

**AMERICAN SOCIETY
FOR
LEGAL HISTORY**



Historia Omnium Legum

1999

Twenty-ninth Annual Meeting
Sheraton Centre Hotel
Toronto, Ontario
October 21-23, 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

Prina Lahav, Boston University

William LaPiana, New York Law School

Victoria List, Washington & Jefferson College

Kenneth Mack, Princeton University

Gregory Mark, Rutgers University, Newark

Michael Millender, University of Iowa

Richard Ross, Indiana University

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

ASLH wishes to express special thanks to the Law Society of Upper Canada, Osgoode Hall Law School of York University, the Osgoode Society, and the University of Toronto Faculty of Law for their generous support of the 1999 annual meeting.

American Society for Legal History
Annual Meeting, October 21-23, 1999
Sheraton Centre Hotel
Toronto, Ontario



Registration

Mezzanine
Sheraton Centre Hotel

Thursday, October 21
3:30-6:00 p.m.

Friday, October 22
8:00 a.m.-4:00 p.m.

Saturday, October 23
8:00-10:00 a.m.

Book Exhibit

Windsor East & West
Mezzanine Level

**American Society for Legal History
1999 Annual Meeting: Program-at-a-Glance**

Thurs. 5:30 p.m.

Opening Reception Essex Ballroom

Thurs. 7:30 p.m.

Board of Directors Rooms B/C

Fri. 7:30 a.m.

✓ Celebrating Cohen (F)	Learning from Lincoln (D)
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Fri. 8:45 a.m.

Idea of Equity in Income Tax (D)	Warren Court & Countermajoritarian Problem (B/C)
Ideologies, Institutions, State Formation in Atlantic World (G)	Radicals, Reformers & Rule of Law, 1790-1830 (F)
State of Evidence in Early English Literature (E)	

Fri. 10:30 a.m.

✓ Law & Politics in Early Modern France (G)	Microhistories & British Legal History, 1740-1864 (D)
✓ Marriage Contract in 19 th Century U.S. (F)	Roundtable on Liberalism (B/C)
Law & Justice on the Frontier (E)	

Fri. 1:30 p.m.

Legal Cultures & Identities in Quebec 1760-1930 (E)	✓ The Idea of Natural Rights (F)
The Holmes Devise (B/C)	Legal Contestation & Republican Rhetoric (G)
✓ Colonial & Early Latin American Law (D)	

Fri. 3:15 p.m.

Law & Theology in New Testament (E)	19 th Amendment & Constitutional Historiography (B/C)
✓ Law & Political Economy in England, 1688-1832 (G)	Segregation between <i>Brown & Plessy</i> (F)
Positivism, Pluralism & Administrative State in Post-WW II U.S. (D)	

Fri. 5:30 p.m.

Annual Lecture: Osgoode Hall Lecture Hall

Fri. 6:30 p.m.

Annual Reception: Osgoode Hall Convocation Hall

Sat. 7:15 a.m.

Overlooked Records for Legal Research in National Archives (D)	Contesting Legal Definitions in Canadian History (E)
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Sat. 8:30 a.m.

Critical Race Theory (F)	Public Context of Criminal Law (E)
Constitutional Law: Family, Race & State (B/C)	Law of Intracorporate Relations (D)
Judges & Lawyers in Late Medieval England (G)	

Sat. 10:15 a.m.

Labor Law in Postwar Canada (D)	Historiographic Issues in Legal & Intellectual History (B/C)
Lawyers, Politics & Culture in Perspective (G)	Law & Aboriginal Rights (E)
Persuasion & Formal Justice in Ancient Law (F)	

Sat. 12:00

Annual Luncheon Essex Ballroom

Sat. 2:00 p.m.

Law & Sexuality in Canada & U.S. (E)	Law & Dangerous Stuff (F)
Afro/Latinas/os & Racial Formation (D)	Lochnerism Redux: WWI & the Taft Court (G)
A Tribute to John Beattie (B/C)	

Sat. 3:45

New Perspectives on the Founding (G)	Insurance as a Site of Historical Inquiry (F)
Poor Laws in Historical Perspective (E)	Politics, Theory & Taxation, 1895-1929 (D)



