

NEWSLETTER of the American Society for Legal History

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NEWS OF THE SOCIETYNew Officers

Professor William F. Schulz, Jr. has been forced to submit his resignation as secretary of the Society because of ill health, and Professor Milton M. Klein of the department of history at the University of Tennessee has been appointed to serve during the remainder of Professor Schulz' term of office. Professor Janet S. Loengard of Moravian College has been appointed to succeed Professor Klein as chairman of the Society committee on membership.

New Directors

As a result of the recent elections there are five new directors of the Society: Professor Gerald T. Dunne of Washington University School of Law, Professor Stanley N. Katz of the University of Chicago Law School, Professor William E. Nelson of the University of Pennsylvania Law School, Col. Frederick Bernays Wiener of Phoenix, Arizona and Professor Kathryn Preyer of Wellesley College who was elected to a second term on the Board. The new Executive Committee of the Board will consist of the officers and Professors Arthur R. Hogue (Indiana University), Charles M. Gray (Yale University), Daniel J. Meador (University of Virginia School of Law) and Kathryn Preyer.

Nominating Committee for 1975

In accordance with the by-laws a Nominating Committee has been appointed to present a list of candidates for the official positions in the Society that will become vacant on December 31, 1975, as well as a list of nominees for the five directorships that will become vacant at that time. Professor Kathryn Preyer of Wellesley College will serve as chairman. Other members of the committee are the Hon. Jack Etheridge, Judge of the Superior Court, Atlanta, Georgia, Prof. Charles Donahue, Jr. of the University of Michigan Law School, Prof. Morris S. Arnold of Indiana University School of Law, Dr. Paul L. Ward, American Historical Association, and Mr. Stephen L. Black of Wilmer, Cutler and Pickering, Washington, D. C. The committee requests that members submitting names for its consideration provide them with a brief biographical sketch of the nominees. Recommendations may be sent to any member of the committee before September 1, 1975.

New Press for Studies Series

The University of North Carolina Press became the publisher of Studies in Legal History, the Society's monograph series, under the terms of a contract signed on February 5, 1975. The Publication Committee of the Society is currently engaged in negotiations leading to the appointment of an editor for the series.

Members of the Society will continue to receive pre-publication discounts on books published in the series. By virtue of the previous contract with Harvard University Press, terminated by mutual agreement to permit that publisher to exercise complete control over its titles in legal history, the three remaining titles in the Studies series under contract to Harvard University Press will also be subject to a special pre-publication discount. The Secretary of the Society will notify the membership of the publication of new books in Studies in Legal History, and forward the special order forms for securing the discount price.

Life and Sustaining Members - 1975

As of March 20, 1975, three people have become life members and many others have supported the Society through sustaining membership. They are as follows:

Life

Maurice H. Merrill
John P. Reid
Edward Martin Wise

Sustaining

Morris S. Arnold
Charles A. Bane
John C. Baumgartner
Hugh F. Bell
Harry Bitner
Stephen F. Black
Maxwell Bloomfield
John S. Bradway
Robert Randall Bridwell
George C. Christie
William F. Coale
H. Bartholomew Cox
George Dargo
Charles S. Desmond
Edward Dumbauld
Henry N. Ess, III
Sarah Gottsman
Kenneth W. Graham
Max E. Grefig
William G. Guernsey
Arthur R. Hogue
Thaddeus Holt
Wythe W. Holt, Jr.

James T. Holton
James Huddleston
Robert M. Ireland
Raymond A. Jensen
Herbert A. Johnson
Edward J. Kaier
Milton M. Klein
Judge Leland J. Lazarus
James M. Lehrer
Joseph W. McKnight
William J. Martin
Henry Allen Moe
Robert B. Murphy
Austin B. Noble
Carl A. Pierce
John W. Pratt
Irwin S. Rhodes
Joel Samaha
William F. Schulz, Jr.
Whitney North Seymour
John J. Short
Richard R. Sigmon
Herbert T. Silsby, II

Sustaining (Cont.)

