee

Sarah Barringer Gordon, University of Pennsylvania, Chair
 Constance Backhouse, University of Western Ontario
 Cornelia Hughes Dayton, University of Connecticut
 Christine Desan, Harvard University
 Tahirih Lee, Florida State University
 Pnina Lahav, Boston University
 William I aPiana, New York Law School

William E. Leland, New York Law School
 Victoria List, Washington & Jefferson College
 Kenneth Mack, Princeton University
 Gregory Mark, Rutgers University, Newark
 Michael Millender, University of Florida
 Richard Ross, University of Chicago
 Christopher Tomlins, American Bar Foundation
 Howard Venable, New York University
 James Whitman, Yale University

1999 Local Arrangements Committee

Peter Oliver, Osgoode Society, Chair
 Susan Lewthwaite, Law Society of Upper Canada Archives
 Marilyn MacFarlane, Osgoode Society

Standing Committee on Conferences and the Annual Meeting

Craig Joyce, University of Houston (1998), Chair
 Christine A. Desan (1998), Harvard University
 Dwight Jessup (1997), Taylor University
 Eben Moglen (1997), Columbia University
 Kenneth Murchison (1997), Louisiana State University
 William E. Nelson (1998), New York University
 Frances Rudko (1993), Southern New England School of Law
 David S. Tanenhaus (1998), University of Nevada, Las Vegas

() Indicates year appointed

Publications Committee

M. Les Benedict (1995), Ohio State University, Chair
 Thomas J. Davis (1998), Arizona State University
 Hendrik Hartog (1997), Princeton University
 Craig Joyce (1991), University of Houston
 Tahirih V. Lee (1998), University of Minnesota
 Bruce Mann (1998), University of Pennsylvania
 Christopher Tomlins (1996), American Bar Foundation
 Christopher Waldrep (1997), Eastern Illinois University

() Indicates year appointed

Committee on Documentary Preservation

Michael J. Churgin (1982), University of Texas, Chair
 Mary L. Dudziak (1988), University of Iowa
 Christian G. Fritz (1985), University of New Mexico
 Michael Griffith (1990), Office of the Clerk, U. S. District Court,
 Northern District of California
 DeLloyd J. Guth (1988), University of Manitoba
 J. Gordon Hylton (1998), Marquette University
 Harold M. Hyman (1998), Rice University
 Maeva Marcus (1988), U. S. Supreme Court Historical Society
 Gregory Mark (1998), Rutgers University, Newark
 R. Michael McReynolds (1985), U. S. National Archives
 Rayman L. Solomon (1982), Rutgers University, Camden
 Marsha Trimble (1992), University of Virginia

() Indicates year appointed

Honors Committee

Herbert A. Johnson (1997), University of South Carolina, Chair
 Richard Helmholz (1997), University of Chicago

Linda Kerber (1998), University of Iowa

() Indicates year appointed

Membership Committee

Victoria Saker Woeste (1998), American Bar Foundation, Chair
 Carol Chomsky (1998), University of Minnesota
 Catherine Fisk (1998), Loyola University
 Thomas Gallanis (1998), Ohio State University
 Robert Goldman (1998), Virginia Union University
 Sarah Barringer Gordon, ex officio (Chair, 1998 Program Committee)
 Kenneth Ledford (1998), Case Western Reserve University
 Laura Kalman, ex officio (President)
 Fred Konefsky (1998), SUNY-Buffalo
 Randy McGowen (1998), University of Oregon
 Donald G. Nieman, ex officio (Secretary-Treasurer)
 G. Edward White (1998), University of Virginia

() Indicates year appointed

Editor of *LAW AND HISTORY REVIEW*

Christopher Tomlins, American Bar Foundation

Managing Editor of the *ASLH Newsletter*

Robert S. Smith, Bowling Green State University

H-Law Moderators

Ian Mylchreest, Monash University
 Christopher Waldrep, Eastern Illinois University

Co-Editors of *STUDIES IN LEGAL HISTORY*

Hendrik Hartog, Princeton University
 Thomas A. Green, University of Michigan

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ASLH E-Mail and Telephone Information

The Secretary-Treasurer can be contacted either by phone, **(419) 372-2030**, or e-mail, dnieman@bgnet.bgsu.edu.
 Fax messages may be sent to **(419) 372-7208**.

1999 Annual Meeting: Toronto, October 21-23

Make plans now to attend the Society's 1999 meeting in Toronto, where we will meet at the Sheraton Centre. President LAURA KALMAN has appointed SALLY GORDON to chair the Program Committee. Sally's committee includes CONNIE BACKHOUSE, University of Western Ontario, CORNELIA DAYTON, University of Connecticut, CHRIS DESAN, Harvard University, TAHIRIH LEE, Florida State University, PNINA LAHAV, Boston University, WILLIAM LA PIANA, New York Law School, VICTORIA LIST, Washington & Jefferson College, KENNETH MACK, Princeton University, GREGORY MARK, Rutgers University, MICHAEL MILLENDER, University of Florida, RICHARD ROSS, University of Chicago, CHRISTOPHER TOMLINS, American Bar Foundation, HOWARD VENABLE, New York University, and JAMES WHITMAN, Yale University.

While Sally and her committee work hard to assemble an exciting and well rounded program, local arrangements are in the hands of PETER OLIVER of the Osgoode Society,

SUSAN LEATHWAITE, CHAIR, GORDON, CHAIR, LAURA KALMAN, CHAIR, JAMES WHITMAN, CHAIR, JAMES WHITMAN, CHAIR

SUSAN LEWIS HWAITE of the Law Society of Upper Canada Archives, and MARILYN MACFARLANE of the Osgoode Society. They are planning a very special reception at the Osgoode Society (across the street from the Sheraton Centre), and, of course, Toronto is a wonderful, cosmopolitan city, so all ASLH members will want to make plans to attend.

Registration materials and information on lodging will be mailed in mid-summer.

Watch the H-LAW web page (www.h-net.msu.edu/~law/) later in the year for more information on the Annual Meeting and the program.

Sutherland Prize Awarded

Among legal historians in North America, Donald Sutherland set the profession's highest standard for legal scholarship based on careful analyses of original texts. Each year, the Sutherland Prize Committee recognizes a recently published article in the field of English legal history that best represents Professor Sutherland's commitment to original research and lucid analysis.

The 1997 prize was awarded to DAVID J. IBBETSON of Magdalene College, Oxford University for his article, "Fault and Absolute Liability in Pre-Modern Contract Law," *Journal of Legal History*, 18 (1997): 1-31. The committee believed that Ibbetson's meticulous commitment to getting the law's procedural instrumentation correct best represents Donald Sutherland's learned approach to English law. The article dissects the Year Book's case law on the nature of contractual remedies, liabilities, and fault. It then creates a succinct, updated synthesis to the forms of obligational actions that actually improves on the likes of Maitland and Fifoot. Ibbetson's work shows the roots of the interstitial issues that remain in modern litigation between liabilities imposed by law and those by contracting parties. This is lawyer's legal history at its best. It reconstructs a vital area of legal reasoning, lays it out in clear developmental lines and, in so doing, offers just what any contracts teacher can profitably assign to students early in the syllabus.