Osgoode Hall, c. 1860

Thursday, October 21, 1999

Opening Reception

5:30 p.m. Essex Ballroom & Foyer, Mezzanine Level

Board of Directors Meeting

7:30 p.m. Conference Rooms B & C, Mezzanine Level

Friday, October 22, 1999

Complimentary Continental Breakfast

7:15 a.m. Essex Ballroom & Foyer, Mezzanine Level

**Celebrating Cohen: Legal History, Legal Literature,
and the Bibliographic Enterprise**

Friday, 7:30 a.m. – 8:30 a.m.
Room F

Chair: Ann Fidler, Ohio University

Presenters: "Morris Cohen's Bibliography of Early
American Law and its Precursors"

David Warrington, Harvard Law School Library

"Practicalities of Legal Bibliographical
Research"

Balour Halevy, Osgoode Hall Law School,
York University

Not in Cohen: Classification and Accountability
in the Poststructuralist Academy"

Daniel Cohen, Florida International
University

Comment: Morris Cohen, Yale University Law School

**Learning from Lincoln:
New Tools for Researching Local Legal History**

Friday, 7:30 a.m. – 8:30 a.m.
Room D

Chair: Michael Grossberg, Indiana University

Papers: John A. Lupton, Lincoln Legal Papers
Springfield, IL

Daniel W. Stowell, Lincoln Legal Papers
Springfield, IL

Friday, October 22, 1999

Discussion: Andrew J. King, University of Maryland
School of Law

Maeva Marcus, Documentary History of the
Supreme Court of the United States

William J. Novak, University of Chicago

**The Idea of Equity in Income Tax:
Continuity and Change**

Friday, 8:45 a.m. – 10:15 a.m.
Room D

Chair: Daniel Ernst, Georgetown University
Law Center

Papers: "Taxing the Rich in Twentieth-Century
America: The Search for Balance between
Growth and Equity"

W. Elliot Brownlee, University of California,
Santa Barbara

"Designing a Paradigm:
The 1948 Revenue Act, Horizontal Equity,
Tax Reduction, and Joint Filing"

Dennis Ventry, University of California,
Santa Barbara

"Religious Views of Tax Justice"

Carolyn C. Jones, University of Connecticut
School of Law

Comment: Daniel Shaviro, New York University
School of Law

**The Warren Court and the
Countermajoritarian Problem**

Friday, 8:45 a.m. – 10:15 a.m.
Rooms B/C

Chair: Mark Tushnet, Georgetown University
Law Center

Papers: "The Warren Court's 'Countermajoritarian'
Decisions: The Birth of an Academic
Obsession"

Barry Friedman, Vanderbilt University
School of Law

"Neither Hero Nor Villain: The Supreme
Court, Race, and the Constitution in the
Twentieth Century"

Friday, October 22, 1999

Michael Klarman, University of Virginia
School of Law

Comment: Mary L. Dudziak, University of Southern
California Law School

**Ideologies, Institutions, and State Formation
in the Atlantic World**

Friday, 8:45 a.m. – 10:15 a.m.

Room G

Chair: Mary Sarah Bilder, Boston College Law School

Papers: "Legitimation and Political Space under the
Tudor and Stuart Crowns, c. 1550-1700"

Michael J. Braddick, University of Sheffield
"Negotiating the Empire, Protecting the State"

Elizabeth Mancke, University of Akron
"The Declaration of Independence and
International Law"

David Armitage, Columbia University

Comment: Christopher Tomlins, American Bar Foundation

✓ **Radicals, Reformers, and the Rule of Law
in the Early American Republic
and the Colonies of the Second British Empire,
1790-1830**

Friday, 8:45 a.m. – 10:15 a.m.

Room F

Chair: Walter Walsh, University of Washington
School of Law

Papers: "Migration, Radicalism, and State Security:
Legislative Initiatives in the Canadas and the
United States, c. 1794-1804"

Barry Wright, Carleton University

"The Rule of Law and Irish Whig
Constitutionalism in Upper Canada:
The Life and Influence of William Warren
Baldwin"

John McLaren, University of Victoria
School of Law

Friday, October 22, 1999

"Rhetoric, Reason, and the Rule of Law in Early
Colonial New South Wales"

Ian Holloway, The Australian National
University School of Law

Comment: Walter Walsh

**The State of the Evidence in Early English Literature:
Conventional Historiography and the
Emergence of New Perspectives**

Friday, 8:45 a.m. – 10:15 a.m.

