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ASLH NEWSLETTER



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Ballot and Annual Meeting Registration Forms Included

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2002 ANNUAL MEETING, SAN DIEGO

The Society's thirty-second annual meeting will be held Thursday-Saturday, November 7-9, in San Diego. Registration materials and the draft program for the meeting are bound in the center of this newsletter. Be sure to return the registration forms by the dates indicated.

In addition, please note these special events, for which you are asked to indicate on the pre-registration form your planned attendance:

Thursday, November 7th

5:30-7:00 pm, ASLH reception, U. S. Grant Hotel

Friday, November 8th

7:30-8:45 am, continental breakfast, U. S. Grant Hotel

Noon-1:30, California Supreme Court Historical Society lunch (Speaker will be Ray E. McDevitt, Esq., author of *California Courthouses: An Illustrated History*, and partner at the San Francisco firm of Hanson, Bridgett, Marcus & Vlahos. The title

of his presentation will be "Courthouses and Communities: Doing Justice, Past and Future.")

4:00 pm, Plenary Session, Charles Donahue, Jr., Paul A. Freund Professor of Law, Harvard Law School

5:15 pm, Reception following the Plenary address
(Transportation will be provided between the U. S. Grant Hotel and the University of California San Diego)

Saturday, November 9th

7:30-8:45 am, continental breakfast, U. S. Grant Hotel

12:15-1:45 pm, annual luncheon

6:00-8:00 pm, reception, California Western School of Law (transportation provided)

Special thanks for their work in arranging the annual meeting go to Michal Belknap, Professor of Law, California Western School of Law and Adjunct Professor of History, University of California, San Diego; Michael Parrish, Professor of History, University of California, San Diego and Adjunct Professor of Law at California Western School of Law; and Julie Sandusky, Events Coordinator at California Western School of Law.

Thanks also to the program committee for its work, David Rabban, University of Texas, chair, and Susanna Blumenthal, University of Michigan, Adrienne Davis, University of North Carolina, Sarah Barringer Gordon, University of Pennsylvania, Mark Graber, University of Maryland, Michael Klarman, University of Virginia, Adriaan Lanni, Harvard University, Tahirih Lee, Florida State University, Rebecca Scott, University of Michigan, Stephen Siegel, DePaul University, David Sugarman, Lancaster University, Claire Valente, Independent Scholar, Richard Wetzell, German Historical Institute.

The Society is also most appreciative of the financial support provided by Law School of the University of California, San Diego, and by the California Western School of Law.

BALLOT

The ballot, bound at the center of this newsletter, seeks votes for members of the Society's Board of Directors and for the Nominating Committee. Many thanks to this year's nominating committee for their conscientious work: Victoria Woeste, American Bar Foundation, chair, Bob Cottrol, George Washington University, Thomas Gallanis, The Ohio State University,

Annette Gordon-Reed, New York Law School, and Sarah Hanley, University of Iowa.

NOMINEES FOR BOARD OF DIRECTORS

THOMAS GARDEN BARNES is Professor of History and Law, and Co-Chair of the Canadian Studies Program, University of California, Berkeley. A native of Pittsburgh (born 1930), his A.B. (History) was Harvard 1952, and his D.Phil. in History was Oxford, 1955. Concurrently he read for the English bar at Lincoln's Inn. He began teaching at Lycoming College, Williamsport, Pennsylvania, before moving to Berkeley in 1960, where he has taught since (and is still teaching full-time). There he has seen it all, including a stint as an Assistant Dean of Students eyeball-to-eyeball with Mario Savio, 1964. His research interests have long centered on English legal institutions of the Tudor-Stuart period, specifically Star Chamber 1596-1641, with much done and much still to do. He has worked on the contemporary French cognate, the *Conseil Privé* under Henri IV, and early Massachusetts law. The latter, with a familial motivation (Loyalist Nova Scotian), has turned him to studying early Nova Scotia law especially in relation to the expulsion of the Acadians in 1755. American legal education intrigued him when he wrote the Centennial History of Hastings College of the Law, and broader aspects of legal history were vented in ninety-one introductory essays to Gryphon Editions' Legal Classics Library volumes, from Hammurabi to Rehnquist. He is an Editor of the Public Record Office, long a member of the Council and onetime Vice-President Overseas as well as California Correspondent of the Selden Society, was Project Director of the Anglo-American Legal History Project of the American Bar Foundation, 1965-1986, was on the Editorial Board of the *American Journal of Legal History*, 1960-1974, and a member of the Board of Directors of the American Society for Legal History, 1979-1982, and is currently President of the Association for Canadian Studies in the United States.

