

American Society for Legal History
Board of Directors
Annual Meeting, November 16, 2006
Radisson Lord Baltimore Hotel, Baltimore, Maryland
Royal Boardroom, 7:30 pm



Committee Reports

Cromwell Prize Committee.....	2
Finance Committee and Committee on the Future of the Society	3
H-Law	5
Committee on Honors	8
Law and History Review	9
Local Arrangements, 2006.....	18
Membership Committee.....	19
Murphy Research Award	20
Nominating Committee.....	21
Publications Committee	27
Reid Prize.....	28
Studies in Legal History.....	29
Surrency Committee	30
Sutherland Committee	31

As of this compilation, we lack reports from the Committee on Conferences and the Annual Meeting, the Cromwell Fellowships Committee, the Committee on Documentary Preservation, the Hurst Memorial Committee, the Program Committee, and the Preyer Committee. In the case of the last two, one might repeat the inscription on the plaque that marks Christopher Wren’s grave in St. Paul’s Cathedral: *si monumentum quaeris circumspice*. The program itself is the report of the work of both committees. In the case of the others, I will forward them to you when they arrive.

CD

Cromwell Prize Committee

It is with pleasure that we report our unanimous recommendation for the award of the 2006 William Nelson Cromwell Foundation prize for the best work by a junior scholar in the field of American Legal History completed in 2005. The committee received seven books and four articles. Each submission was read by two members of the jury, who recommended prize-worthy finalists to be read by all. The committee considered 3 books and 1 article in the final round. In that final reading, one book was ranked first by every member of the committee.

We recommend that the prize be awarded to Professor Holly Brewer of North Carolina State University for her book, *By Birth or Consent: Children, Law, and the Anglo-American Revolution in Authority* (Published for the Omohundro Institute of Early American History and Culture by University of North Carolina Press, 2005). Brewer's study places children and childhood at the center of a fundamental shift in the meaning of consent in seventeenth and eighteenth century Anglo-America. In taking seriously evidence from sixteenth century England that other scholars have ignored, seen as anomalous, or mistaken and then scrupulously following the changing evidence relating to children's consent in a whole range of relationships vis-à-vis church, God, nation and relations with others, including baptism, allegiance, military service, jury service, testimony, transfers of property, labor contracts, and marriage through the seventeenth and eighteenth centuries, Brewer captures the shift from status (birth) to reason as the foundation of consent. In doing so, she breathes a new and deeper meaning into the fundamental social, cultural, and political transformation captured by well-worn phrases such as "from status to contract" and "the age of reason" and highlights the religious roots of this transformation that begins with the Reformation and sees its full flowering in the political ferment of the American Revolution. This is a book about the legal creation of modern childhood as much as a book about how the child became a metaphor in eighteenth century political theory for those without the capacity to reason. Brewer thus captures how in a moment in which the consent of the people became the foundation for political authority, children in fact lost both personal and political power. And in turn, she highlights the power of children as an example that could be and was applied to exclude others, including women and African Americans, on the grounds that they too lacked the capacity to reason required in a government based on reasoned consent. Brewer weaves her powerful argument with grace and erudition, taking her reader from the Reformation through the American Revolution, crafting an Anglo-American legal history and drawing with equal facility on religious texts, political theory, legal treatises, and legal cases.

Barbara Y. Welke, Chair

Finance Committee and Committee on the Future of the Society

Thanks to the good work of Charlie and Bill LaPiana, our funds have now been consolidated, and we have begun to pursue a careful investment strategy. This achievement has taken months, and there are still kinks to work out in the system, but the good news is that we have at long last wrestled the accounts out of Mississippi, Ohio, Indiana, etc., and located them centrally in New York and Boston according to a coherent plan.

We now know that the Society has approximately \$565,000, including prior endowment funds, cash on hand, dues, and also money paid in as one-time donations and payments on pledges solicited in our capital campaign.

Thanks to the hard work of all involved in the Future of the Society committee, and especially to Harry Scheiber's leadership and Jane Scheiber's invaluable advice and counsel, we are in a strong position financially, and poised to grow in several areas vital to the health of the society and the field of legal history. As additional funds come in, we expect to see our endowment grow steadily. We also hope to pursue new avenues for fund-raising, including planned giving and an annual fund.