The committee also awarded an honorable mention to HENRY ANSGAR KELLY, Director of the Center for Medieval and Renaissance Studies at UCLA for his article, "Statutes of Rape and Alleged Ravishers of Wives: A Context for the Charges Against Thomas Mallory, Knight," *Viator*, 28 (1997): 361-419. A model for interdisciplinary primary research and expository writing, Kelly's article tells a fascinating story of sex and the late-medieval status of parliamentary statute, centered on the writer of the English epic *Morte d'Arthur*. To do so, Kelly has mastered the law's technicalities, put them into social and literary contexts, and effectively provided as composite a case file as the extant contemporary evidence allows.

The committee was chaired by DE LLOYD GUTH of the University of Manitoba Faculty of Law and included DANIEL COQUILLETTE of the Boston College School of Law and JANET LOENGARD of Moravian College.

Surrency Prize Winner

The society annually awards the Erwin C. Surrency Prize for the best article published in the previous year's *Law and History Review*. The 1997 Surrency Prize has been awarded to G. EDWARD WHITE of the University of Virginia for his article, "The American Law Institute and the Triumph of Modernist Jurisprudence," *Law and History Review*, 15 (Spring 1997): 1-48. The committee concluded that in its conceptualization, research, and writing White's article demonstrated a high level of scholarly imagination and accomplishment. Lucidly written and cogently argued, it showed the professional, legal, and intellectual factors that contributed to a shift to pragmatic, modernist legal thought. It also established the significance of the American Law Institute as a site for the reorientation of American jurisprudence.

Members of the Committee were TAHIRIH V. LEE of the Florida State University Law School (chair), AMY DRU STANLEY of the University of Chicago, and W. WESLEY PUE of the University of British Columbia Faculty of Laws.

New Honorary Fellows Announced

Congratulations to MORRIS COHEN, HAROLD M. HYMAN, and W. ALAN J. WATSON, who have been named Honorary Fellows of the Society.

Well known to all legal scholars, Cohen is Professor Emeritus and Librarian Emeritus at the Yale Law School. His books—including *How to Find the Law* (now in its ninth edition), *Law: The Art of Justice*, *Legal Research in a Nutshell*

books—including *How to Find the Law* (now in its ninth edition), *Law: The Art of Justice*, *Legal Research in a Nation* (currently in its sixth edition), and *Guide to the Early Reports of the Supreme Court of the United States*—have proved indispensable to three generations of researchers. Last year his magisterial *Bibliography of Early American Law* (6 vols; William S. Hein & Co.) appeared, capping a truly distinguished career as a legal bibliographer.

A former president of the Society, elected member of the Society of American Historians, and presidential appointee to the Oliver Wendell Holmes Trust, Harold M. Hyman is William P. Hobby Professor of History Emeritus at Rice University. One of the most distinguished historians of American constitutionalism, he is the author of over a dozen books, including *The Era of the Oath* (winner of the American Historical Association's Beveridge Prize), *To Try Men's Souls* (winner of the Sidney Hillman Prize), *A More Perfect Union, Equal Justice Under Law* (with William Wiecek), and, most recently, *Character and Craftsmanship: A History of Houston's Vinson & Elkins Firm*.

A longtime member of the Society, Alan Watson is Ernest P. Rogers Professor of Law at the University of Georgia. He is internationally recognized as an authority on civil law and comparative law, as well as legal history. An honorary member of the Speculative Society and the North American secretary of The Stair Society, he is the author of almost 150 articles and books. His books include *Slave Law in the Americas*, *Joseph Story and the Comity of Errors*, *Roman Law and Comparative Law*, *The Spirit of Roman Law*, *The Trial of Jesus*, *The Sources of Law*, *Legal Change and Ambiguity*, and, most recently, *Ancient Law and Modern Understanding*.

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H-LAW Notice

Members of ASLH are invited to subscribe to H-Law, the society's electronic "list." H-Law now has over one thousand subscribers around the world and features announcements, news of the society, book reviews, and discussion of topics in legal history. Each week H-Law posts a bibliography of articles of historical interest appearing in law reviews. The volume of electronic mail produced by H-Law is not onerous, averaging two a day. CHRISTOPHER WALDREP and IAN MYLCHREEST edit H-Law.

There is an H-Law Web site at www.h-net.msu.edu/~law/ Visitors to the H-Law Web page will find an index to *Law and History Review*, back issues of the *ASLH Newsletter*, H-Law book reviews, and the texts of previous H-Law discussions. Last year's ASLH conference program and abstracts of papers appeared on the H-Law Web page, a service that we plan to offer again this year.

Membership is limited to persons with an interest in some aspect of legal or constitutional history. To apply for membership, request an application form from cfcw@eu.edu or send this message to listserv@h-net.msu.edu: subscribe h-law. Leave the subject line blank.

1998 ANNUAL MEETING

The Society held its twenty-eighth annual meeting in Seattle, October 22-24, 1998. Attendance surpassed last year's record number, with 304 persons registering. Special thanks go to DAN ERNST of Georgetown University Law Center and his program committee, which included CHARLES DONAHUE, JR. of Harvard Law School, CHRISTIAN FRITZ of the University of New Mexico School of Law, ARIELA GROSS of the University of Southern California Law School, WILLIAM NOVAK of the University of Chicago, JOHN HENRY SCHLEGEL of SUNY Buffalo School of Law, BARBARA WELKE of the University of Minnesota, and ROSEMARIE ZAGARRI of George Mason University. Dan and his committee worked hard to develop an extensive, well rounded program that featured papers by many senior scholars and offered rich fare for everyone. Dan's efforts, in cooperation with CHRIS WALDREP, to put the program and paper abstracts on the ASLH Web page was a great success, setting a precedent for future program committees.

We are also greatly indebted to ERIC CHIAPPINELLI of the University of Seattle School of Law, chair of the Local Arrangements committee. While he had assistance from MEGAN MCCLINTOCK of the University of Washington, Eric assumed most of the responsibility for logistics and even managed to arrange three days of sunshine for us. His efforts paid off handsomely, resulting a very successful meeting that those who attended thoroughly enjoyed.

Board of Directors Meeting

President LAURA KALMAN called the meeting to order at 7:30 p.m., Thursday, October 22, 1998 in the Taku-Chinook Room of the Seattle Hilton Hotel. Present were Board members MARY BILDER, CAROL CHOMSKY, ROBERT COTTRILL, CYNTHIA HERRUP, CRAIG JOYCE, MICHAEL LANDON, MAEVA MARCUS, JOHN MCLAREN, WILLIAM NOVAK, JOHN ORTH, DAVID RABBAN, SANDRA VAN BURKLEO, THOMAS GREEN, President-elect, and DONALD NIEMAN, the Secretary-Treasurer.

Also present were MICHAEL LES BENEDICT, chair of the Publications Committee, DE LLOYD GUTH, chair of the Sutherland Prize Committee, THOMAS GALLANIS representing the Membership Committee, CHRIS WALDREP, H-Law moderator, DANIEL ERNST, the 1998 Program Committee chair, CHRIS TOMLINS, editor of *Law and History Review*, ANN LOWRY of the University of Illinois Press, DAVID SEIPP, chair of the Nominating Committee, TAHIRIH LEE, chair of the Surrency Prize Committee, HENDRIK HARTOG, co-editor of Studies in Legal History, ERIC CHIAPPINELLI, 1998 Local Arrangements Committee chair, ROBERT KACZOROWSKI, chair of the Murphy Prize Committee, MICHAEL CHURGIN, chair of the Committee on Documentary Preservation, RAY SOLOMON, and CHRISTINE COMPSTON.