BARRY CUSHMAN is Professor of Law and Professor of History at the University of Virginia, where he serves as Director of the Program on Legal and Constitutional History and of the Joint Degree Program in Legal History. He received his B.A. from Amherst College and his M.A., J.D., and Ph.D. degrees from the University of Virginia. He has been a member of the Society since 1990, and has appeared on several panels at its annual meetings. His research focuses on late-19th and early-20th century constitutional development in the United States. His book, *Rethinking the New Deal Court: The Structure of a Constitutional Revolution* (Oxford University Press), was awarded the American Historical Association's 1998 Littleton-Griswold Prize. Recent articles include "Mr. Dooley and Mr. Gallup: Public Opinion and Constitutional Change in the 1930s," 50 *Buff. L. Rev.* 7 (2002) (Mitchell Lecture); "Lochner, Liquor and Longshoremen: A Puzzle in Progressive Era Federalism," 32 *J. Mar. L. & Com.* 1 (2001); "Formalism and Realism in Commerce Clause Jurisprudence," 67 *U. Chi. L. Rev.* 1089 (2000); "Lost Fidelities," 41 *William & Mary L. Rev.* 95 (1999); "The Hughes Court and Constitutional Consultation," 1998 *J. Sup. Ct. Hist.* 79; and "The Secret Lives of the Four Horsemen," 83 *Va. L. Rev.* 559 (1997). He serves as a referee for *Law & History Review*, *Law & Society Review*, *Law & Social Inquiry*, the *American Journal of Political Science*, and *Political Research Quarterly*.

LAURA F. EDWARDS is associate professor in the History Department at Duke University, where she teaches courses in women's history and legal history. She is the associate editor for *Law and History Review*; she is finishing a three-year term on the American Historical Association's Littleton-Griswold Prize committee, which determines the recipient of the annual award for the best book in American legal history; and she has participated in regularly in panels at the ASLH since 1992. Her first book, *Gendered Strife and Confusion: The Political Culture of Reconstruction* (1997) placed law and legal issues at the center of a larger analysis of gender, politics, and social change during Reconstruction in the U.S. South. Her second book, *Scarlett Doesn't Live Here Anymore: Southern Women in the Civil War Era* addressed her interests in women's history more directly than those in legal history. But her third book project, *Citizenship and Authority: Law and the Creation of Inequality and Difference in the Antebellum South* centers explicitly on central questions and debates in U.S. legal history. Her articles and essays include "Law, Domestic Violence, and the Limits of Patriarchal Authority in the Antebellum South," *Journal of Southern History* 65 (November 1999), which received the Fletcher M. Green and Charles W. Ramsdell Award, awarded by the Southern Historical Association, and "The Problem of Dependency: African Americans, Labor Relations, and the Law in the Nineteenth-Century South," *Agricultural History* 72 (Spring 1998), which received the Vernon Carstensen Award, awarded by the Agricultural History Society. She has also received fellowships from the National Endowment for the Humanities, the Newberry Library, and the Smithsonian Institution.

BRUCE W. FRIER is Professor of Classics and Roman Law at the University of Michigan; his appointment is jointly in the Law School, where he is the H.K. Ransom Professor of Law, and in the Department of Classical Studies, where he is currently the Chair. In 1970 he received his Ph.D. from Princeton University, and has been at the University of Michigan since then. He is the author of numerous articles and books on Roman social history and law, including *Landlords and Tenants in Imperial Rome* (1980, recipient of 1983 Goodwin Award of Merit, from the American Philological Association for best book in Classical Studies published during the prior three years); *The Rise of the Roman Jurists: Studies in Cicero's Pro Caecina* (1985); *A Casebook on the Roman Law of Delict* (1989); and *A Casebook on Roman Family Law* (with T.A.J. McGinn; forthcoming from Oxford University Press in 2002/2003). His approach to Roman legal sources can be described as combining careful attention to the traditional methods of Roman legal history, with a broader exploitation of the distinctive perspectives of the social sciences, including sociology, economics, linguistics, and comparative history. He is currently completing an article that applies the methods of New Institutional Economics to Roman law, for the Cambridge History of the Greek and Roman Economy

William P. LaPiana is the Rita and Joseph Solomon Professor of Wills, Trusts and Estates at New York Law School. He is a graduate of The Nichols School, Buffalo, New York, and holds the A.B., *summa cum laude* (1973), the A.M. in history (1975), the J.D. *cum laude* (1978), and the Ph.D. in history (1987) from Harvard University. From 1979 to 1983 he was associated with Davis Polk and Wardwell where he worked primarily in the estates group. He began teaching in

1983 at the University of Pittsburgh School of Law and joined the New York Law School faculty in 1987. His teaching responsibilities include wills and trusts, property, federal estate and gift tax, estate planning, and American legal history. His dissertation was published as *Logic and Experience: The Origin of Modern American Legal Education*. He has also written on various aspects of nineteenth-century American legal history and is a regular participant in the New York University legal history colloquium. In addition, Professor LaPiana is the author of several articles on estate planning and a co-author of *Disclaimers in Estate Planning: A Guide to their Effective Use* and has contributed to Klipstein and Bloom, *Drafting New York Wills*. In 1992 he was elected an Academic Fellow of the American College of Trust and Estate Counsel and in 1998 was elected to membership in the American Law Institute. He was the Reporter for the revised Uniform Disclaimer of Property Interests Act, which was promulgated by the National Conference of Commissioners on Uniform State Laws in July 1999.