The finance committee determined that a sensible division of operating funds, quasi-endowment or board-directed funds, and permanent endowment was crucial to ensuring ease of administration for the Society. To that end, this September we divided up the funds as follows:

1. Operating account: \$65,000 at Smith Barney in NYC.
2. Board-directed Fund: \$100,000 also at Smith Barney. Both SB accounts are invested in seven-day corporate paper which pays current short term market rates and is highly liquid.
3. Permanent endowment: \$400,000 invested in 10 different fixed income (40%) and equity (60%) funds across the national and some global markets at SEI, under the direction of Roger Keith.

Going forward, we will maintain both Smith Barney accounts at the \$60K and \$100K levels, with excess swept into the SEI account every 6 months. We seek board approval of these target levels.

We also conferred recently on how best to ensure appropriate spending levels for the permanent endowment, and protection of the principal. To that end, we agreed that a 4% spending rate for endowment funds is both reasonable and defensible. Any additional income would be reinvested to ensure the value and growth of the endowment. Further, we propose that any invasion of principle beyond the 4% spending rate be authorized by a two-thirds super majority vote of the full Board.

Last, we ask you to authorize a letter of thanks to Roger Keith, who has undertaken management of our permanent endowment without charging his customary management fee.

A proposed resolution is appended to this report.

Sarah Barringer Gordon, Chair, Committee on the Future of the Society, and Acting Chair, Finance Committee

Proposed Resolution

1. Society funds will be divided as follows:
 - a. \$60,000 placed into an operating account
 - b. \$100,000 placed into a board-directed fund
 - c. All remaining funds (currently \$400,000), placed in an investment account as permanent endowment.

Funds a and b will be swept twice annually, with excess of \$60,000 in the operating account going first into the board-directed fund, and excess of \$100,000 in the board-directed fund going into the permanent endowment.

2. The permanent endowment will be spent at an annual rate of 4%, with excess income plowed back into endowment principle. Any spending beyond the 4% cap requires a vote of two-thirds of the members of the Board.
3. The Chair of the Finance Committee will write to Roger Keith on behalf of the Society, thanking him for his generosity and stewardship of the Society's permanent endowment.

H-Law

This year, H-Law again hosted discussion among one thousand legal scholars and also, in its capacity as the ASLH's internet interface with the world, provided up-to-date information about the society and its activities. We ended 2005 with reports about the Cincinnati meeting and ended this reporting period with news about the upcoming Baltimore meeting. From November 1 to September 26, H-Law published 485 messages, ranging from 16 in June to 94 in February. Our discussions ranged widely, including lawyers and the American Revolution, JD and PhD degrees, best nineteenth-century writing, graduate readings, development of federal bureaucracies, puritan legal and political thought, Eisenhower's "damn fool" remark about Earl Warren, torture in Massachusetts, and the history of malpractice. This year we mourned the loss of several preeminent legal scholars, including Kermit Hall, Leonard Levy, and Kitty Preyer.

Editing H-Law is a never-ending, relentless daily task and three editors carried the burden of this work over the past year: Ken Aldous, Cheri Wilson, and Jerry Arkenberg. Christopher Waldrep and Michael Pfeifer served as book review editors. Graduate student Michael Caires of San Francisco State University assisted with the book review. Rachel Van of Columbia University continued her service maintaining the society's website.

ASLH on the Web

H-Law continues to maintain the joint H-Law/ASLH webpage on the H-Net website. This year we received the newsletter from Charles Donahue Friday, August 25 and had it up Monday, August 28.

Book Reviewing

This year H-Law commissioned and posted 30 reviews of books of interest to the H-LAW community in the fields of American and foreign legal and constitutional history. Last we posted 17.

Book Reviews

BRUCE ACKERMAN. *The Failure of the Founding Fathers: Jefferson, Marshall, and the Rise of Presidential Democracy*. Cambridge and London: Harvard University Press, 2005.

By Steve Sheppard

CHARLES C. BOLTON. *The Hardest Deal of All: The Battle over School Integration in Mississippi, 1870-1980*. Jackson: University Press of Mississippi, 2005.

By Christopher W. Schmidt

CRAIG M. BRADLEY, editor. *The Rehnquist Legacy*. New York: Cambridge University Press, 2006.