President Kalman noted that the minutes of the Board Meeting of October 16, 1997 should be amended to show that Sandra Van Burkleo rather than STANLEY KATZ had delivered the eulogy for PAUL L. MURPHY at the memorial service in Minneapolis in August 1997. With that correction noted, the minutes were approved as written.

President Kalman then introduced Eric Chiappinelli and thanked him for his hard work in making the local arrangements for the Seattle meeting. Professor Chiappinelli welcomed everyone to Seattle, thanking his colleague MEGAN MCCLINTOCK for her assistance and especially for preparing the restaurant guide. President Kalman then introduced Daniel Ernst, chair of the Program Committee, and thanked him for his tireless work on the program, which, she noted, was one of the largest and most diverse in the Society's history. Professor Ernst thanked members of his committee and President Kalman, who had helped secure participation by a significant number of well know scholars. He noted that the committee had assembled a large program featuring 34 sessions and about 160 participants. He also offered special thanks to CHARLES DONAHUE, who functioned as an associate chair, assembling a significant number of high quality English and medieval sessions, and to Christopher Waldrep, who had performed magnificently in getting the full program and paper abstracts on the ASLH web site.

Don Nieman next briefly reported on local arrangements for the 1999 meeting, which will be held in Toronto, with the Sheraton Centre Hotel serving as headquarters for the meetings. He thanked the Osgoode Society for the hospitality it had agree to provide and SUSAN LEWTHWAITE, MARILYN MAC FARLANE, and PETER OLIVER for serving on the local arrangements committee. President Kalman then read a report from SARAH BARRINGER GORDON, chair of the 1999 Program Committee, who could not be present because of a late flight. Professor Gordon has selected CONSTANCE BACKHOUSE, CORNELIA DAYTON, CHRISTINE DESAN, TAHIRIH LEE, PNINA LAHAV, WILLIAM LAPIANA, VICTORIA LIST, KENNETH MACK, GREGORY MARK, MICHAEL MILLENDER, RICHARD ROSS, CHRISTOPHER TOMLINS, HOWARD VENABLE, and JAMES WHITMAN to serve on the committee and has designated Professors List, Ross, and Whitman as a sub-committee on England and Europe. The call for papers went out during the summer and had appeared or would appear in a variety of places in print and on the internet. The committee, she noted, would meet on Saturday, October 24 to begin its work.

John McLaren reported for the Committee on Conferences and the Annual Meeting. He noted that the committee had explored Boston as a meeting site for 2000, but had to rule it out because hotels were too expensive. While the committee had not settled on a site, Professor McLaren indicated that it had agreed that Philadelphia and Washington appeared to be the most promising East Coast locations. Because there was no resolution of the meeting location for 2000, President Kalman suggested that the Executive Committee investigate further and make a decision on a site, a suggestion that met the Board's approval. She then thanked Professor McLaren for his service--which was endorsed by applause from those present--and announced that Craig Joyce had agreed to take over as chair.

The President then recognized Don Nieman, who presented the secretary-treasurer's report. He explained that the Society had weathered the transition to publication of three issues of *Law and History Review* well; increased dues established to cover the cost of the third issue, together with a modest increase in membership, assured that the Society had sufficient income to meet its needs. He pointed out that his predecessors, Michael Landon and Craig Joyce, had established a strong financial base for the Society by using excess revenues to purchase CDs that provided extra income and a financial cushion.

Michael Les Benedict then reported for the Publications Committee on the new contract he and his colleagues had negotiated with the University of Illinois Press for continued publication of *Law and History Review*. He noted that a sub-committee consisting of Chris Tomlins, Craig Joyce, Don Nieman, and himself had handled negotiations and then had circulated a draft of the contract with members of the full committee, who had raised valuable questions and suggested several important modifications. While the Society has been very happy with the service provided by the University of Illinois Press, the sub-committee solicited proposals from several other presses to serve as benchmarks and to ensure that the Society received the best possible offer. When all of the proposals were received, however, the University of Illinois Press had made the best offer, and that, combined with the good relations the Society and the *Review* have enjoyed with the Press during the past eight years, persuaded the committee to proceed with negotiations. Professor Benedict noted that there were several significant changes in the contract. First, the term of the contract is four years. Second, the share of dues the Press will receive goes up from \$25 to \$30 for

the term of the contract is four years. Second, the share of dues the Press will receive goes up from \$25 to \$50 for individual members, from \$12 to \$15 for student members, and from \$39 to \$45 for institutional members, the first increase in eight years. Third, the contract allows flexibility with respect to electronic publication, permitting adaptation to a rapidly changing environment, and limits the Press's authority to distribute electronic rights without negotiation with the Society. Fourth, the amount of revenues the Press is guaranteed from dues increases from \$16,000 to \$32,000. And finally, the Society's royalties on net receipts from *Law and History Review* in excess of \$36,000 increases from 10% to 20%. Professor Benedict noted that the committee had been concerned about the significant jump in the revenues guaranteed to the Press. However, after examining dues income in recent years, it was satisfied that the income has significantly exceeded \$36,000 and should continue to do so. He thanked members of the committee for their hard work and Ann Lowry of the Press for her openness during the negotiations and asked for questions and discussion. After brief discussion, the Board voted unanimously to approve the new contract as written. Craig Joyce explained that the new contract represented a significant advance, especially in its approach to new technologies, and thanked Professor Benedict for his careful attention to the process. This brought a hearty round of applause for Professor Benedict's leadership on this important issue.

The Board next considered the report of Ann Lowry of the University of Illinois Press, the publisher of *Law and History Review*. Ms. Lowry called attention to the increase in the Society's membership during the past year. By way of explanation she noted that there were forty new law library subscriptions, which she attributed, in part, to the Membership Committee's mailing to Association of American Law School members. She also indicated that the Society's web site had generated increasing numbers of new memberships, especially in the period leading up to the annual meeting. Christopher Tomlins, editor of *Law and History Review*, in elaborating on his written report, said that he was delighted to continue the relationship with the Press. The Press and the *Review*, he noted, enjoyed a very strong relationship that enabled them to move ahead together to explore electronic publishing options that are the key to the *Review's* future. At the conclusion of Dr. Tomlins's remarks a resolution thanking the American Bar Foundation for its very generous financial support for the *Review* was moved, seconded, and unanimously passed.

Reporting for the Surrency Prize Committee, Tahirih Lee announced that this year's winner was G. EDWARD WHITE of the University of Virginia School of Law, for his article, "The American Law Institute and the Triumph of Modernist Jurisprudence," published in *Law and History Review*. While the task was a difficult one, Professor Lee reported that the committee had been unanimous in its choice, citing White's highly imaginative analysis and his compelling, provocative, and important thesis.