KENNETH W. MACK is an Assistant Professor of Law at Harvard Law School, where he teaches courses in American legal history, the history of the legal profession, and property. He has been actively involved in the ASLH since attending his first annual meeting as a wide-eyed 29-year-old graduate student in 1994, and served on the Program Committee for the 1999 annual meeting. He also serves on the Board of Overseers of the Massachusetts Supreme Judicial Court Historical Society. He received his M.A. in History at Princeton in 1996, his J.D. in 1991 at Harvard, and a B.S. in Electrical Engineering at Drexel University (1987). He is presently engaged in a long-term project that examines the social and cultural history of civil rights lawyering in early- to mid-20th-century America. He is the author of "A Social History of Everyday Practice: Sadie T.M. Alexander and the Incorporation of Black Women into the American Legal Profession, 1925-60," *Cornell Law Review* 87 (forthcoming September 2002), and "Law, Society, Identity and the Making of the Jim Crow South: Travel and Segregation on Tennessee Railroads, 1875-1905," *Law and Social Inquiry* 24 (1999): 377. He is also a contributor to the forthcoming second edition of *Critical Race Feminism: A Reader* (NYU Press, 2003). He has presented his scholarly work at annual meetings of the ASLH, the Law and Society Association, and the American Studies Association, as well as at the New York University and University of Pennsylvania Legal History Colloquia. He has received fellowships from the Ford Foundation, the Woodrow Wilson Foundation and Princeton University.

DAVID MILLON is Associate Dean for Academic Affairs and J.B. Stombeck Professor of Law at Washington and Lee University. He received B.A. and M.A. degrees in history from Ohio State and a Ph.D. and second M.A. from Cornell. At Cornell, his dissertation, titled "Common Law and Canon Law During the Reign of Edward I," was supervised by Brian Tierney. After receiving a law degree from Harvard, he practice law in Boston for three years before moving to Washington and Lee in 1986. In addition to English Legal History, he also teaches corporate law and has taught antitrust, contracts, and non-profit organizations. His publications in legal history include papers on the history of the jury (in *Law & Social Inquiry* and the *Wisconsin Law Review*) and on the relations between the common law and canon law jurisdictions in medieval England (in *Law and History Review* and the *University of Illinois Law Review*). He has also

include: *Slave Patrols: Law and Violence in Virginia and the Carolinas* (Harvard University Press, 2001); "Colonial and Revolutionary Era Slave Patrols in Virginia" in Michael Bellesiles, ed., *Lethal Imagination: History of Violence in America* (NYU Press); "Judging Slavery: Thomas Ruffin and *State v. Mann*" in Donald Nieman and Christopher Waldrep, eds., *Race and Criminal Justice in Nineteenth Century American South* (University of Georgia Press). Forthcoming: "Slavery" in Michael Grossberg and Christopher Tomlins, eds., *Cambridge History of Law in America*; "Benjamin Lynde, Jr." in *Massachusetts Legal History*. Her editorial service includes H-Law, editorial board, 1999-present; *Law and Social Inquiry*, editorial board, 2000-present; *Florida Historical Quarterly*, 2002-present. Her other service to the profession: Program Committee, ASLH annual meeting, 1996; Membership Committee, Southern Historical Association, 1999-2002; Book Prize committee, Berkshire Conference on Women Historians.

DANIEL KLERMAN is Professor of Law and History at USC Law School; his principal research interest is English legal history. Prior to his move to USC in 1998, he was an Assistant Professor for three years at the University of Chicago Law School, a Fulbright Fellow in London, and a clerk to Supreme Court Justice John Paul Stevens. He has a J.D. and Ph.D. in History, both from the University of Chicago. He has organized several panels at recent ASLH annual meetings, and served on the 2001 program committee. Recent publications include: "Settlement and the Decline of Private Prosecution in Thirteenth-Century England," 19 *Law and History Review* 1 (2001); "Was the Jury Ever Self-Informing?," in Maureen Mulholland and Brian Pullan, eds., *The Trial in History* (University of Manchester Press, forthcoming); and "Women Prosecutors in Thirteenth-Century England," forthcoming in *Yale Journal of Law and the Humanities*. Last summer, he won the Selden Society's David Yale Prize "for distinguished contribution to the history of the laws and legal institutions of England and Wales."

ANNOUNCEMENTS

Studies in Legal History

The Publications Committee is pleased to announce that Daniel R. Ernst, Professor of Law and Adjunct Professor of History at Georgetown University, has agreed to succeed Dirk Hartog as co-editor of *Studies in Legal History*. Dan is well-known to members of the Society. He is currently a member of the Executive Committee of the Board of Directors and was chair of the Program Committee for the 1998 Annual Meeting in Seattle. He received his law degree from the University of Chicago, an LL.M. in legal history from the University of Wisconsin, and his doctorate in history from Princeton. His book, *Lawyers against Labor: From Individual Rights to Corporate Liberalism* (University of Illinois Press, 1995), received the Littleton-Griswold Prize from the American Historical Association.