Room E

Chair: DeLloyd Guth, University of Manitoba

Papers: "The Lover as Lawyer in Chaucer's
Knight's Tale"

Richard Firth Green, University of Western
Ontario

"Margery Kempe and the Voice of the Law"

Mark Amsler, University of Delaware

Comment: DeLloyd Guth

Law and Politics in Early Modern France

Friday, 10:30 a.m. – 12:00

Room G

Chair: James Gordley, University of California,
Berkeley School of Law

Papers: "Legislation in Early Modern France: A Judicial
Formula for National Sovereignty"

Sarah Hanley, University of Iowa

"The Constitution and the Nation in Old
Regime France"

David Bell, Johns Hopkins University

Comment: Keith Baker, Stanford University

Donald R. Kelley, Rutgers University

**Cases in Point: Using Microhistories in the Writing of
British Legal History, c. 1740-1864**

Friday, 10:30 a.m. – 12:00
Room D

- Chair: John Beattie, University of Toronto
- Papers: "The Cruel Mistress: Elizabeth Branch and
Representations of the Murderous Mistress in
Eighteenth-Century England"
Amy Masciola, University of Maryland
- "The Metropolitan 'Monster':
Renwick Williams"
Greg Smith, University of Toronto
- "The 'Unwritten Law' in Nineteenth-Century
England: The Trials of Annette Meyers and
George Hall"
Martin Wiener, Rice University
- Comment: Cynthia Herrup, Duke University

**The Marriage Contract in the
Nineteenth-Century United States**

Friday, 10:30 a.m. – 12:00
Room F

- Chair: Hendrik Hartog, Princeton University
- Papers: "Nineteenth Century Incompatibility Statutes
and the Expectations of Marriage"
Naomi Cahn, George Washington University
Law School
- "Contracts in Conflict:
The Economic Obligations of Marriage in the
Nineteenth Century South"
Emily Field Van Tassel, Case Western
Reserve University
- "Wifely Behavior: Charlotte Fixel and the
Demise of Common Law Marriage in
New York State"
Ariela Dubler, Yale University
- "Uncovering Extra-Legal Marriage in
Nineteenth-Century America: Public Policy, the
Pension System and the Regulation of
the Family"

Beverly Schwartzberg, University of California,
Santa Barbara

Comment: Richard Chused, Georgetown University
Law Center

Roundtable Discussion on Liberalism

Friday, 10:30 a.m. – 12:00
Rooms B/C

- Discussants: Daniel T. Rodgers, Princeton University
Robert Gordon, Yale Law School
Duncan Kennedy, Harvard Law School
Dorothy Ross, Johns Hopkins University
- Comment: The Audience

Law and Justice on the Frontier

Friday, 10:30-12:00
Room E

- Chair: Kermit Hall, North Carolina State University
- Papers: "Law in the Mining Camps of California"
Martin Ridge, Huntington Library
- "Images of Law and Order in the Legal Culture
of the Kootenays, 1870-1914"
Louis Knafla, University of Calgary
- "Crime, Violence, and the Fiction of Order in
British Columbia's Peace River Country,
1930-1950"
Jonathan Swainger, University of Northern
British Columbia
- Comment: John Philip Reid, New York University
Law School
Christopher English, Memorial University of
Newfoundland

**Negotiating Legal Cultures and
Legal Identities in Quebec, 1760-1930**

Friday, 1:30 p.m. – 3:00 p.m.
Room E

- Chair: Brian Young, McGill University

- Papers: "Changes in the Penal Law of Quebec Across and After the Conquest"
Donald Fyson, Universite de Laval
"Regulating Public Space in Early Nineteenth-Century Montreal: Vagrancy Laws and Gender in a Colonial Context"
Mary Anne Poutanen, Montreal History Group
"Rethinking Marriage, Property, and Cultural Identities in Nineteenth-Century Quebec"
Bettina Bradbury, York University
"Gender and the Practice of Juvenile Justice in Quebec: Influences and Orientation"
Tamara Myers, University of Winnipeg
- Comment: Nicholas Kasirer, McGill University

The Idea of Natural Rights

- Friday, 1:30 p.m. – 3:00 p.m.
Room F
- Chair: Richard Fraher
- Papers: "The Idea of Natural Rights"
Charles Donahue, Harvard University Law School
"The Idea of Natural Rights"
Kenneth Pennington, Syracuse University
- Comment: Richard Fraher
Brian Tierney, Cornell University

The Holmes Devise

- Friday, 1:30 p.m. – 3:00 p.m.
Rooms B/C
- Chair: Stanley N. Katz, Princeton University
- Discussants: G. Edward White, University of Virginia Law School
Morton J. Horwitz, Harvard Law School
William M. Wiecek, Syracuse University College of Law