By Williamjames Hull Hoffer

PAUL BRAND. *Kings, Barons and Justices: The Making and Enforcement of Legislation in Thirteenth-Century England*. Cambridge Studies in Medieval Life and Thought Series. Cambridge: Cambridge University Press, 2003.

By N. G. Jones

IRENE QUENZLER BROWN and RICHARD D. BROWN. *The Hanging of Ephraim Wheeler*. Cambridge: Harvard University Press, 2003.

By Randall McGowen

STEPHANIE COLE and ALISON M. PARKER, editors. *Beyond Black and White: Race, Ethnicity, and Gender in the U.S. South and Southwest*. Walter Prescott Webb Memorial Lectures. College Station: Texas A&M University Press, 2004.

By Lisa Lindquist Dorr.

MICHAEL COMISKEY. *Seeking Justices: The Judging of Supreme Court Nominees*. Lawrence: University Press of Kansas, 2004.

By Matthew L. Harris

DAVID P. CURRIE. *The Constitution in Congress: Descent into the Maelstrom, 1829-1861*. Chicago: University of Chicago Press, 2005.

By Austin Allen

JOHN J. DINAN. *The American State Constitutional Tradition*. Lawrence: University Press of Kansas, 2006.

By Eva Sheppard Wolf

KEITH EDGERTON. *Montana Justice: Power, Punishment, & the Penitentiary*. Seattle: University of Washington Press, 2004.

By Stephen J. Leonard

JAMES R. FARR. *A Tale of Two Murders: Passion and Power in Seventeenth-Century France*. Durham and London: Duke University Press, 2005.

By Marie Seong-Hak Kim

LAWRENCE M. FRIEDMAN. *Private Lives: Families, Individuals, and the Law*. Cambridge: Harvard University Press, 2004.

By Peter Charles Hoffer

SHARON M. HARRIS. *Executing Race: Early American Women's Narratives of Race, Society, and the Law*. Columbus: The Ohio State University Press, 2005.

By Felicity Turner

ANDREW T. HARRIS. *Policing the City: Crime and Legal Authority in London, 1780-1840*. Columbus: Ohio State University Press, 2004.

By Elaine A. Reynolds

CHARLES F. HOBSON, editor. *The Papers of John Marshall, Volume 12: Correspondence, Papers, and Selected Judicial Opinions January 1831-July 1835, With Addendum June 1783-January 1829*. Chapel Hill: University of North Carolina Press, 2006.

By Mark R. Killenbeck

JEANNINE HURL-EAMON. *Gender and Petty Violence in London, 1680-1720*. Columbus: Ohio State University Press, 2005.

By Carla Spivack

WILLIAM JOHNSTON. *Geisha, Harlot, Strangler, Star: A Woman, Sex, and Morality in Modern Japan*. New York: Columbia University Press, 2005.

By Marie Seong-Hak Kim

CLARE V. McKANNA, Jr. *White Justice in Arizona: Apache Murder Trials in the Nineteenth Century*. Lubbock: Texas Tech University Press, 2005.

By Paul T. Hietter

VANESSA McMAHON. *Murder in Shakespeare's England*. London: Hambledon and London, 2004.

By Carla Spivack

KEVIN J. MULLEN. *Dangerous Strangers: Minority Newcomers and Criminal Violence in the Urban West, 1850-2000*. New York: Palgrave, 2005.

By Michael Bellesiles

LEONORA NEVILLE. *Authority in Byzantine Provincial Society, 950-1100*. Cambridge: Cambridge University Press, 2004.

By Warren Treadgold

MICHAEL J. PFEIFER. *Rough Justice: Lynching and American Society, 1847-1947*. Urbana: University of Illinois Press, 2004.

By Dennis B. Downey

JOHN PHILLIP REID. *The Ancient Constitution and the Origins of Anglo-American Liberty*. DeKalb: Northern Illinois University Press, 2005.

By Richard A. Cosgrove

RALPH A. ROSSUM. *Antonin Scalia's Jurisprudence: Text and Tradition*. Lawrence: University Press of Kansas, 2006.

By Helen J. Knowles

JOESEPH E. SLATER. *Public Workers: Government Employee Unions, the Law, and the State, 1900-1962*. Ithaca: Cornell University Press, 2004.

By William P. Jones

JENNIFER TRAVIS. *Wounded Hearts: Masculinity, Law, and Literature in American Culture*. Chapel Hill: University of North Carolina Press, 2005.