Paul L. Murphy Prize

Applications are being accepted for the 2003 Paul L. Murphy Prize, honoring the memory of Paul L. Murphy, late professor Emeritus of History and American Studies at the University of Minnesota and distinguished scholar of U.S. constitutional history and the history of American civil rights/civil liberties. The Murphy Prize, an annual award of \$1000, is intended to assist the research and publication of scholars new to the field of U.S. constitutional history or the history of American civil rights/civil liberties. To be eligible for the Murphy Prize, an applicant must possess the following qualifications: be engaged in significant research and writing on U.S. constitutional history or the history of civil rights/civil liberties in the United States, with preference accorded to applicants employing multi-disciplinary research approaches; hold the Ph.D. in History or a related discipline; and not yet have published a book-length work in U.S. constitutional history or the history of American civil rights/civil liberties. Public historians, unaffiliated scholars, as well as faculty at academic institutions are encouraged to apply. If employed by an institution of higher learning, an applicant must not be tenured at the time of the application. Applicants should submit a packet containing the following items: 1) a research project description of no more than 1000 words (4 copies), 2) a tentative budget of anticipated expenses (4 copies), 3) a current curriculum vitae (4 copies), and 4) two confidential letters of recommendation in envelopes sealed by the recommenders. All materials should be mailed to Professor Robert J. Kaczorowski, Fordham University School of Law, 140 W. 62nd Street, New York, NY 10023-7407. All materials must be received no later than February 1, 2003. Email inquiries should be addressed to <rkaczorowski@law.fordham.edu>.

J. Willard Hurst Summer Institute in Legal History

The first biennial J. Willard Hurst Summer Institute in Legal History convened in Madison, Wisconsin from June 11-22, 2001. The next Hurst Summer Institute is scheduled for June 2003. For information about the 2003 Institute, consult the H-Law website at <<http://www2.h-net.msu.edu/~law/>><http://www2.h-net.msu.edu/~law/>>

University of Texas Law Library Legal History Publication Series

A half-century of transformations at The University of Texas School of Law are retold by the late Gus Hodges in an oral history interview just published by the Jamail Center for Legal Research.

Gus M. Hodges: An Oral History Interview contains three extensive interviews conducted in 1986. "Gus Hodges was one of the most colorful and best loved professors in the history of The University of Texas School of Law," said Professor Roy Mersky, Harry M. Reasoner Regents Chair in Law and Director of the Jamail Center.

In his Foreword, former UT Law Dean M. Michael Sharlot describes Hodges as "a key participant in the enormous growth of the School of Law in terms of students, faculty and facilities." Hodges (1908-1992) discusses student life at UT during the Depression, the rise of the Law School to national prominence, and the increasing diversification of both the faculty and student body.

The interviewer, H.W. Brands, is the author of several highly acclaimed biographies, including *The First American: The Life and Times of Benjamin Franklin*, a 2002 Pulitzer Prize finalist, and *T.R.: The Last Romantic*, a biography of Teddy Roosevelt. Brands is now professor of history at Texas A&M University.

Brands conducted five series of interviews for the Tarlton Law Library in 1985-1986 as part of the UT Law School's contribution to the 1986 Texas Sesquicentennial Celebration. The interviews with former Texas Supreme Court Chief Justices Robert Calvert, Joe Greenhill, and Jack Pope (in the three-volume *Texas Supreme Court Trilogy*), and with the UT Law School's outstanding dean, Page Keeton, have already been published by the Jamail Center for Legal Research.

The editor of the Tarlton Law Library Legal History Series is Michael Widener, Head of Special Collections at the Jamail Center for Legal Research. This publication (and all other Jamail Center publications) can be ordered on the web at <<http://www.law.utexas.edu/pubs/>>, or by contacting the Publications Coordinator (Publications Coordinator, Jamail Center for Legal Research, University of Texas School of Law, 727 East Dean Keeton St., Austin, TX 78705-3224; phone 512/471-7726; fax 512/471-0243).

Pembroke Center Postdoctoral Fellowships

In 2003-04, the Pembroke Seminar for Teaching and Research on Women, at Brown University, will explore the subject of shame and related sentiments. The seminar leader will be David Konstan, Chesler-Mallow Senior Faculty Research Fellow, Pembroke Center; John Rowe Workman Distinguished Professor of Classics. We will look at both cross-cultural and historical manifestations of shame and congruent concepts. We will examine the relationships between shame and its purported opposites, such as honor and pride, and between shame and its other, guilt, taking note of how these tensions have entered into the construction of social ideologies. In particular, attention will be directed to the role of shame in constructing differences of gender and class.

The Seminar will examine the problem of comparing emotional and psychological concepts in different languages: how does one determine whether ancient Latin "pudor" or modern Japanese "amae" corresponds to a given English term? Did the concept of shame undergo important changes after the Enlightenment, or with the advent of Romanticism? Is it differently construed within the so-called "Western" tradition and in other societies? Does the concept of shame in modern psychology and psychotherapy differ from the way shame is understood in popular culture?

How does shame relate to guilt? Some psychoanalytically minded investigators, following in the footsteps of Helen B. Lewis, have treated shame as the emotion most destructive to the self; they have argued that it is far more devastating than guilt, which is limited to a sense of responsibility for a specific act. Guilt invites reparation; shame produces a desire to disappear from view. Others, particularly scholars writing in the Christian tradition, reverse the priorities and see guilt as being both the more advanced and also the more profound emotion; guilt, it is argued, involves an interiorized sense of responsibility and a developed sense of self, whereas shame is a mere reflex to public opinion. This latter view received a boost in anthropological

circles when Ruth Benedict launched the distinction between shame cultures and guilt cultures in *The Chrysanthemum and the Sword*. Since then, there has been a backlash, particularly among Japanese scholars, who have regarded the privileging of guilt as a manifestation of Western arrogance. Is there in fact a trans-historical distinction between shame and guilt?