- Comment: John Semonche, University of North Carolina, Chapel Hill
Sanford Levinson, University of Texas School of Law

Legal Contestation, Political Order, and Republican Rhetoric from the Revolution Through Reconstruction in the United States

- Friday, 1:30 p.m. – 3:00 p.m.
Room G
- Chair: Ariela Gross, University of Southern California School of Law
- Papers: "(Dis)order in the Court: Trial Scenes in Mid-Nineteenth-Century American Art"
Kerry A. Morgan, Stanford University
"Bodies, Violence, and Citizenship in the Post-Revolutionary U.S. South"
Laura Edwards, University of California, Los Angeles
"*Slew v. Whipple* and the Pursuit of Freedom in Massachusetts' Revolutionary Courtrooms"
Emily Blanck, Emory University
- Comment: Ariela Gross

✓ **"Colonial and Early Republican Latin American Law"**

- Friday, 1:30-3:00
Room D
- Chair: Jonathan Miller, Southwestern University School of Law
- Papers: "The Social History of Family Law in Colonial New Granada"
Victor Uribe, Florida International University
"Legal Foundations of the Uruguayan State: Jurisdictional Politics, 1830-1875"
Lauren Benton, Federated History Dept., NJIT and Rutgers University, Newark
"Borrowing Private Law in Nineteenth-Century Latin America"
Matthew C. Mirow, South Texas College of Law

Friday, October 22, 1999

Comment: Susan Scafidi, Southern Methodist University
School of Law

Jonathan Miller

✓ **Law and Theology in the New Testament**

Friday, 3:15 p.m. – 4:45 p.m.

Room E

Chair: Bernadette Brooten, Brandeis University

Papers: "Jesus and the Law: Steps Towards a
Theoretical Approach"

Alan Watson, University of Georgia School of
Law

"Law, Religion, and the Decalogue"

Calum Carmichael, Cornell University

Comment: Bernadette Brooten

Geoffrey Miller, New York University
Law School

**The Nineteenth Amendment and
Constitutional Historiography**

Friday, 3:15 p.m. – 4:45 p.m.

Room s B/C

Chair: William Forbath, University of Texas School of
Law

Papers: "The Nineteenth Amendment and Questions of
Constitutional Interpretation"

Reva Siegel, Yale Law School

"Marriage and Women's Citizenship After the
Nineteenth Amendment"

Gretchen Ritter, University of Texas at Austin

Comment: William Forbath

Frank Michelman, Harvard University School
of Law

Law and Political Economy in England, c.1688-1832

Friday, 3:15 p.m. – 4:45 p.m.

Room G

Chair: Timothy Harris, Brown University

Friday, October 22, 1999

Papers: "Law and Political Economy in the Era of the
Glorious Revolution"

Steven Pincus, University of Chicago

"Economy and Polity in Bentham's Science of
Legislation"

David Lieberman, University of California,
Berkeley

Comment: Timothy Harris

Wilfred Prest, University of Adelaide, Australia

**Common Themes: Segregation Between Plessy v.
Ferguson and Brown v. Board of Education**

Friday, 3:15 p.m. – 4:45 p.m.

Room F

Chair: Howard Gillman, University of Southern
California

Papers: "Plessy vs. Lochner: The Berea College Case"

David Bernstein, George Mason University
School of Law

"Beyond Plessy: Race, Status, and Space in the
Era of Jim Crow"

Barbara Welke, University of Minnesota

"Rock'n' Segregation: Popular Culture, the
Supreme Court, and the Fall of Segregation"

Christopher Waldrep, Eastern Illinois University

Comment: Melvin Urofsky, Virginia Commonwealth
University

Darlene Clark Hine, Michigan State University

**Positivism, Pluralism, and the Administrative
State in Post-War America**

Friday, 3:15 p.m. – 4:45 p.m.

Room D

Chair: Linda Przybyszewski, University of Cincinnati

Papers: "Legal Positivism and Legal Process"

Anthony J. Sebok, Brooklyn Law School

"The Bridges of Madison's Country: Pluralism
and Process in Post-War Legal Thought"

Carl Landauer, Charles Schwab & Co.

Friday, October 22, 1999

"Enlarging the Administrative Polity:
Administrative Law and the
Changing Definition of Pluralism, 1945-1970"

Reuel Schiller, University of California

Comment: Hugh Baxter, Boston University Law School

Annual Lecture

Friday, 5:30 p.m.