Stuart L. Simon
 Joseph H. Smith
 Jon N. Sutherland
 Arnold W. Umbach

Sue Sheridan Walker
 Nicholas Donnell Ward
 David P. Wood

Pacific Coast Branch

The Pacific Coast Branch of the ASLH will hold its second annual conference on October 25, 1975, at Pepperdine University School of Law. A tentative theme, "The Origin and Unique Development of the Law in the West," has been selected. Members wishing to participate in the program, or to receive information concerning the conference, should contact Professor W. Noel Kayes, Pepperdine University School of Law, 1520 South Anaheim Boulevard, Anaheim, California 92803.

Recent Publications of Members

The following is a modest attempt to list publications in legal history by ASLH members in each Newsletter. Because the editorial staff consists of one person, the editor requests members send off prints or titles of publications so they can be included in the Newsletter.

Linda G. DePauw, "Land of the Unfree: Legal Limitations on Liberty in Pre-Revolutionary America," Maryland Historical Magazine, LXVIII (Winter 1973), 355-368.

Charles T. Cullen, "Completing the Revisal of the Laws in Post-Revolutionary Virginia," Virginia Magazine of History and Biography, LXXXII (Jan. 1974), 84-99.

Milton M. Klein, The Politics of Diversity: Essays in the History of Colonial New York (Kennikat, 1974)

George Dargo, Roots of the Republic: A New Perspective on Early American Constitutionalism (Praeger, 1974)

L. Lynn Hogue, "Nicholas Trott: Man of Law and Letters," South Carolina Historical Magazine, LXXVI (Jan. 1975), 25-34.

ASLH Program

Professor Hugh F. Bell is program chairman for the 1975 annual meeting of the Society and would appreciate proposals for sessions and papers. Please write to him at 629 Herter Hall, Department of History, University of Massachusetts, Amherst, Mass. 01002.

ASLH Journal

Any member of the society who does not receive a copy of his issue

ASLH Journal (cont.)

of the Journal should contact the editor, Erwin Surrency, Temple University Law School, North Broad St. & Montgomery Ave., Philadelphia, Pa. 19122.

Personals

George L. Haskins has been appointed Algernon Sydney Biddle Professor of Law at the University of Pennsylvania Law School. The Biddle Professorship, the Law School's oldest endowed professorship, was established in 1893, by the family of the Hon. Francis Biddle, former Attorney General of the United States. Professor Haskins joined the faculty of the Law School in 1946.

George C. Rogers, Jr. was appointed to the Advisory Committee on the American Revolution Bicentennial Program at the Library of Congress; Ruth Zermer promoted to associate professor at Herbert H. Lehman College (CCNY).

Frederick Bernays Wiener, recently retired to Phoenix, Arizona, has been awarded the Outstanding Civilian Service Medal by the Department of the Army. The author of *Civilians Under Military Justice* and numerous articles on the history of military law, Colonel Wiener is also an acknowledged authority on appellate practice and argument.

President's Report

On November 2, 1974, President Herbert A. Johnson delivered the following report in an address to the Society at its Fourth annual meeting in Washington, D. C.

This Society is stronger today than it has ever been in the past. We have exceeded 700 members in all categories, of which 60 are sustaining members and two are life members. During the past year we have established a Standing Committee on Conferences and the Annual Meeting to take a broad overview of our activities in these areas; we have established a Planning Committee on the American Revolution Bicentennial to advance our Society's planning for the 200th anniversary of American Independence and the years to follow; we have created an ad hoc committee to monitor the progress of the National Historical Records Act through Congress; and we have expanded the personnel and achieved a diversity of background in the membership of the 1974 Nominating Committee. The net result of these internal changes has been the involvement of more members in the business of the Society. In addition the officers and directors have increasingly placed their reliance upon the committees of the Society to carry out the programs assigned to them. We believe that the committee structure is well developed and that the future well being of the Society depends upon the manner in which the committees perform their duties.