One of the fundamental anthropological constructs, particularly in the study of Mediterranean cultures, has been the polarity of shame and honor. In this context, shame is both sexualized and differentiated according to gender: the shame of a woman constitutes a blot on the honor of her menfolk, who are then bound to avenge the slur. Some scholars have projected a similar distinction upon ancient Greek and Roman societies, while others have argued that it was foreign to classical culture. What is the origin of this construct? How widespread is it? What, in particular, is the relationship between shame and sex? Does the distinction between shame and honor say as much about anthropologists' views as it does about those of the cultures under investigation?

Today, it is commonplace to describe pride as the opposite of shame. Yet in many languages, pride (or the nearest equivalent) is a negative idea (as in "pride goeth before a fall"), and no positive equivalent seems to exist. Is the idea of pride as self-esteem a modern innovation, and is the corresponding notion of shame as a negative or unhealthy sentiment equally specific to modern cultures? We still think of "shameless" as an insult; ought people to have shame? Is there a difference between a sense of shame and being ashamed? Do there exist corresponding differences in other cultural and linguistic traditions? How necessary is shame to morality?

Finally, what are the politics of shame? How is it exploited in the media? The seminar will also consider the effects of modern technology on shame: what does it mean to have access to chemical means of reducing feelings of shame? How and when did shame become pathologized? Who feels shame, and why?

For additional information contact Elizabeth A. Barboza, Center Manager, <Elizabeth_Barboza@Brown.edu> or see <http://www.brown.edu/Departments/Pembroke_Center/>.

H-Law

ASLH members who are not subscribers to H-Law, the ASLH electronic list, should sign up to receive latest society announcements and other news of interest to legal scholars. For complete information on how to join H-Law, go to the ASLH/H-Law website: <http://www2.h-net.msu.edu/~law/>

The web site has information about ASLH meetings, an index to *Law and History Review*, past newsletters, book reviews, and an archive of links to websites of interest to legal scholars.

DRAFT PROGRAM
ASLH Annual Meeting, San Diego, November 7-9, 2002

Thursday, November 7th

3:00-6:00 pm, Registration, U. S. Grant Hotel

4:30-5:30 pm, Graduate student reception, U. S. Grant Hotel

5:30-7:00 pm, ASLH reception, U. S. Grant Hotel

7:30-10:00, Board of Directors meeting, U. S. Grant Hotel

Friday, November 8th

7:30-8:45 am, continental breakfast, U. S. Grant Hotel

8:30 am-3:00 pm, registration, U. S. Grant Hotel

Session #1
8:45 am - 10:15 am

Civil Liberties in Time of War: A Roundtable

Chair: Sanford Levinson, University of Texas

Papers:

"The Civil War"

Michael Kent Curtis, Wake Forest University

"World War I and the Aftermath"

John E. Semonche, University of North Carolina

"World War II and the Aftermath"

Mary Dudziak, University of Southern California

Commentator: Sanford Levinson

✓ **Law and Legislation in Greece and the Near East**

Chair: Michael Gagarin, University of Texas

Papers:

"Inscribing Laws in Greece and the Near East"

Michael Gagarin

"Solon and the Spirit of Early Greek Law"

Edward M. Harris, City University of New York

Commentator: Eva Cantarella, University of Milan

Struggles Over Sexual Speech and the Regulation of Obscenity in Nineteenth-Century America

Chair: Leslie J. Reagan, University of Illinois

Papers:

"The New York Sporting Press of the 1840s and Obscene Libel"

Helen Lefkowitz Horowitz, Smith College

"Obscenity Regulation and Its Consequences in the Nineteenth-Century United States"

Donna I. Dennis, Rutgers University, Newark

Commentators: Patricia Cline Cohen, University of California, Santa Barbara
Leslie J. Reagan

✓ **A Duty of Care: Being Responsible for the Mentally Incapable in the Eighteenth-Century Atlantic World**

Chair: Joanna L. Grossman, Hofstra University

Papers:

"Capax and Incapax in the Civil Law of Eighteenth-Century Scotland"

Rab Houston, University of St. Andrews

"Gender, Rights Talk, and Local Knowledge: Non-Compos Mentis Guardianships as Legal Process in New England, 1725-1830"

Cornelia H. Dayton, University of Connecticut

Commentators: Lloyd Bonfield, Tulane University
Joanna L. Grossman

Session #2
10:30 - noon

The Constitution Outside the Courts: History and Theory

Chair: Laura Kalman, University of California, Santa Barbara

Papers:

"The Transformation of Popular Constitutionalism"
Larry Kramer, New York University

"Constitutional Imagination in Progressive America"
William Forbath, University of Texas

"Judicial Supremacy? Reflections on Judicial and Popular Constitutionalism in the Aftermath of *Brown*"
Robert Post, University of California, Berkeley
Reva Siegel, Yale University

Commentator: Keith Whittington, Princeton University

Citizenship in Comparative Perspective

Chair: Richard Wetzell, German Historical Institute, Washington, D.C.