"Distinct Societies and the Demand for
Distinctive Law"

Douglas Hay, York University

Lecture Hall, Osgoode Hall

Annual Reception

Friday, 6:30 p.m.

Convocation Hall, Osgoode Hall

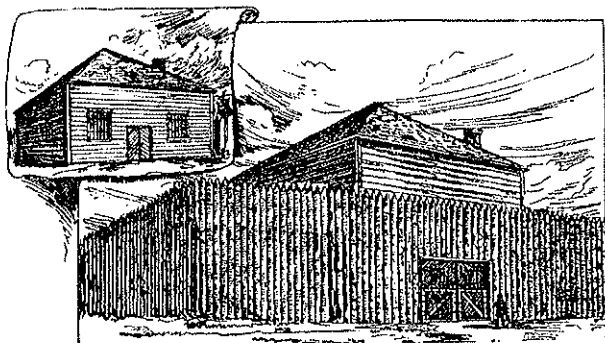
Hosts:

Law Society of Upper Canada

Osgoode Hall Law School of York University

The Osgoode Society

University of Toronto Faculty of Law



First Gaol in York, c. 1820

Saturday, October 23, 1999

Complimentary Continental Breakfast

7:00 a.m. Essex Ballroom & Foyer, Mezzanine Level

Primary Sources for Legal Research: Overlooked Records in the National Archives

Saturday, 7:15 a.m. – 8:15 a.m.

Room D

Chair: Meg Hacker, National Archives-Southwest
Region

Papers: "Bass Reeves, U.S. Marshall: Overlooked in
History"

Hon. Paul Brady

"The Right to Vote: The Enforcement Acts and
Southern Courts"

Barbara Butler Rust, National Archives-
Southwest Region

Clarence Lyons, National Archives and Records
Administration

Comment: Meg Hacker

Contesting Legal Definitions in Canadian History

Saturday, 7:15 a.m. – 8:15 a.m.

Room E

Chair: Carolyn Strange, Centre of Criminology,
University of Toronto

Papers: "Beyond the Insanity Defense: Defining
Criminal Responsibility in Canadian Law,
1920-1950"

Kimberley White-Mair, Centre of Criminology,
University of Toronto

"Constituting the 'Indian': Law, Liquor, and
Culture in British Columbia, 1876-1900"

Renisa Mawani, Centre of Criminology,
University of Toronto

"Winning Deviant Youth Over by Friendly
Helpfulness': Transformations in the Legal
Governance of Deviant Children, 1857-1908"

Bryan Hogeveen, Centre of Criminology,
University of Toronto

Comment: Carolyn Strange

Critical Race Theory

Saturday, 8:30 a.m. – 10:00 a.m.

Room F

Chair: Kenneth Mack, Princeton University

Papers: "The Most Valuable Sort of Property":
Constructing White Identity in American Law"

J. O. Allen Douglas, Jr., Rutgers University

"Scholarly Treatments of *Loving v. Virginia* "

Adrienne D. Davis, Washington College of Law

"A Certain Blind Spot': The Indian,
New Deal, and Pluralism"

Dalia Tsuk, Yale University

Comment: Kendall Thomas, Columbia University
Law School

The Public Context of Criminal Law

Saturday, 8:30 a.m. – 10:00 a.m.

Room E

Chair: Thomas A. Green, University of Michigan

Papers: "The Rhetoric of British Justice in Colonial
Reform Movements, 1815-1841"

Jerry Bannister, University of Toronto

"'Chaffanbrass' for the Defence?" Advocacy
on Trial, 1836-1860"

Allyson May, Independent Scholar

"Re-Conceiving 'Public' Execution in Mid-
Victorian England"

Simon Devereaux, University of British
Columbia, Green College

Moderator: Thomas A. Green

**The Contexts of Constitutional Law:
Family, Race, and the State**

Saturday, 8:30 a.m. – 10:00 a.m.

Rooms B/C

Chair: David E. Kyvig, Northern Illinois University

Papers: "Family and Constitution in Continental
Settlement"

Mark Brandon, University of Michigan

"Written Constitutions, Racial Constitutions,
and Constitutional Permanence in Nineteenth-
Century America"

Michael Vorenberg, Brown University

"Law, Autonomy and the Relational Self: A
Comparative Approach to Constitutional
Protection"

Jennifer Nedelsky, University of Toronto

Comment: David E. Kyvig

**Inside the Black Box:
The Law of Intracorporate Relations**

Saturday, 8:30 a.m. – 10:00 a.m.