Another measure of the welfare of the Society may be found

in its finances. As you know the Society had been involved in a program of rapid expansion from 1970 to 1974, and part of the momentum for that growth came from deficit spending. Prior to 1970 the activities of the Society had been extremely limited and a surplus of some \$9,000 was accumulating interest in the treasury. Of that amount \$5,000 was appropriated by the Board of Directors to launch the Studies in Legal History series, and the remainder was consumed in administrative expenses and membership solicitations, at the rate of \$1,000 to \$1,500 per year. By January 1974 it was readily apparent that the surplus was nearly exhausted, and that it would be essential that the Society be placed on a "pay-as-you-go" basis. As a partial solution to these financial needs we appealed to the membership to consider the advantages of becoming sustaining members. Approximately 60 annual members of the Society responded by accepting our invitation, and this resulted in an additional \$900 in revenue to offset operating expenses for 1974, including the impact of the rise in postal rates. At the May 1974 meeting of the Board of Directors the financial projections for 1975 and subsequent years were discussed, and a modest increase in membership dues was approved to insure that annual and student dues are adequate to cover the cost of those categories of membership. Any surplus will be added to the revenues from sustaining membership amounts to provide a modest reserve for purposes other than routine administration and operations. We expect to apply the major part of these treasury surpluses toward the publications programs of the Society. This will insure that the members who have paid dues will obtain the most direct and immediate benefit from these excess revenues.

Publication is an area in which this Society performs an essential service to our members and the field of legal history. Our corporate charter charges us with the task of providing outlets for the publication of articles, monographs and source documents. During the past year the termination of our publishing contract with Harvard University Press forced us to reassess our activities in the field of monograph publication. After extensive discussion in May the Board of Directors reaffirmed the Society's determination to provide a vehicle for the publication of book length studies. The Publications Committee of the Society has since been actively engaged in canvassing a number of possible publishers for this series. Arthur Hogue, the chairman of that committee, succeeded in interesting four major university presses in our monograph series. After five months of hard work, he and his committee recommended to the Board of Directors that our Society enter into a contract with one of those university press publishers. The Board has approved in principle a proposed contract with that press and I expect that a final contract will be negotiated within the next month.

In the spring of 1974 the National Historical Publications Commission agreed to finance the preparation of a printed volume

of the court records of seventeenth-century Plymouth, Massachusetts, under the editorship of William Nelson and David Koenig. This project is co-sponsored by our Society and the Pilgrim Society, and will result in the publication of a major source of legal history.

Stanley Katz resigned his duties as editor of the ASLH Newsletter and the Studies in Legal History series to assume his present responsibilities as associate dean of the University of Chicago Law School. On behalf of the Society I want to thank him for the invaluable role he played in our publications activities over the past three years. My colleague Charles T. Cullen, has taken over responsibility for editing the ASLH Newsletter, and the Publications Committee is currently engaged in a search for an editor of the monograph series that soon will be resumed.

The work of the Society in providing conferences and an annual meeting devoted to legal history is an important phase of our scholarly activities. In March of this year a Conference on Aspects of Early New York Legal History was held at Queens College in New York City, and attended by forty legal historians. Professor Charles Gray and his Standing Committee on Conferences and the Annual Meeting are well on the way toward completing arrangements for the Society to participate in the legal history sessions at the International Congress of the Historical Sciences to be held in San Francisco next August. This program will be presented under the auspices of the Association for the Study of the History of Law and Its Institutions, the international body to which we and all other legal history societies belong.

On the west coast the Pacific Coast Branch, under the leadership of Professor Morris D. Forkosch of the University of the San Fernando Valley School of Law, will be holding its first annual conference next weekend. This will provide our west coast members with an opportunity to participate in Society meetings that might otherwise be unavailable to them because of the costs of travel.

The annual meeting programs of the Society seem to be suffering from the embarrassments that come from too much success. In 1971 the annual meeting consisted of six panels; in 1973 this was increased to eight panels, and this year we have eight panels, a session of brief communications and a special session on teaching legal history. It is apparent from the Association of American Law School's report on the teaching of legal history that our Society through its conferences and its annual meeting, provides nearly all of the opportunities for the delivery of legal history papers in the United States. This places upon us the responsibility to insure that sufficient opportunities exist for the oral presentation of findings in legal history. Consequently I have asked Professor Gray's committee, in conjunction with the chairmen of the 1975 and 1976 program committees, to explore the

possibility of expanding the annual meeting program to three days. This will accommodate at least ten formal panels and retain the session of brief communications as well as a pedagogy session if that seems appropriate.