By Auli Ek

JON L. WAKELY. *Birth of the Bill of Rights: Encyclopedia of the Antifederalists*. Volume 1: Biographies. Westport, CT: Greenwood Press, 2004.

By David J. Siemers

CHRISTOPHER WALDREP AND MICHAEL BELLESILES, editors. *Documenting American Violence: A Sourcebook*. New York: Oxford University Press, 2006.

By David Peterson del Mar

JEFFREY WATT, editor. *From Sin to Insanity: Suicide in Early Modern Europe*. Ithaca: Cornell University Press, 2004.

By Elisabeth Cawthon

CARL R. WEINBERG. *Labor, Loyalty, and Rebellion: Southwestern Illinois Coal Miners and World War I*. Carbondale: Southern Illinois University Press, 2005.

By William H. Thomas, Jr.

All reviews and all posting are available on the H-Law website and are searchable.

Christopher Waldrep, Editor

Committee on Honors

The Committee on Honors, consisting of Professors Barbara Black (Law, Columbia), Lawrence Friedman (Law, Stanford), Harry Scheiber (Law, U.C. Berkeley), James Whitman (Law, Yale), and me, wishes to nominate two individuals for honors this year. The first is Professor Anne Lefebvre-Teillard (University of Paris-II) as a Corresponding Fellow. The second is Professor Morton J. Horwitz (Harvard Law School). We are unanimous in both of these nominations, and we make them with great enthusiasm.

As you know, Corresponding Fellow is the highest award that the Society gives to legal historians outside the U.S. and Canada. Professor Anne Lefebvre-Teillard easily meets the very high standard the Society has set for this honor in the past. She received the degree of Docteur en Droit in 1970, after receiving a Diplôme d'Études Supérieures (D.E.S.) in legal history and a Diplôme d'Études Supérieures (D.E.S.) in private law. She was an Assistante with the Faculty of Law at Paris from 1967 to 1970 and was appointed Professeur at the University of Paris-XIII in 1970. She has been Professeur at the University of Paris-II (Panthéon-Assas) since 1986. Her two principle fields of research are canon law history and its influence on European legal systems and the history of French private law, especially family law.

Professor Lefebvre-Teillard is President of the Société d'Histoire du Droit, Directeur of the Centre d'Histoire du Droit et de l'Economie, and an associate member of l'Institut Michel Villey. She has also been elected to the Institut de France, a very prestigious honor, and is a member of the Selden Society. Professor Lefebvre-Teillard is the author of a great number of articles and books. Her book *Introduction historique au droit des personnes et de la famille (An Introduction to the History of the Law of Persons and the Family)* (PUF, 1996) was designated as “*couronne*” by the Center for Legal History at Paris II. Her other major works include *Le nom : droit et histoire* (PUF 1990) and *La société anonyme au XIXe siècle : du Code de commerce à la loi de 1867, histoire d'un instrument juridique du développement capitaliste* (PUF 1985). She seems by every measure to more than qualify for selection as a Corresponding Fellow.

The other nominee really needs no introduction. Morty Horwitz, whom we nominate as an Honorary Fellow, is one of the premier historians of American law in the country, indeed the world. Morty has been a member of the Harvard Law faculty since 1970 and the Charles Warren Professor of the History of American Law at Harvard Law School since 1981. He received a Ph.D in History from Harvard in 1964 and an LL.B. from Harvard Law School in 1967. His first book, *The Transformation of American Law, 1780-1860* (Harvard University Press 1977), received the prestigious Bancroft Prize in 1978. Other books include *The Warren Court and the Pursuit of Justice* (Hill and Wang, 1998) and *The Transformation of American Law, 1870-1960: The Crisis of Legal Orthodoxy* (Oxford University Press, 1992). He is the recipient of a National Endowment for the Humanities Fellowship, a Rockefeller Foundation Fellowship, and a Guggenheim Foundation Fellowship. His work has had a profound impact on American legal history. It seems more than fitting that the Society recognize Morty's contributions by awarding him the highest honor we can give to a legal historian in North America.