De Lloyd Guth followed with the report of the Donald Sutherland Prize Committee, announcing DAVID IBBETSON of Oxford University the winner for his article entitled "Fault and Absolute Liability in Pre-Modern Contract Law" which was published in the *Journal of Legal History*, 18 (1997): 1-31. Henry Ansgar Kelly of UCLA was awarded honorable mention for his article entitled "Statutes of Rape and Alleged Ravishers of Wives: A Context for the Charges Against Thomas Mallory, Knight," which appeared in *Viator*, 28 (1997): 361-419. In addition to considering articles published in scholarly journals, Guth noted that the committee had expanded its purview to include articles published in collections of essays. He also reported that the committee had discussed two other matters: whether only works in English rather than British legal history were eligible; and whether a collection of the prize-winning essays (which now number 11) should be published. This was followed by a wide-ranging discussion of these and other issues, including whether the committee should broaden its scope to consider the work of social historians who dealt with the law. President Kalman suggested that the committee consider all these issues during the next year and report its recommendations to the Board at its 1999 meeting. Professor Guth summarized the issues for consideration as follows: whether the committee should consider articles in collections of essays as well as journals; whether articles in British as well as English legal history were eligible; the practice of awarding an honorable mention; the advisability of establishing a fixed but expandable list of journals to consider in compiling the articles to be considered for the prize; and whether a collection of Sutherland Prize essays should be published. The final issue, the Board agreed, should be referred to the Publications Committee well in advance of next year's Board meeting for its consideration, and it should make a recommendation to the full Board.

In introducing their written report on Studies in Legal History, Dirk Hartog and Tom Green noted that two recent titles had won prestigious prizes: Thomas Morris's *Southern Slavery and the Law, 1619-1860* the Southern Historical Association's Owsley Prize and William Novak's *The People's Welfare: Law and Regulation in 19th Century America* the American Historical Association's Littleton Griswold Prize. They also reported that the future of the series was bright: one volume appeared in 1998 (Victoria Saker Woeste's *The Farmer's Benevolent Trust: Law and Agricultural Cooperation in Industrial America, 1865-1945*), two more are scheduled for publication in 1999 (Linda Przybyszewski on John Marshal Harlan and Richard Wetzell's history of German criminology, 1880-1945), and seven are under advance contract. Professors Hartog and Green concluded with warm thanks to Lewis Bateman of the University of North Carolina Press for his devotion and service to the Society and the series during a relationship that has spanned three decades.

Chris Waldrep, the H-Law moderator, presented his report, commenting that his major project for the year was establishing a web page for ASLH and placing the program and paper abstracts for the annual meeting on it. He also

considering a new page for H-Law and placing the program and paper abstracts for the annual meeting on the site. He noted that he worked with Victoria Woeste of the Membership Committee to establish a graduate student discussion feature on H-Law.

Thomas Gallanis reported for the Membership Committee, which began its work under the direction of Victoria Woeste in January 1998. The committee, he explained, had targeted groups that it believed were underrepresented in the Society. It made a personal pitch to members of the Association of American Law Schools at the Association's annual meeting and prepared a mailing to members of the AALS section on legal history. The committee is also working on an email directory of members to facilitate communication among members and has initiated a graduate student discussion feature on H-Law to make the Society more attractive to graduate students, who represent the future. Chris Tomlins asked whether the Committee had considered promotions to attract new members, such as trial memberships at a reduced price. Professor Gallanis said that it hadn't but would be willing to do so. Michael Les Benedict reminded the committee that the new contract with the University of Illinois Press committed the Press to support a variety of promotional activities and urged the committee to work closely with Press staff in its efforts to expand membership.

MICHAEL CHURGIN called attention to the written report of the Committee on Documentary Preservation, which he chairs. He noted that the committee's major new initiative was joining an action to open sealed grand jury files in the Alger Hiss case, an initiative that the executive committee had approved during the summer of 1998. Other supporters included the Organization of American Historians, the American Historical Association, and Association of American Archivists. Professor Churgin assured the Board that this venture did not obligate the Society financially.

In the absence of a representative of a member of the Honors Committee, Don Nieman introduced the committee's report, which recommended MORRIS COHEN, HAROLD M. HYMAN, and ALAN WATSON as Honorary Fellows of the American Society for Legal History. In response to a question concerning how nominations were made, President Laura Kalman indicated that the committee did investigations of its own but that it was willing to consider persons suggested by Society members. In separate motions, all three nominations were unanimously approved.

Robert Kaczorowski gave the report for the Murphy Prize Committee. He explained that almost \$10,000 had been raised during the past year and that an anonymous donor had agreed to supplement the amount of interest generated by the Murphy Fund to enable the Society to make an annual \$1,000 research grant to a junior scholar in U.S. constitutional-legal history. On behalf of the committee, Professor Kaczorowski moved that the president appoint a three-member Paul L. Murphy Research Grant Committee that would include one of Paul Murphy's former students to solicit applications for the grant, select the winner, and solicit additional funds for the endowment. A brief discussion followed. In response to questions about solicitation of funds, it was agreed that the secretary-treasurer would include a check-off for donations to the Murphy, Sutherland, and Smith funds on the annual dues form. Committee members responded to questions about the desirability of opening the competition to graduate students by indicating that it had considered that option but had decided that beginning scholars had an especially difficult time finding resources to support their research. Moreover, the committee wanted to assure that the award went to persons who had demonstrated accomplishments. The motion carried unanimously.

Representing the Nominating Committee, David Seipp briefly discussed his colleagues' activities during the year. At the conclusion of his remarks, Don Nieman presented the results of the election. New members elected to the Board of Directors were HERBERT A. JOHNSON, YASUHIDE KAWASHIMA, BRUCE MANN, AVIAM SOIFER, and SUE SHERIDAN WALKER. MARY DUDZIAK and PHILIP HAMBURGER will join the Nominating Committee.

With committee reports and action thereon concluded, the Board then moved to consider old business.

The first item of old business was consideration of a mechanism for considering and implementing dues increases. Don Nieman indicated that the Press had to be informed of any increase in dues before August 1 of the year preceding the year in which the increase would take effect because that is when renewal notices are mailed to jobbers and institutional subscribers. After discussion, John Orth moved that the executive committee shall consider each year whether a dues increase is necessary and report its decision to the full Board by appropriate means. The full Board shall then make a decision on the matter no later than July 15. The motion was seconded and carried unanimously.

Michael Landon reported on placing the Society's old records in the University of Illinois Archives, a project he had begun with authorization from the Board while he was secretary-treasurer. During the past year, he had had a graduate student sift through the Society's old records, discarding materials that were not of historical significance and preparing the rest to be sent to Illinois. During the summer of 1998, the records were transferred to the University of Illinois Archives, which catalogued them, charging the Society a one-time fee of \$400.

The first item of new business was a report by CHRISTINE COMPSTON, submitted at the invitation of President Kalman, recommending that the Society consider sponsoring a series of essays on legal and constitutional history

aimed at undergraduate audiences. Undergraduates, she noted, often found articles taken from scholarly journals inaccessible, making it difficult for instructors to treat many important constitutional-legal subjects. Articles on important topics in constitutional-legal history and written for undergraduates, she predicted, would be attractive not only in constitutional-legal history courses, but also in survey courses, women's history courses, labor history courses, and other courses. Dr. Compston suggested that articles on important issues and topics be prepared and placed on a list from which instructors could choose to create customized volumes that fit their teaching needs. She recommended that the Society establish a committee to recommend topics for articles, establish guidelines for authors, explore possible collaboration with other organizations, and make contacts with publishers. In the discussion that ensued a good deal of support was expressed for this project, although several members noted that it represented a major departure for the Society and needed careful consideration. At the conclusion of the discussion, the Board agreed that the Publications Committee should discuss whether the Society should sponsor publication of materials on constitutional-legal history aimed at undergraduates and report back to the Board at its 1999 meeting.