Papers:

"Citizenship in Emerging Nation-States: The Practical Definition of Nationality in Europe Around 1800"
Andreas Fahrmeir, University of Frankfurt

"Citizenship in the Confrontation of Nation-States: Germany and France at the End of the 19th Century"
Dieter Gosewinkel, Free University Berlin

"Political Rights and Ethnic Duties: Citizenship Regimes and the Nationality of Married Women in Germany, France, and the United States, 1900-1930"
Eli Nathans, Albion College

Commentator: Kenneth Ledford, Case Western Reserve University

Religion and Law in Roman Republican Society

Chair: W. Jeffrey Tatum, Florida State University

Papers:

"Dictator Interregni Causa"
Christoph Konrad, Texas A&M University

"Restraints on Assembly: Religious and Legal Aspects of Nocturnal Conspiracy in Ancient Rome"
Hans-Friedrich Mueller, University of Florida

"The Role of the People in the Legislation of Roman Religion"
W. Jeffrey Tatum

Commentator: Peter Oh, Florida State University

New Perspectives on American Military Legal History, 1950-2000: Travails, Trials, and Tribulations

Chair: William Eckhardt, University of Missouri-Kansas City

Papers:

"Political Manipulation of Military Justice – The Nixon White House and the Calley Court Martial, 1970-1974"
Michael Belknap, California Western School of Law

"Recent Trends in Appellate Military Justice, Civilian Control of the Military, and Legal Scholarship – Why the Deafening Silence?"
Jonathan Lurie, Rutgers University, Newark

"Chains of Command: Some Recent Examples of the Uneasy Relationship between Reforms in Military Justice and Court-Martials, 1951-1973"
Beth Hillman, Rutgers University, Camden

Commentator: Diane H. Mazur, University of Florida

Noon-1:30

California Supreme Court Historical Society lunch

(Speaker will be Ray E. McDevitt, Esq., author of *California Courthouses: An Illustrated History*, and partner at the San Francisco firm of Hanson, Bridgett, Marcus & Vlahos. The title of his presentation will be "Courthouses and Communities: Doing Justice, Past and Future.")

Session #3

1:30 pm - 3:00 pm

The New Departure: Social Movements and the American Constitutional Order

Chair: Gretchen Ritter, University of Texas

Papers:

"The New Departure in the Constitutional Canon"
Jack Balkin, Yale University

"The New Departure and the Construction of American Citizenship"
Gretchen Ritter

"The Pitfalls of Going Public: The New Departure and the Dangers of
Constitutional Appeals to 'We, the People'"
Adam Winkler, University of California, Los Angeles ~

Commentator: Ellen Carol DuBois, University of California, Los Angeles

Regulation, Manumission, and the Legal Culture of Slavery in the United States and Cuba

Chair: Walter Johnson, New York University

Papers:

"Between 'Race' and 'Nation': Black/Indian Identity in the Southern Courtroom,
1780-1840"
Ariela Gross, University of Southern California

"Constructing 'Rights' and 'Respect': African-Americans in the Legal Culture of
Antebellum Baltimore"
Martha Jones, University of Michigan

"Slave Law, Claims-Making, and Citizenship in Cuba: The Tannebaum Debate
Revisited"
Alejandro de la Fuente, University of Pittsburgh

Commentator: Walter Johnson

Social Engineering and the Law: Postwar Japan and China

Chair: Eric Feldman, University of Pennsylvania

Papers:

"Japanese Legal Reform in Historical Perspective"
Thomas Ginsburg, University of Illinois

"Visions of Socialist Utopia: China's Penal System as the Model for 'New
China'"

Glenn Tiffert, University of California, Berkeley

Commentators: Sayuri Shimizu, Michigan State University
Paul Pickowicz, University of California, San Diego

The Constitutional and Legal Implications of the Long Parliament

Chair: Philip Hamburger, University of Chicago

Papers:

"D'Ewes' Diary of the Long Parliament and English Constitutional and Legal
History"
Michael Mendle, University of Alabama

"Impeachment in Early Stuart Parliaments, 1621-1641"
Robert Zaller, Drexel University

"Which Law? Common and Civil Law in Mid-Seventeenth-Century England"
Maija Jansson, Yale University

Commentator: Philip Hamburger

Plenary Session

Address:

"Law, Theology and Social Practice: The Story of Medieval Marriage Law"

Charles Donahue, Jr.

Paul A. Freund Professor of Law, Harvard Law School

**University of California, San Diego
4:00 pm**

Reception follows

**(buses will provide transportation between
the U. S. Grant Hotel and the University
buses depart hotel beginning 3:15; return beginning 6:30)**

Saturday, November 9

7:30-8:45 am, continental breakfast, U. S. Grant Hotel

8:30 am -noon, registration, U. S. Grant Hotel

Session #4
8:45 am - 10:15 am

Law and Statebuilding in Modern America

Chair: Jim Wooten, State University of New York at Buffalo

Papers:

"The Sympathetic State: Disaster Relief in the 19th and Early 20th Centuries"
Michele Landis Dauber, Stanford University

"The Legal Origins of the Modern American State"
Bill Novak, University of Chicago

"'Saint George and the Dragon.' Courts and the Administrative State in 20th Century America"
Reuel E. Schiller, Hastings College of Law