Gregory S. Alexander, Chair

Law and History Review

NB: Discussion/action items at **1, 2b, 6, and 10b**

1. General and Organizational

Once again, I am pleased to report that *Law and History Review* is flourishing. *LHR* enjoys generous support from the University of Nevada, Las Vegas [UNLV]. The William S. Boyd School of Law has provided office space, secretarial assistance, and the technical expertise to support our electronic journal management system [visit at <http://lhr.law.unlv.edu>] for *LHR* that facilitates on-line submission, refereeing, and journal management. Joshua Brauer, the law school's Director of Information Technology, deserves special thanks for his updating of *LHR's* journal management system. The UNLV History Department and College of Liberal Arts have provided me course relief. Consequently, *LHR* enjoys full access to all necessary facilities and equipment at UNLV.

In light of the exceptional support that the journal has enjoyed from the William S. Boyd School of Law, the UNLV College of Liberal Arts, and the UNLV History Department, **I ask that the Board make a resolution expressing its appreciation to Dean Richard J. Morgan, who has been a strong supporter of the journal, and that the President of the Society incorporate those sentiments in a letter to Dean Morgan who is retiring on July 1, 2006. I also ask that the Board make resolutions expressing its appreciation to Dean Ed Shoben and History Department Chair Eugene Moehring for the support each has given to the *Law and History Review*, and that the President of the Society incorporate those sentiments in letters to these individuals.**

2. Contract and Related Matters

[a] Our relations with the University of Illinois Press continue to be sound, and the servicing of the journal has operated effectively throughout 2005-06. On behalf of the Society, last year Bruce Mann, the Chair of the Publications Committee, and Walter F. Pratt, the Secretary-Treasurer, negotiated a new five-year contract with the University of Illinois Press. It continues the practice of *LHR* operating with a 224-page default and deals with overages on an ad hoc basis. Under the new contract, ASLH is charged \$500 per 16-pages of overage. This approach continues to be the strategy with greatest flexibility. Moreover, since the Press would not offer a cheaper per page rate for expanding the journal to a 256-page default, this strategy is also cost effective as long as we fill the additional signature(s). As a practical matter it means that our length can vary from 224-256 pages per issue.

[b] *LHR* has not run a 224-page issue since Fall 2003. Consequently, I ask that the Board recognize this development with a resolution granting the journal 16-pages of overage per issue. This resolution would allow the editor to plan for 240-page issues.

3. Production

[a] Over the course of 2005-06 the Press improved the distribution of *LHR*. Our production schedule has each issue on its way to subscribers before the end of January (Spring issue), the end of May (Summer issue) and the end of September (Fall issue). *LHR* 24:1 was mailed on March 6, *LHR* 24:2 was mailed on June 2, and *LHR* 24:3 was mailed on October 6. To facilitate meeting target dates, the Press changed printers and

revised its production schedule. As a result, we are now meeting our target dates. As always we owe particular thanks to the University of Illinois Press and its journals manager, Clydette Wantland, for attending to our needs. I also want to thank UIP journals production editor, Heather Munson, and our UIP copy editor, Christina Dengate, without whom the journal simply could not function with its current efficiency.

[b] Report of Joshua Brauer, Director of Information Technology, William S. Boyd School of Law.

LHR continues using the open-source software, Open Journal System (OJS), which it began using in 2005. An incremental upgrade in July has added several new features and a plug-in architecture that provides the opportunity for future growth. Two immediate features of the upgrade included better user account management and statistical reporting for the editor. We anticipate incorporating book reviews into the system over the course of the next calendar quarter. *LHR* will continue to evaluate new features as OJS and third-party developers introduce functionality to see if those features may be appropriate for the editorial management system.

[c] The *LHR* website continues to provide services and contacts for prospective authors, society members, and browsers. [Visit us at www.press.uillinois.edu/journals/lhr.html]. Authors are routinely participating in our “pre-print” program, which posts manuscript drafts of forthcoming articles in PDF format, along with article abstracts. PDF postings are quickly picked up by major search engines, such as Google. In other words we can assure authors who might have to wait fifteen months after acceptance to see their work in print that their work will circulate from the moment it is posted in this preliminary form. For administrative purposes I have continued the practice of posting manuscripts to the pre-print server at the same time that they are sent to the press to begin the production cycle for the issue in which they appear. Once the article is published in its final version, the pre-print is removed. The final version itself circulates electronically, of course, through the History Cooperative. This means that manuscripts now appear on the pre-print server for approximately 10 months.