At the request of Don Nieman, Michael Landon introduced a resolution designating Mid American National Bank and Trust Company a designated depository of the Society:

Be it resolved that, MID AMERICAN NATIONAL BANK AND TRUST CO.

- (1) The financial institution named above is designated as a depository for the funds of this corporation.
- (2) This resolution shall continue to have effect until express written notice of its rescission or modification has been received and recorded by this Financial Institution.
- (3) All transactions, if any, with respect to deposits, withdrawals, rediscounts and borrowings by or on behalf of this corporation with this Financial Institution prior to the adoption of this resolution are hereby ratified, approved, and confirmed.
- (4) Any of the persons named below, so long as they act in a representative capacity as agents of the corporation are authorized to make any and all other contracts, agreements, stipulations, and orders which they may deem advisable for the effective exercise of the powers indicated below from time to time with this Financial Institution, concerning funds deposited in this Financial Institution, moneys borrowed from this Financial Institution or any other business transacted by and between this corporation and this Financial Institution subject to any restrictions stated below.
- (5) Any and all prior resolutions adopted by the Board of Directors of this corporation and certified to this Financial Institution governing the operation of this corporation's account(s) are in full force and effect unless supplemented or modified by this authorization.
- (6) This corporation agrees to the terms and conditions of any account agreement properly opened by any authorized representative(s) of this corporation and authorizes the Financial Institution named above at any time to charge this corporation for all checks, drafts, or other orders, for the payment of money, that are drawn on this Financial Institution, regardless of by whom or by what means the facsimile signature(s) may have been affixed so long as they resemble the facsimile signature specimens in section C (or the facsimile signature specimens this corporation files with this Financial Institution from time to time) and contain the required number of signatures for this purpose.

NAME AND TITLE

(A) Donald G. Nieman, Secretary-Treasurer

Indicate A, B, C and/or D

_____ (1) Exercises all powers listed in (2) through (6)

(2) Open any deposit or checking account(s) in the name of this corporation.

(3) Endorse checks and orders for the payment of money and withdraw funds on deposit with this Financial Institution.

Number of authorized signatures required for this purpose 1

 (4) Borrow money on behalf and in the name of this corporation, sign, execute and deliver promissory notes or other evidence of indebtedness.

Number of authorized signatures for this purpose

 (5) Endorse, assign, transfer, mortgage or pledge bills receivable, warehouse receipts, bills of lading, stocks, bonds, real estate, or other property now owned or hereafter acquired by this corporation as security for sums borrowed, and to discount the same, unconditionally guarantee payment of all bills received, negotiated or discounted and to waive demand, presentment, notice of protest, and notice of non-payment.

Number of authorized signatures for this purpose

 x (6) Enter into written leases for the purpose of renting and maintaining a Safe Deposit Box in this Financial Institution.

Number of authorized signatures for this purpose 1

D. I further certify that the Board of Directors of this corporation has, and at the time of the adoption of this resolution had the full power and lawful authority to adopt the foregoing resolutions and to confer the powers granted to the persons named who have full power and lawful authority to exercise the same.

The resolution passed unanimously.

Dirk Hartog, representing the Willard Hurst Memorial Committee, presented the report from committee chair Stanley Katz, who was unable to attend. He explained that the committee hoped to raise sufficient funds, perhaps in collaboration with the Law and Society Association, to create a Willard Hurst Memorial Fund that would generate sufficient income to support an annual summer institute in legal history to be taught by a small group of senior scholars and attended by junior scholars who were beginning work in the field. The committee believed that this was an appropriate way to honor Willard Hurst's memory and to keep his ideas and approaches to legal history alive. The discussion that followed was wide-ranging, including consideration of the financial resources needed, the nature of the institute, and whether to make a formal announcement that monies were being solicited to establish an endowment to support an institute. It was agreed that it was too early to make such an announcement because the committee wished to consider further the particulars of the institute. However, there was general agreement that the Society should move forward with solicitation of funds for a Hurst Memorial. Professor Hartog moved and Michael Landon seconded a motion authorizing the establishment of a Willard Hurst Memorial Fund for the purpose of collecting monies to honor Willard Hurst and directing the Hurst Committee to make a formal recommendation to the Board at its 1999 meeting concerning the purposes to which the endowment will be put. The motion carried unanimously.

President Kalman asked if there was further new business. Hearing none, at 10:00 p.m. she announced the meeting adjourned and invited everyone to a reception in her suite.

Annual Meeting Sessions

The 1998 Annual Meeting consisted of 34 sessions. Panel titles ranged from "Courts Outside the Orbit of the Common Law" to "Postmodern Constitutional History." Eight panel chairpersons submitted reports on their sessions

Common Law to Postmodern Constitutional History. Eight panel chairpersons submitted reports on their sessions, which are reprinted below. Their remarks offer a glimpse of the exciting and important work being done in the field of legal and constitutional history.

Courts and Society in Tudor-Stuart England

Panel chairperson, CYNTHIA HERRUP (Duke University), reports:

This was an extremely successful session [standing room only!] that showed off new work in the field and highlighted areas in need of reappraisal.

CATHERINE PATTERSON of the University of Houston ("Borough Corporations and Quo Warranto, 1590 to 1640: Keeping Local Order in the Central Courts") and PAUL HALLIDAY of Union College ("Quo Warranto, 1660-1750: Whose Prerogative?") each offered papers showing how the conventional understanding of quo warranto as primarily a tool of Stuart absolutism misrepresents the contemporary understanding of the information (as it had by then become). Patterson, drawing from her study of cases drawn from 1590-1640 made a convincing case that the device was (and was considered by both corporations and crown to be) an efficient and flexible mechanism of conflict resolution. Most quo warranto proceedings arose from local rather than central initiative; most spoke to local rather than central issues. Until the 1630s, quo warranto connoted legitimacy not authoritarianism. Halliday, working from similar records in a later period, illustrated a similar pattern that endured into and even beyond the notorious abuses of the device in the early 1680s. The gravest fear for contemporaries, he explained, was local partisanship not royal intervention. Because quo warranto allowed users to secure all sorts of franchises, in effect, the information was a "public" rather than a royal prerogative, one valued enough to be reformed rather than rejected in 1688.

In a paper entitled "The Decline of English Witchcraft Prosecutions 1606-1717," BRIAN LEVACK of the University of Teaxs, Austin argued that England, despite greater lay participation in its legal structure, was a part of, not an exception to, broader European patterns which led to a decline in witchcraft prosecutions over the seventeenth century. Instructions to juries, uses of process, and supporting suits against malicious prosecution, Levack explained, were the most visible signs of a judicial activism that made it tougher and tougher to convict a witch. Judicial discretion was a powerful didactic tool and seventeenth-century jurists were not shy in using it. Popular belief in witchcraft persisted, but by the early eighteenth century, judicial skepticism had prevailed.

In a brief comment, I congratulated the authors for looking beyond a judgment-based view of the law to one that more properly captured the dynamism of early modern process. Noting the complementarity between these papers and earlier ones by Professors Barnes and Langbein, I pointed to a renewed appreciation for the influence of crown officers, particularly the attorney-general, that I hoped would inspire new research on these offices. The rest of the time was left to questions and comments from the audience, all of which were appreciative of and engaged with the insights of the panel.