Room D

Chair: Tony Freyer, University of Alabama School of
Law

Papers: "Owning Ideas and Owning Employees: The
Nineteenth Century Development of Trade
Secrets and Covenants Not to Compete and the
Rise of Corporate Management of Intellectual
Property"

Catherine Fisk, Loyola Law School

"A Quiet Revolution: The Declining Power of
the Small Shareholder in the Nineteenth
Century"

Colleen Dunlavy, University of Wisconsin

Comment: Tony Freyer

✓ Judges and Lawyers in Late Medieval England

Saturday, 8:30 a.m. – 10:00 a.m.

Room G

Saturday, October 23, 1999

- Chair: Sue Sheridan Walker, Northeastern Illinois University
- Papers: "Judge Made Law"
- Robert Palmer, University of Houston School of Law
- "The Ambidextrous Lawyer: Conflict of Interest and the Medieval and Early Modern Legal Profession"
- Jonathan Rose, Arizona State University School of Law
- Comment: Richard Helmholz, University of Chicago Law School
-

Labor Law and the Rise and Fall of Collective Bargaining in Postwar Canada

Saturday, 10:15 a.m. – 11:45 a.m.
Room D

- Chair: Harry Arthurs, York University
- Papers: "Pluralism or Segmentation? The Legal Regulation of Employment Relations in Canada, 1945-1999"
- Judy Fudge, York University
- Eric Tucker, York University
- "Two Labor Regimes: A Comparative Analysis of the Origins, Development, and Divergence of the Canadian and American Labor Relations Systems, 1935-1995"
- Laurel Sefton MacDowell, University of Toronto
- "Why are Canada's Labor Laws More Favorable to Unions?; Or, Not-So-Small Differences that Matter a Great Deal"
- John Logan, London School of Economics and Political Science
- Comment: Roy Adams, McMaster University
- Harry Glasbeek, York University
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Historiographic Issues in Legal and Intellectual History

Saturday, 10:15 a.m. – 11:45 a.m.
Rooms B/C

Saturday, October 23, 1999

- Chair: James T. Kloppenberg, Brandeis University
- Papers: "Theories of History and the History of Free Speech"
- David Rabban, University of Texas School of Law
- "Second Thoughts on Causation in History"
- Thomas Haskell, Rice University
- Comment: James T. Kloppenberg
-

Lawyers, Politics, and Culture in Historical Perspective

Saturday, 10:15 a.m. – 11:45 a.m.
Room G

- Chair: Chris Brooks, Durham University
- Papers: "English Legal Culture and Governance, 1689-1832: The Failure of Common Law and Lawyers"
- David Lemmings, University of Newcastle
- "Together We Fall, Divided We Stand": The Management of Conflict With the Law Institute of Victoria, 1890-1946
- Rob McQueen, La Trobe University
- "Lawyers, Politics, and Culture in Nineteenth-Century England"
- Wes Pue, University of British Columbia School of Law
- "Politics, Culture, and the History of Legal Professions"
- David Sugarman, Lancaster University,
- Comment: Chris Brooks
-

Law and Aboriginal Rights

Saturday, 10:15 a.m. – 11:45 a.m.
Room E

- Chair: Stuart Banner, Washington University School of Law
- Papers: "Judging Aboriginal Rights and Obligations: Law and Resistance in the Supreme Court of New South Wales during the Colonial Period"

Saturday, October 23, 1999

Bruce Kercher, Macquarie University School of Law

"Australian Land, Aboriginal Personhood?
Competing Concepts of Property in Colonial
New South Wales"

Andrew Buck, University of Newcastle

"Mid-Nineteenth Century Reform of the Law of
Evidence and Aboriginal Witnesses in Colonial
Australia"

Nancy Wright, University of Newcastle

Comment: Stuart Banner

Persuasion and Formal Justice in Ancient Law

Saturday, 10:15 a.m. – 11:45 a.m.
Room F

Chair: Edward Harris, Brooklyn College

Papers: "Professional and Amateur Speech in the
Athenian Courts"

Victor Bers, Yale University

"Aristotle on Procedural Justice in Athenian
Courts"

Bruce Frier, University of Michigan

"Cicero's Advocacy and the Canadian
Hearsay Rule"