Commentator: Jim Wooten

Morality, Economics, Community, and Gender in the Fault/Strict Liability Debate

Chair: Susanna Blumenthal, University of Michigan

Papers:

"Holmes on Strict Liability and its Rationale"
Thomas Grey, Stanford University

"Moral and Economic Rhetoric in the Adoption of Strict Liability"
Jed Handelsman Shugerman, Yale University

"Women and the Embodiment of Product Liability, 1890-1930"
Barbara Y. Welke, University of Minnesota

"Law and Neoclassical Economics Theory: A Critical History of the Distribution/Efficiency Debate"
James R. Hackney, Jr., Northeastern University

Market Forces in the Marketplace of Ideas: Business-driven First Amendment Change,

1900-1950

Chair: Norman L. Rosenberg, Macalester College

Papers:

"Free Enterprise and Free Speech During the Progressive Era"
John W. Wertheimer, Davidson College

"Business Strategies and the Development of First Amendment Rules on Print and Film after 1930"
Charles F. Bethel, University of California, San Diego

"Expanding the Audience for Antisemitism: Henry Ford and the Dearborn Independent, 1919-1929"
Victoria Saker Woeste, American Bar Foundation

Commentators: Alison M. Parker, SUNY Brockport
Norman L. Rosenberg

The Politics of Law and Race: A Critical Look at the History of Federal Indian Law

Chair: Aviam Soifer, Boston College

Papers:

"Black and Red: Federal Law and the Emergence of Seminole Racial Identity"
Nell Newton, University of Connecticut

"United States v. Rogers: The Supreme Court and the Racialization of Indian Law"
Bethany Berger, University of Connecticut

"A Dialogue on Race and Politics: The Indian Claims Commission, 1946-1978"
Dalia Tsuk, University of Arizona

Commentator: Aviam Soifer

✓ **The Conceptualization of Change in English Legal History: Evolution, Transformation, Revolution, 1300-1700**

Chair: Richard H. Helmholz, University of Chicago

Lecture: Robert C. Palmer, University of Houston

Commentators: Richard H. Helmholz

Stephen D. White, Emory University

Session #5
10:30 am - noon

The Work of Anthony Lewis: Journalism in History and History in Journalism

Chair: Pnina Lahav, Boston University

Papers:

"Anthony Lewis as a Supreme Court Reporter"
Scot Powe, University of Texas

"Anthony Lewis: History, Journalism, and Civil Liberties in the United States"
Philippa Strum, Woodrow Wilson Center, Washington, D.C.

"Anthony Lewis and the Burger Court"
Pnina Lahav

Commentator: Lincoln Caplan, Yale University

Giving Substance to Legal Freedom: Emancipation, Property and the Recognition of Rights in Cuba and the United States

Chair: Hendrik Hartog, Princeton University

Papers:

"Taking Kin to Court: The Renegotiation of Property and Family Relationships after Emancipation in the U.S. South"
Dylan Penningroth, University of Virginia

"Notaries, Race-Marking and the Recording of Rights by Former Slaves in Central Cuba, 1870-1940"
Michael Zeuske, University of Cologne, Germany

"Two Vernacular Strategies for Claiming Reparations: Andrea Quesada vs. The Heirs of Manuel Blanco (Cuba, 1907), and the 'Ex-Slave Mutual Benefit, Pension and Bounty Association' (Louisiana, 1899)"
Rebecca Scott, University of Michigan

Commentator: Hendrik Hartog

The Unemployed, the Widowed, and the Crippled: Law and the Making of Twentieth-

Century American Social Provision Policy

Chair: Gillian Lester, University of California, Los Angeles

Papers:

"The Constitution of American Accident Law: Ives v. South Buffalo Railway and the Employers' Liability Cases"
John Witt, Columbia University

"'A New Charter of Rights for Women': Supporting Widows in the Age of Dower's Demise"
Ariela R. Duber, Columbia University

"'Who They Are -- or Were': Delivering Public Relief to the White-Collar Unemployed in the Early Years of the New Deal"
Deborah Malamud, University of Michigan

Commentator: Gillian Lester

New Directions in the Cultural History of Lawyers

Chair: David Sugarman, Lancaster University, England

Papers:

"'Class-Consciousness' of Lawyers in Continental Europe from the mid-Nineteenth Century to the mid-Twentieth Century"
Jean-Louis Halperin, University of Dijon, France

"Bush Lawyers and Kangaroo Courts"
Rob McQueen, Victoria University, Melbourne, Australia

"Liberals, Vampires, and Empires: Issues in the Cultural History of Legal Professions"
W. Wesley Pue, University of British Columbia, Vancouver, Canada

"From Idealistic to Realistic Surroundings for Swedish Legal Actors: Iconography and Architecture in Swedish Courthouses 1900 - 1970"
Kjell Å Modéer, University of Lund, Sweden

Annual Luncheon
12:15 - 1:45 pm

Session #6
2:00 pm - 3:30 pm

✓ **The Twentieth Century as Legal History**

Chair: Risa Goluboff, University of Virginia

Papers:

"Comment on Nelson, The Legalist Reformation: Law, Politics, and Ideology in New York, 1920-1980"

Lawrence Friedman, Stanford University

"Comment on Friedman, American Law in the Twentieth Century"