Citizenship and Marriage in the Nineteenth-Century United States

CHRISTINE COMPSTON (Independent Scholar) remarks:

POLLY PRICE (Emory University School of Law) examined early nineteenth-century judicial decisions involving ownership of land by aliens. In her presentation, "Judicial Pragmatism in Nineteenth-Century Alien Land Law," she argued that judges adopted a pragmatic approach to accommodate social changes--the presence of large numbers of immigrants and extensive land speculation--and, in the process, played a major role in defining *citizenship* in the period before ratification of the Fourteenth Amendment. Their decisions distinguished between property rights and political rights, reflecting the fact that "citizenship for land-holding and for political rights operated quite independently in nineteenth-century legal thought." That distinction made it possible for a woman to be granted the right as a "citizen" to own land and for a male immigrant, not yet naturalized, to be denied the same right.

SANDRA VAN BURKLEO (Wayne State University) drew the title for her paper, "'A Double Head in Nature Is a Monstrosity': Re-Covering the Married Woman in Frontier Washington, 1879-1892," from the case of *Rosencrantz v. Territory of Washington* (1884) contesting the right of women to serve on juries. The question, raised in local newspapers as well as in territorial courtrooms, was whether citizenship carried with it "unlimited political privileges which may, and oftentimes do, seriously and very arbitrarily affect the inherent rights of others?" The debates regarding the status of women in Washington, as Van Burkleo successfully demonstrated, did not focus on suffrage but on the "exercise of ancillary rights, notably the obligation to serve on grand and petit juries." Women lost the right to vote in most elections as a result of judicial decisions based on common law relating to these "ancillary" rights. Attempts to restore woman's suffrage through democratic procedures met with limited success.

Civil War pension records served as the basis for the presentation by MEGAN MCCLINTOCK (University of Washington) and JULIE SHAPIRO (Seattle University School of Law) entitled "Federal Definition and Regulation of

Marriage in Late Nineteenth-Century America." In 1862 the federal government established its own definition of marriage in order to decide who qualified for widows' pensions. These guidelines, the authors pointed out, recognized both informal, private practice of nuptials and conventional documentation as adequate proof of marriage relationships. Twenty years later, Congress revised the rules. Federal legislation adopted in 1882 required that, for a pension claim to be honored, marriage had to be proven according to the law of the state in which the marriage had taken place. In practice, reliance on state law coincided with a late nineteenth-century reform movement intended to formalize monogamous unions.

PEGGY PASCOE (University of Oregon) observed that each of these papers demonstrates the need to ground our study of citizenship on issues of economic and property rights. Reiterating, refining, and synthesizing the central arguments proffered by each of the presenters, Pascoe developed the theme that citizenship, insofar as nineteenth-century women were concerned, was not merely a matter of political status and the exercise of rights associated with democratic processes. As the panelists illustrated, the term *citizenship* had multiple definitions and applications, and these changed over time - not always in ways that gave women more rights. In the case of women, Pascoe contended, the rights of citizenship often related to marital status and racial considerations. As a result, historians need to pay more attention to the relations that exist between marriage and the state or nation.

Rediscovering State Constitutional History

G. ALAN TARR (Rutgers University), who chaired the panel, reports:

Almost a century ago, James Bryce observed that American state constitutions are "a mine of instruction for the natural history of democratic communities." The panel "Rediscovering State Constitutional History" built on Bryce's insight, bringing together scholars from history, political science, and legal studies to discuss the insights that can be derived from a study of American state constitutionalism.

WILLI PAUL ADAMS (JFK Institute for North American Studies, Free University of Berlin) presented a paper entitled "The Liberal and Democratic Republicanism of the First State Constitutions, 1776-1780." His paper examined the liberalism/civic republicanism debate in the light of the political theory underlying state constitutions of the Founding era. DAVID A. JOHNSON (Portland State University) presented a paper entitled "Constitutions and Constitution-Making in the Mid-Nineteenth Century Far West: Understanding Institutions Historically." His paper demonstrated the insights into the California Constitution that could be derived from an examination of the periodical and other literature contemporaneous with its adoption. ROBERT F. WILLIAMS (Rutgers University--Camden School of Law) presented a paper entitled "Reclaiming Newspaper Coverage of State Constitutional History: Lawyers, Courts, and Scholars." His study emphasized the usefulness of state constitutional history for attorneys and state judges, utilizing a case study of the newspaper coverage of a series of amendments in 1875 to the New Jersey Constitution to demonstrate his point. JOHN ORTH (University of North Carolina School of Law) provided commentary on the three papers.

Reticence, Overconfidence, and the Construction of Expertise in the Anglo-American Courtroom

Panel chair JAMES MOHR (University of Oregon) reports:

The session on "Reticence, Overconfidence, and the Construction of Expertise in the Anglo-American Courtroom" featured three papers that fitted together extremely well. STEPHAN LANDSMAN (DePaul University School of Law) used Old Bailey records from 1717 to 1817 to argue that the rise of expert medical evidence was by no means pushed upon the courts by an aggressive or aggrandizing medical profession; it was more nearly extracted from the medical profession by confused judges and increasingly partisan lawyers. Testimony about handwriting in American courts from 1836 to 1936 allowed JENNIFER MNOOKIN (University of Virginia School of Law) to explore the tensions between expert evidence based upon an ability to persuade layperson jurors and expert evidence based upon externally established positions of authority or deference. STEPHEN ROBERTSON (American Bar Foundation) recounted the reluctance of most well established psychiatrists to involve themselves as experts in the wave of sexual psychopath laws put upon the books by panicky lay lawmakers in the United States between 1930 and 1970. RANDALL MCGOWEN (University of Oregon), in his comments, and JAMES MOHR, from the chair, both pointed out how far these papers collectively had swung the interpretive pendulum away from the notion that experts have historically used the courts as vehicles of power. The realities were far more complex. Courts often hoped for degrees of expertise that the supposed experts could not deliver, and experts often regarded the adversarial legal system as a threat to their external authority rather than a way of augmenting it.

Substance and Procedure in the Premodern English Trial

THOMAS GALLANIS (Ohio State University) reports:

The panel on "Substance and Procedure in the Premodern English Trial" brought together two provocative papers and

sparked a lively discussion. The first paper was presented by DAVID SEIPP (Boston University), who spoke about "Judge Scarcity, Jury Discretion, and the Rules of Law." Emphasizing the small number of common-law judges and the correspondingly large role played by the jury, he argued that jurors possessed broad discretion but did not enjoy it; instead, they hungered for fixed rules of substantive law that

would enable them to decide the case without taking responsibility for the verdict. The second paper was presented by RICHARD FRIEDMAN (University of Michigan) and MICHAEL MACNAIR (Lancaster University), who discussed "The Emergence of the Confrontation Right and the Rule Against Hearsay." They argued that modern hearsay law should be seen as the product of two distinct strands of doctrine—one procedural, one

evidentiary—that merged in the early nineteenth century but that had experienced substantial development much earlier. Constructive comments on both papers were offered by JAMES OLDHAM (Georgetown University), followed by a series of spirited questions from the chair and from the audience.