Alex Kurke, Thorneloe College of Laurentian
University

"The Court on the Hill: Areopagos and the
Classical Athenian Legal System"

Adriaan Lani, University of Michigan and
Yale Law School

"Witnesses in Athenian Courts"

David Mirhady, University of Calgary

Comment: Edward Harris

Annual Luncheon

Noon
Essex Ballroom

The State of the Society
Laura Kalman
University of California, Santa Barbara

Saturday, October 23, 1999

Sexuality and the Law in the United States and Canada

Saturday, 2:00-3:30 p.m.
Room E

Chair: Mary Louise Adams, Queen's University

Papers: "Obscenity Law and the Regulation of Sexual
Representations in Ontario"

Bruce Ryder, York University

"Courting Respectability in the Sexual
Revolution, 1965-1973"

Marc Stein, York University

"Age of Consent Laws and the Re-regulation of
Homosexuality"

Kate Sutherland, York University

"Regulating Sexual Offences in British
Columbia, 1885-1940"

Dorothy Chunn, Simon Fraser University

Comment: Mary Louise Adams

Law and Dangerous Stuff

Saturday, 2:00 p.m. – 3:30 p.m.
Room F

Chair: Lawrence Friedman, Stanford Law School

Papers: "Legal Control of Liquor in the United States
before National Prohibition, 1776-1920"

Richard Hamm, State University of New York
at Albany

"Devices and Desires: Contraceptives in the Age
of Comstock"

Andrea Tone, Georgia Institute of Technology

"The Regulation of Firearms, 1865-1939"

Michael Bellesiles, Emory University

Comment: Lawrence Friedman

Afro Latinas/os and Racial Formation

Saturday, 2:00 p.m. – 3:30 p.m.
Room D

- Chair: Gilbert Holmes, Texas Wesleyan University
School of Law
- Papers: "Race, Racism, and Racial Categories in Cuba"
Tanya K. Hernandez, St. John's University
School of Law
- "Toward a Genealogy of the Legal Construction
of Race in Puerto Rico"
Charles R. Venator Santiago, University of
Massachusetts, Amherst
- "Afro-Mexicans and the Construction of
'Mexicans'"
Taunya Lovell Banks, University of Maryland
School of Law
- Comment: Kevin R. Johnson, University of California at
Davis School of Law
- Robert J. Cottrol, George Washington University
Law School

Lochnerism Redux: World War I and the Taft Court

Saturday, 2:00 p.m. – 3:30 p.m.
Room G

- Chair: Sandra Van Burkleo, Wayne State University
- Papers: "Lochnerism Redux"
Robert Post, University of California, Berkeley,
School of Law
- "125 Years after Slaughterhouse:
Where's the Beef?"
Jonathan Lurie, Rutgers University
- Comment: Sandra Van Burkleo
Barry Cushman, University of Virginia
Law School

**Law and Justice in England:
A Tribute to John Beattie**

Saturday, 2:00 p.m. – 3:30 p.m.
Rooms B/C

- Chair: James Oldham, Georgetown University
Law Center
- Papers: "Press Gangs Make Better Magistrates than the
Middlesex Justices': Young Offenders, Press
Gangs, and Prosecution Strategies in
Eighteenth- and Early Nineteenth-Century
England"
Peter King, Nene College
- "The Trading Justice"
Norma Landau, University of California, Davis
- "Religion and the Law: Evidence and Proof in
'Matter of Fact,' 1660-1700"
Barbara Shapiro, University of California,
Berkeley
- "Forgery and the Making of the 'Bloody Code'
in Eighteenth-Century England"
Randall McGowen, University of Oregon
- "Apprenticeships and the Origins of the First
Factory Act"
Joanna Innes, Somerville College
- Comment: Nicholas Rogers, York University
Donna Andrew, University of Guelph

**New Perspectives on the Founding: Sovereignty,
Judicial Review, and the Extended Republic**

Saturday, 3:45 p.m. – 5:15 p.m.
Room G

- Chair: Lance Banning, University of Kentucky
- Papers: "The Transformation of Federalism in the
Early Republic"
Larry Kramer, New York University Law School
- "Foreign Affairs, the Several States, and Treaties
as the Supreme Law of the Land"
Martin Flaherty, Fordham Law School
- "The Original Understanding of Judicial
Review"

Saturday, October 23, 1999

William Michael Treanor, Fordham Law School

Comment: Lance Banning

Joanne Freeman, Yale University

**Researching Insurance: A Discussion of Insurance
as a Site of Historical Inquiry**

Saturday, 3:45 p.m. – 5:15 p.m.