William E. Nelson, New York University

Commentator: Risa Goluboff

✓ **"Others" in Medieval Courts: Jews, Muslims, and Slaves in Medieval Iberia**

Chair: Claire Valente, Independent Scholar

Papers:

"In Pursuit of Justice: the Prosecution of Informers in Jewish and Royal Courts in Medieval Spain"

Elka Klein, University of Cincinnati

"Complicated Subjects: Muslims and the Law in the Medieval Crown of Aragon"

Brian Catlos, University of California, Santa Cruz

"Cosa de mal exemple: Slave Plaintiffs before the Courts"

Debra Blumenthal, University of Kansas

Commentator: Teofilo Ruiz, University of California, Los Angeles

Globalization in Law and History: Comparative Perspectives in Time and Space

Chair: Robert W. Gordon, Yale University

Papers:

"Globalization and European Community Law Since the 1950's: Comparative Perspectives in Time and Space"

David J. Gerber, Chicago-Kent College of Law

"American Praxis: Globalization and Antitrust in Twentieth Century America, Japan, Europe, and Australia"

Tony A. Freyer, University of Alabama

"Organizational Choice and Economic Development: A Comparison of France and the United States during the Mid-Nineteenth Century"

Jean-Laurent Rosenthal, University of California, Los Angeles

Naomi R. Lamoreaux, University of California, Los Angeles

Commentator: Robert W. Gordon

Victorian Law Reform Revisited

Chair: Richard A. Cosgrove, University of Arizona

✓ Papers:

"Politics and Principle in Chancery Reform 1830-1860"

Michael Lobban, Queen Mary College, University of London

"Private Litigation and Public Spectacle: The Making of the Criminal Trial 1848-1898"

Lindsay Farmer, University of Glasgow

Commentator: David Lieberman, University of California, Berkeley

Session #7
3:45 pm - 5:15 pm

Sex, Race, and the Law: Segregation, Sexual Practice and Racial Formation in the Post-Brown Era

Chair: Peter Bardaglio, Goucher College

✓ Papers:

"Bastards Out of North Carolina, Law, Illegitimacy and the Subversion of Civil Rights in the Most Progressive Southern State"

Anders Walker, Yale University

"Separate But Equal? Sex Segregation, Racial Desegregation, and the Law, 1969-1977"

Serena Mayeri, Yale University

Commentator: Adrienne Davis, University of North Carolina

Revisiting the Rule of Law in British India

Chair: James Q. Whitman, Yale University

Papers:

"Evidence, Experts, and the Ethnographic Gaze of Medico-Legal Jurists in Colonial India"

Elizabeth Kolsky, Columbia University

"Enfeebling the Arm of Justice: Perjury, Prevarication and the Rule of Law Under the East India Company"

Wendie Schneider, Yale University

"Dower, Divorce and Contract: The Judicial Reshaping of Islamic Marriage Law in late Colonial India"

Mitra Sharafi, Princeton University

Commentator: Kunal Parker, Princeton University

Religious, Scientific, and Legal Authority in Comparative Perspective, 1880-1925

Chair: Carolyn C. Jones, University of Connecticut

Papers:

"'More Like An Operation In A Clinic': Law, Medicine, and Juvenile Justice in Germany, 1900-1925"

Edward Ross Dickinson, University of Cincinnati

"The Ethical Economists and the Question of Taxation"

Ann F. Thomas, New York University

"Criminal Responsibility and Sin in the Progressive Era: Justice David Brewer on the Freedom of the Will"

Linda Przybyszewski, University of Cincinnati

Commentator: Carolyn C. Jones

Self-Help, Social Control, and Public Order in Classical Athens

Chair: Cynthia Patterson, Emory University

Papers:

"Private Violence and Social Control in Classical Athens"

David Cohen, University of California, Berkeley

"Self-Help from Hades: The Dying Injunction at Athens"
David Phillips, University of California, Los Angeles

Commentator: Cynthia Patterson

The Dimensions of Imperial Employment Law, 1563-1939

Chair: Lauren Benton, New Jersey Institute of Technology and Rutgers University

Papers:

"Taking Statutes Seriously: A Comparative Study of Master and Servant in the British Empire"

Paul Craven and Doug Hay, York University

"Master and Servant in Whitehall: The Colonial Office and Labour"
Mandy Banton, Assistant Keeper, Public Record Office, London

"The Chain of Law in Settler Societies"
Michael Quinlan, University of New South Wales

Commentator: Lauren Benton

6:00 pm - 8:00 pm

Reception

California Western School of Law
(transportation provided)

INFORMATION ABOUT LOCAL ARRANGEMENTS

The U.S. Grant -- A Wyndham Historic Hotel, 326 Broadway, San Diego, has reserved a block of rooms for the Society's meeting. UNLESS YOU WANT TO PARTICIPATE IN THE ROOM-SHARE PROGRAM, YOU MUST MAKE RESERVATIONS DIRECTLY WITH THE HOTEL BY CALLING DIRECTLY (619) 232-3121 OR ITS TOLL-FREE NUMBER 800-334-6957, NO LATER THAN OCTOBER 7th.

single occupancy	\$166	double occupancy	\$176
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