Liberal Constitutionalism in the United States

MAXWELL BLOOMFIELD reports:

Each paper explored the interplay between constitutional law, politics, and ideology in one period of early New York history. CHRISTINE DESAN (Harvard Law School) examined "The Defensive Constitutionalism of American Colonialism." American Constitutionalism, she noted, remains divided between a strong anti-governmental or libertarian bias, on the one hand, and an equally powerful commitment to the rule of law and judicial adjudication on the other. She traced this polarity to the conditions of imperial rule, which denied legitimacy to the acts of provincial legislatures while acknowledging the claims of courts to resolve local disputes. Much of her paper centered on the struggle between Crown officials and the New York assembly from 1710 to 1717 over the control of public expenditures. Frustrated in their efforts to control prospective spending, legislators worked out an arrangement whereby the governor acknowledged their right to determine which existing debts were meritorious and should be paid. In time this compromise enabled the assembly to assume de facto control of all public expenditures, while purporting merely to defend constituents against the excesses of imperial administrators. Such a protective and anti-governmental strategy enhanced the political power of colonial legislators, even as it reduced the stature of the political process and the legitimacy of political institutions. By contrast, Americans found that their legal authorities had a role recognized as essential by imperial and provincial actors alike. While both the assemblies and the courts became sites for local struggle against royal governance, legislative strategies reinforced distrust of affirmative political power, while judicial strategies sanctified the adjudicative power of law.

CHARLES W. McCURDY (University of Virginia) used the Anti-Rent movement as a frame of reference for investigating "Property, Contract and the Public Purpose: Land Reform in the New York Constitution of 1846." He briefly described both the extraordinary magnitude and duration of the rent strike and the pattern of Anti-Rent violence, then took up the resulting attempts to extinguish manorial tenures by force of law. When Governor William H. Seward pronounced the "feudal" landlord-tenant relation as "oppressive, anti-republican and degrading" in 1840, the search for a legal resolution began. It continued until every possible option had been exhausted. McCurdy accounted for the rise and fall of proposed solutions under the police power, the taxing power, the eminent domain power, the regulation of inheritance, legislative control over landlord remedies, the power to contest the validity of land titles, and the judicial power to decline enforcement of contracts against public policy. He linked the failure of those options to larger transformations in legal and political thought. While the constitution of 1846 did prohibit the incidents of manorial tenure at least prospectively, the idea of public responsibility for relieving such oppressive legal relations, he observed, had weakened since the Anti-Rent movement began in 1839.

The commentators praised both presenters for their challenging and insightful papers. GREGORY S. ALEXANDER (Cornell Law School) pointed out that both papers dealt with oppositional politics and its relation to law. Colonial New Yorkers used oppositional politics successfully to undermine the central authority of the state; the Anti-Rent movement, on the other hand, failed. A possible explanation for these disparate outcomes, he suggested, may lie in the fact that neither the legislature nor the courts supported the Anti-Rent position, which threatened the vested rights of entrenched social and political hierarchies.

WILLIAM J. NOVAK (University of Chicago) urged the presenters to consider recasting their arguments along more revisionist lines. He suggested, for example, that Professor Desan omit references to "negative liberty" in assessing the long-range significance of legislative adjudication.

New Approaches to Old Institutions

SUE SHERIDAN WALKER reports:

This session, well planned by Charles Donahue, offered new approaches to themes in medieval history. In two cases this involved a rereading of texts long in print and in another a computer analysis of English legal manuscripts. In "Hostages as Personal Surety in Carolingian Europe," ADAM J. KOSTO (Columbia University) provided a new approach to an old institution. His study of hostages explored how the familial and political ties of the parties to these transactions indicated wider networks of power. The broader focus reveals new dimensions of personal surety.

ROBERT F. BERKHOFER (Western Kentucky University) discussed "Seigneurial Consent to Marriage of the Unfree in Twelfth-Century France" in terms of monastic estates and the laymen, called mayors, who ran them. In the Carolingian period these men had almost all been of servile status. While still technically "serfs" in the twelfth-century, the mayors were not peasants but substantial landlords who collected taxes and had the power to do justice. Recognizing that the mayors had gotten out of hand, the abbots asserted the servile status of mayors in a variety of ways. One of the most important was abbatial insistence on seigneurial consent to the mayor's marriage. The evidence is principally in the form of charters and in the active debate among lawyers and theologians.

DANIEL M. KLERMAN (University of Southern California School of Law) spoke on the subject of "Settlement and Decline of Private Prosecution in Thirteenth-Century England," where he offered quantitative evidence from the manuscript plea rolls using "regression." His handout summarized his research on Common Law process and the settlement procedures chosen by female litigants to explain significant legal change. The three speakers were followed by an able comment by ROBIN STACEY (University of Washington) in which she strengthened the broad theme of the session with some Celtic examples. Her questions and comments were interesting to the audience and undoubtedly useful to the speakers. All this was done within the time for the session and discussion, as in all successful sessions, continued later. The chair, while holding a stopwatch, expressed gratitude for the learning and cooperation of the group.

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ANNOUNCEMENTS

David Yale Prize Announced

The Council of the Selden Society have established a prize in honor of David Yale, Literary Director and Honorary President of the Society.

The prize will be awarded for an outstanding contribution to the study of the history of the law and legal institutions of England and Wales, by a scholar under the age of 35. It is proposed to award the prize in alternate years, commencing in 1999. The sum awarded will be A31,000 [Pounds Sterling]. The full regulations for the prize and further information may be obtained from the Secretary of the Society at the following address:

Victor Tunkel Esq
Secretary, The Selden Society

Faculty of Laws
Queen Mary and Westfield College
Mile End Road
London E1 4NS
England
Fax: 0181 981 8733
e-m: <Selden-Society@qmw.ac.uk>

The Selden Society was founded in 1887, its purpose "To encourage the study and advance the knowledge of the History of English Law."

Directory of Manuscript Collections Related to Federal Judges

The Federal Judicial Center announces the publication of the *Directory of Manuscript Collections Related to Federal Judges*. The directory, compiled by the Center's Federal Judicial History Office, contains entries for more than 900 federal judges, including justices of the Supreme Court. The directory includes citations to more than 5,000 collections at 385 repositories throughout the United States.

A PDF version of the directory is available on the Federal Judicial Center home page (www.fjc.gov). To request a printed copy of the directory, please send an e-mail to msarago@fjc.gov or fax the Information Services Office at (202) 273-4025. E-mail requests should include "Manuscript Directory" in the subject field and the name and full mailing address in the body of the message. You may also write to the Information Services Office, Federal Judicial

Center, One Columbus Circle NE, Suite 6-310, Washington, DC 20002-8003. Other questions or comments may be directed to the Federal Judicial History Office at (202) 273-4182 or pwonders@fjc.gov.

"A Century of Lawmaking" On-Line

In celebration of the 209th anniversary of the Constitution, the Law Library of Congress and the National Digital Library program have released the second series of historical congressional documents and debates dating from 1774.

"A Century of Lawmaking for a New Nation: U.S. Congressional Documents and Debates, 1774-1873" is part of the American Memory collections, available at www.loc.gov/.

The Journals of the Continental Congress, the Records of the Federal Convention of 1787 and the Debates in the Several State Conventions on the Adoption of the Federal Constitution have been added to "A Century of Lawmaking for a New Nation."

Beginning with the Continental Congress in 1774, America's national legislative bodies have kept records of their proceedings. The records of the Continental Congress, the Constitutional Convention and the U.S. Congress comprise a rich documentary history of the development of the federal government and its role in the national life in the words of those who built it.