Room F

Chair: Tom Baker, University of Connecticut School
of Law

Papers: "Life Insurance as a Window onto Cultural
History"

Geoffrey Clark, Emory University

"Legislating Futurity: Mandatory Rural Fire
Insurance in Late Imperial Russia"

Cathy Frierson, University of New Hampshire

"Insurance and the Utopian Idea"

Carol Weisbrod, University of Connecticut
School of Law

Comment: Tom Baker

The Poor Laws in Historical Perspective

Saturday, 3:45 p.m. – 5:15 p.m.

Room E

Chair: David Seipp, Boston University School of Law

Papers: "The Enforcement of Medieval Poor Laws"

Elaine Clark, University of Michigan, Dearborn

"Jurisdictional Variations in the Propensity to
Regulate Begging in the Modern United States"

Patricia Smith, University of Michigan,
Dearborn

Comment: James W. Ely, Jr., Vanderbilt University School
of Law

David Seipp

Saturday, October 23, 1999

Politics, Theory, and Taxation: 1895-1929

Saturday, 3:45 p.m. – 5:15 p.m.

Room D

Chair: Reuven Avi-Yonah, Harvard Law School

Papers: "To Tax Income 'From Whatever Source
Derived' According to 'The Ability to Pay':
Building a National Consensus for a Progressive
Income Tax, 1895-1913"

John D. Buecker, University of Wisconsin,
Parkside

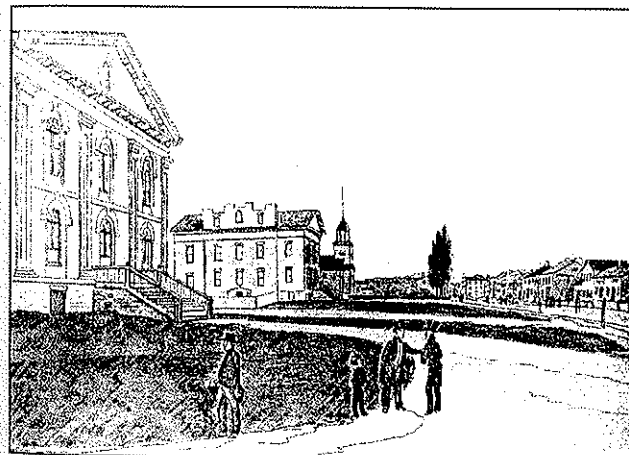
"Sources and Uses: An Intellectual History of
the 1913 Income Tax Law"

Ann F. Thomas, New York Law School

"A Map of Society: The Structure of Income in
Anglo-American Tax Legislation"

Assaf Likhovski, Tel Aviv University School of
Law

Comment: Reuven Avi-Yonah



York Court House and Jail, c. 1820

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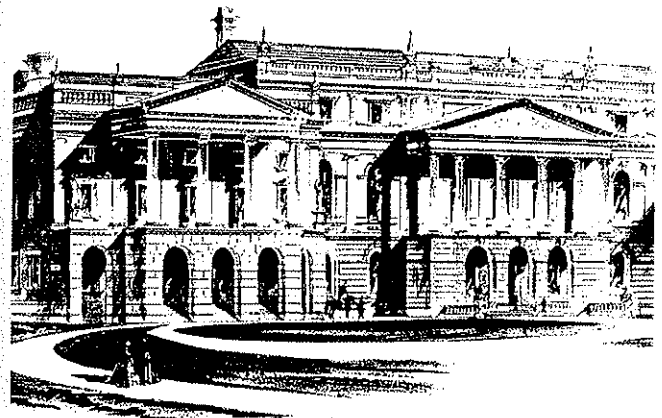
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Program Change

“Inside the Black Box: The Law of Intracorporate Relations” (originally scheduled for Saturday, Oct. 23 at 8:30 a.m.) has been **MOVED TO FRIDAY, OCT. 22 AT 8:45 A.M. IN ROOM F.**

“Radicals, Reformers, and the Rule of Law in the Early American Republic and the Colonies of the Second British Empire, 1790-1830” (originally scheduled for Friday, Oct. 21 at 8:45 a.m.) has been **MOVED TO SATURDAY, OCTOBER 23 AT 8:30 IN ROOM D.**