Nearly two years ago the Board of Directors decided to move forward on a matter of concern to all of us--the task of reviewing the by-laws of the Society and making those alterations that seem appropriate since those governing rules were adopted by the membership in 1959. Joseph McKnight, a former vice-president of the Society who had a long acquaintance with the administration of the Society, was persuaded to accept this task. At the Board meeting in Chicago last November and again at the Board meeting in Washington this May, the proposed by-laws were presented in draft form to the directors for their comments and suggestions. One of the things our by-laws do not require is "three readings" before a bill may be acted upon, but it seemed desirable to take time to ensure that the by-laws revisions would represent the accumulated wisdom of the Board of Directors, and that the document to be presented to the membership would contain an effective system for the future governance of the Society. The Board last evening voted to approve Professor McKnight's final draft, and in accordance with the amendment procedure, the proposal will be sent to the membership for a mail ballot in the near future.

Within the framework of the existing by-laws we have taken steps to accommodate the administration of the Society to its new size, and to institute more regular procedures that should make our governing principles conform with those of other learned societies. For example, last year and again this year, we have held contested elections for vacancies on the Society's Board of Directors. This year the Nominating Committee applied a rule that, if continued, will result in rotation of office on the part of the directors. A director upon the completion of his first three year term will, under this rule, be eligible for re-nomination for a second term. However, a director who has served two terms will not be re-nominated at the conclusion of his second term. It was felt that this system will result in a healthy balance between the need of the Society for experienced directors on the Board, and the equally important requirement that incumbents periodically yield their places to new members.

Those alterations in the governance of our Society, coupled with the continued strength of our programs in the field of publications and meetings, give me a strong foundation upon which to predict the future growth and prosperity of the American Society for Legal History. As a consequence of our work, the study of legal history will flourish among American scholars and hopefully become a more widely recognized academic specialty. Of course there is even now clear indications that the subject is receiving greater attention than is obvious from a review of our Society's programs.

The Selden Society activities in the area of documentary publication have begun to include an ever increasing number of American legal historians, and the Stair Society has begun to expand its American membership. A Conference on Legal History met at Aberystwyth in 1972 and will be convening at Cambridge in 1975; again a goodly contingent of scholars from the United States will be participating. A meeting on legal history and constitutional history is to be held at Salem College in Massachusetts in April 1975. As these activities in the United States and abroad increase, it will become necessary that our Society perform the vital function of informing its members of the events that may be of interest to them, and the publication of articles and books in the various fields of legal history.

We have already begun to serve this function of information sharing and dissemination through the publication of the ASLH Newsletter and through our regular contact with other scholarly organizations. Through our membership in the American Council of Learned Societies, through liaison and joint committee work with the American Historical Association, through our membership in the International Association for the Study of the History of Law and Its Institutions, we are actively engaged in cooperative activities for the advancement of legal history at home and abroad. As I mentioned earlier we are developing plans for the Society's celebration of the American Revolution Bicentennial in 1976 and the years to follow.

Outlining the Society's accomplishments over the past year might tend to make us complacent, if we did not realize how much more could be accomplished. For example the American Historical Association has asked all learned societies with an interest in history to consider relieving the A.H.A. of its tremendous task in bibliography. As far as our Society is concerned, there would seem to be little difficulty in finding qualified scholars to assemble lists of books and articles in their respective fields; however the page limitations of the American Journal of Legal History and the production difficulties of the ASLH Newsletter would seem at the present time to preclude our entrance into this activity.

As legal historians we should be concerned with the rate of appearance of printed court records and other source materials. For the most part this has remained constant over the past decade while the actual number of people engaged in legal history research has markedly increased. The financial difficulties of Irish University Press seem to have postponed indefinitely our program to provide quality reprints of previously printed sources in legal history, but the need to reinstitute this project and to encourage the original printing of manuscript materials should remain foremost in our minds.