Books on the law formed a major part of the holdings of the Library of Congress from its beginning. In 1832 Congress established the Law Library of Congress as a separate department of the Library. It houses one of the most complete collections of U.S. congressional documents in their original format. To make these records more easily accessible to students, scholars and interested citizens, "A Century of Lawmaking for a New Nation" will bring together on-line the records and acts of Congress from the

Journals of the Continental Congress through The Congressional Globe, which ceased publication with the 42nd Congress in 1873.

Sir Edward Coke's Churches Seek Assistance of Legal Historians

Allen D. Boyer, an ASLH member and student of Coke, writes:

Two English country churches closely connected with Sir Edward Coke, where he worshipped and where he and members of his family are buried would welcome the interest and assistance of American lawyers and legal historians.

In Tittleshall, Norfolk, in countryside Coke knew all his life, and where he was buried beside "his first and best wife" Bridget, St. Mary's Church has begun a fund-raising campaign. The object is to restore the church fabric and preserve the Coke family monuments. These include splendid marble statues, badly restored in the past. Other Coke relics include bells installed by the Chief Justice, possibly to mark his 70th birthday.

Huntingfield, Suffolk - where the church, coincidentally, is also named St. Mary's - is where Coke, Bridget, and their children lived in the 1580's, while Coke was one of the common law's most eminent practitioners. Buried in the chancel are one of Coke's children and his mother-in-law, redoubtable landholder Anne Bedingfield. His favorite nephews, although Puritan ministers, preserved the hammerbeam roof and some medieval decorations.

Despite the hard times facing rural churches in England, both churches are open and maintain regular services. For either, donations may be made by checks made payable to the church. All are also welcome to visit or worship.

For information on or to give to St. Mary's, Tittleshall, please contact Nicholas Hills, churchwarden and architect, at The Old Rectory, Tittleshall, King's Lynn, Norfolk PE32-2PN (fax 01328-700-030).

For information on or to donate to St. Mary's, Huntingfield, please contact Felicity Griffin, either c/o St. Mary's Church, Huntingfield, or at 1 Crombie House, The Common, Southwold, Suffolk IP18-6AL.

British Legal History Conference, July 14-17, 1999

The Fourteenth British Legal History Conference will take place in Edinburgh from July 14-17, 1999. Accommodation will be in Pollock Halls of Residence near Arthur's Seat and the sessions of the Conference will be in the premises of the Faculty of Law in historic Old College on South Bridge. Luncheons will be served in the fine Dining Room of the

Students' Union and evening meals will be available at Pollock Halls. The Conference Dinner on 16th July will be in the Playfair (Upper) Library, a masterpiece of the Scottish neo-Grecian style.

The Conference will be hosted by the Centre for Legal History in the Faculty of Law; the convenors are Dr. John W. Cairns (Director of the Centre, John.Cairns@ed.ac.uk), Ms. Andrea Loux (Deputy Director, ALOUX@ed.ac.uk), and Professor Hector L. MacQueen.

As agreed at Cambridge, the theme of the Conference will be "The Jury," but broadened to include the topic of "Parliaments," since 1999 sees the election of the first Parliament to sit in Edinburgh since the Union of Scotland and England. Facilities will be available for those wishing to present a paper off the topic of the conference. Such papers will have to be distributed in advance, and times set aside for their discussion with interested parties.

For further information, please contact Dr. John W. Cairns by Email (John.Cairns@ed.ac.uk) Fax (0131-662-4902), or mail (Centre for Legal History, The University of Edinburgh, Old College, South Bridge, Edinburgh EH8 9YL).

ASLH/H-LAW Mentoring Program

The H-LAW Graduate Student Coordinators, Deb Baumgarten and Cheri Wilson, are seeking mentors for graduate students and junior faculty. The purpose of the mentoring program is to establish contacts between graduate students, junior faculty, and faculty members with similar research interests as well as to foster their professional development.

If you wish to add your name to the mentoring list, please e-mail the following information to: Cheri Wilson wils0141@tc.umn.edu: your name, mailing address, telephone number, fax number, email address, and research interests.

Land and Freedom: ANZLHS Conference

The web-site for "Land and Freedom: The 18th Annual Conference of the Australian and New Zealand Law and History Society" to be held in Newcastle, Australia, 9-11 July 1999, is now available at: <http://econ->

www.newcastle.edu.au/conferences/land/

Announcing a Web Site on Law and Popular Culture

Picturing Justice is a web site on-line journal which focuses on law and popular culture. The site features short (1000-2000 word) reviews and essays. Many of the articles are written by law professors and lawyers but others come from professors in non-law fields, law students, and others. PJ intends the site to be a place where both lawyers and non-lawyers can share their views and the editors actively solicit articles from a broad cross section of people. Articles are welcome on any aspect of law and popular culture. Although most focus on film and television, authors are invited to be creative. For example, one article examined the "laws" of player killing in a popular virtual reality environment. News about law and popular culture topics is often included as well as a listing of recently published books on the topic and links to other sites. The site is constantly updated to be more comprehensive and user friendly. Articles are often accompanied by graphics and links to other relevant sites. Readers can post comments. The entire current issue can be downloaded easily and older articles are retained in the archive. The site has been recognized by the Scout Report and by Yahoo! Magazine. Submission guidelines are available on the site. The site is managed by John Denvir, Rob Waring, and Paul Joseph and may be found at <http://www.usfca.edu/pj>

Call for Papers: Third National Policy History Conference

The Graduate Program in Policy History of Bowling Green State University invites proposals for panels and papers for the Third National Policy History Conference to be held at the University on June 1-3, 2000. The Program Committee invites proposals that are germane to the interests of all who study policy from historical perspectives. We recognize that disciplines other than history will also offer essential viewpoints and proposals from other disciplines are therefore welcome. The Conference will focus on two main themes. While proposals addressing these themes or their interrelations are especially welcome, we also encourage the submission of proposals in other areas of Policy History.

Theme I: we invite proposals dealing with the historical roots and policy aspects of personal, cultural and political inequality. While scholars recognize that inequality is primarily an economic problem, they also note that economics are distilled through political perception: raw economics rarely make public policy. Thus, in order to enhance understanding of the complexity of contemporary inequalities, we wish to stimulate discussion of the empirical origins and representations of inequality as well as the ideological perpetuation of systemic inequality.

Theme II: we invite proposals dealing with policy aspects of borders. In connection with this theme, we hope to stimulate proposals from scholars who have interests in such areas as: the meaning of "border" in political, cultural and economic contexts; the meaning of "state" and "community" as border-making authorities; techniques and historical processes of border formation (including such phenomena as cultural activism, migration, commercial structures, and inter-ethnic violence); the future of borders in the light of commercial and technological internationalism and the activity of international organizations.

The Committee recognizes that these themes are potentially interrelated. Historically, borders have been among the most potent devices available to authorities wishing to preserve aspects of inequality. It is therefore anticipated that some proposals will include elements of both themes.

While the Committee's principal interest is in proposals that focus on the provenance of policies, policy implementation, and policy outcomes, we seek to encourage proposals that address either of the Conference's principal themes from a broad range of disciplines and research interests. Proposals for individual papers are welcome, but proposals for entire panels--consisting of a chair, two, or three, papers and a discussant--are preferred.

Proposals should include a brief resume for each participant. They must be received by October 15, 1999 at the following address:

Chair, Program Committee
National Conference on Policy History
Department of History
Bowling Green State University
Bowling Green, OH 43403
drowney@bgnet.bgsu.edu

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