The state of teaching legal history is also a matter of important

to all of us. It not only provides the financial basis upon which legal history must depend, but it also highlights the value of the subject in the field of historical studies and in legal education. We all hope that this afternoon's panel on the teaching of legal history will be the first of many activities in the Society directed toward the enhancement of legal history in the classroom.

In conclusion let me say that comments and suggestions from the membership are always most helpful to the officers, directors and committee chairmen. We usually hear from you when you have complaints, so we may be assuming too much when you are silent. Your interest in the Society and active involvement in its activities is the basis upon which we have found success in the past, and we rely upon you for your support and constructive criticism in the future.

NEWS NOTES

A Center of Family Studies has been established at Boston State College. The primary purpose of the Center is to develop and disseminate an interdisciplinary approach to teaching the subject of the family in historical perspective. Under a grant of the Board of Trustees of the Massachusetts State Colleges, the Directors of the Center, Dr. Vivian C. Fox and Dr. Martin H. Quitt, will travel throughout the United States and Great Britain during the spring semester, 1975, in order to consult with scholars on the various programs planned for the Center. Any person, group or institution that wishes to be kept informed of or wishes to participate in the activities of the Center is cordially invited to write to The Center of Family Studies, Boston State College, 625 Huntington Avenue, Boston, Mass. 02115.

Cambridge Legal History Conference 1975

The Conference Continuation Committee confirms plans to hold the 1975 conference in Cambridge from July 7 to July 10. The main speakers and their topics will be: Professor P. G. Stein, "Vacarius and Roman Law in 12th Century England; Prof. W. M. McGovern, "The Medieval Law of Landlord and Tenant;" Mr. DeL. J. Guth, "Enforcing the Law in the Reign of Henry VII;" Dr. J. S. Cockburn, "Fact and Theory in the Criminal Process 1558-1625;" Prof. T. G. Barnes, "The Star Chamber and its Litigants 1596-1641;" and Prof. H. Coing, "English Literature concerning Civil Law before 1800." Shorter papers will be given by Prof. M. S. Arnold, "The Medieval Action of Covenant;" Dr. W. R. Prest, "Lawyers' Fees and Incomes 1590-1640;" and Prof. Sue S. Walker, "Ravishment and Forfeiture: Actions relating to the Loss of Feudal Marriage Rights," among others. Meals and lodging at Sidney Sussex College or St. Catharine's College will cost \$21. Please contact Dr. J. H. Baker, St. Catharine's College, Cambridge, England, CB2 1RL, immediately if interested in attending. Requested deadline for registration was Dec. 15.

Miscellany (cont.)

Scholarly Resources Inc., 1508 Pennsylvania Avenue, Wilmington, Del. 19806 announces completion of series two of The Constitutions and Laws of the American Indian Tribes in 33 volumes. The complete set is \$460, although individual titles may be purchased separately. Write the publisher for a description brochure.

The American Historical Association and the Kraus-Thomson Organization have just published Writings on American History 1973-1974: A Subject Bibliography of Articles. In Oct. 1975 they will also publish a bibliography for 1962-1973. This new series replaces the old program originated in 1902. The 1973-74 volume is the first of a new yearly series, available from the Kraus-Thomson Organization, Millwood, N. Y. 10546 for \$15 clothbound. AHA members cost is \$13.50. The pre-publication cost for the four volume 1962-1973 set is \$225 clothbound.

The Southeastern American Society for 18th Century Studies invites papers on any aspect of 18th century culture, including law, to be presented at its second annual meeting in New Orleans on February 5-7, 1976. A brief description of the paper, with partial bibliography, should be sent before June 30 to Dr. Jeanne R. Monty, Program Chairman, Department of Romance Languages, Tulane University, New Orleans, La.

Editor's Note

Once again I appeal to the members for news. We have adopted a slightly revised format that permits inclusion of more items of news and such things as the president's report. Response to past appeals for news is encouraging. I am indebted to Kitty Preyer, Milton Klein, Hugh Bell, Herb Johnson, and Charles Gray for notes in this issue. I would also appreciate receiving letters expressing members' opinions about the form and substance of the Newsletter.

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