[d] Publication of our electronic edition on the History Cooperative site is currently simultaneous to distribution of the print edition of the journal. Of the twenty-one journals currently on the History Cooperative, *LHR* is the fifth most popular destination, exceeded only by the *American Historical Review*, the *Journal of American History*, the *William & Mary Quarterly*, and the *History Teacher*. Traffic to the History Cooperative Site continues to grow rapidly. Recruitment of new member-journals continues apace, and the contents of the site are expanding to cover conference proceedings and other forms of scholarship. Finances remain a struggle since the Cooperative is constantly in search of a predictable income stream; therefore, costs to member journals may rise. The Cooperative’s Executive Committee is considering the implementation of an annual increase in per-pages fees indexed to actual cost increases. I should also note that the Cooperative is currently revamping its search engine. It is essential that the Cooperative maintain a state-of-the-art Web site to retain the support of key organizations, including the American Historical Association.

4. Manuscript Submissions

Inventory

[a] During the twelve months ending 31 August 2006, *LHR* had 67 new submissions under active consideration.

Of the 67 manuscripts newly submitted as of 31 August 2006, 30 have been rejected without the assistance of external peer review, 11 have been rejected after one or more rounds of review, 0 are awaiting initial consideration, 6 were undergoing first-round review, 16 have been returned to their authors after review with advice for revision and resubmission, 0 were undergoing second-round review, and 4 have undergone full review and have been accepted for publication.

[b] As of 1 September 2006, *LHR*'s active "inventory" consists of 12 manuscripts awaiting publication but not yet published: 4 in 25:1 (in advanced copy edit), 4 in 25:2 (in preliminary copy-edit), and 4 in 25:3 (which will go to copy-edit in February 2007). Although there are no manuscripts remaining to be assigned, I expect to accept a number for publication by the end of the year. I have closed 25:3. Hence *LHR* is "full" for the year 2007.

[c] The current tally of manuscripts considered inactive (those continued for one full year without any activity or advice of the author's intentions) stands at 27. Some of those date back to 1995. It is worth noting that occasionally, manuscripts long considered inactive do revive. Nonetheless, virtually all inactive manuscripts should be considered "dead." Manuscript Submissions – Trends – Table

Year	Received	Rejected/Withdrawn	Reviewed	Pending	Accepted
1992/3	37	21	16	4	4*
1993/4	39	20	16	5	3*
1994/5	56	32	23	9	4*
1995/6**	58	24	30	14	11
1996/7	44	26	27	14	12
1997/8	53	31	32	19	10
1998/9	42	24	24	14	11
1999/0	52	34	33	16	10
2000/1	49	32	33	21	13
2001/2	51	39	31	15	18
2002/3	62	41	33	19	13

2003/4	68	52	25	17	10
2004/5	64	50	24	8	14

5 Year Received Rejected/Withdraw n Reviewed Pending Accepted

2005/6	67	43	31	18	9
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*acceptance figures do not include mss pending from previous years

**split editorial year - figures include mss from previous years

5. Manuscript Submissions -- Matters Arising

Trends

[a] The figure for manuscripts received during the year ending 31 August 2006 (67) is the second highest total since the journal's inception. It continues the recent trend of 60+ submissions/year that has prevailed since 2002. The yearly average of manuscripts received each year over the last four years is now more than 60, and the results of the last three years suggest that we may well be moving toward an average of 65+. As the above table indicates the number of manuscripts received annually by the journal has virtually doubled over the past ten years. This suggests not simply vitality in the field, but increasing name recognition for *LHR*.

[b] Our acceptance rate over the past five years has been approximately 1 in 5 manuscripts submitted. More recently, our performance in attracting manuscripts has improved rapidly, suggesting that our catchment area is expanding, while the number of accepted manuscripts has remained steady, suggesting that we are becoming more selective. Maintaining and improving the quality of the journal, however, depends at least as much on maintaining high standards of refereeing and editing as on attracting a rising number of manuscripts. Our goal must be to maintain an annual "core" influx of solidly publishable or probably publishable manuscripts (depending on how much work one is prepared to put into pieces with potential) at 12+ submissions per year.

[c] Refereeing: I have experienced almost no difficulty in gaining access to referees and obtaining four reports per manuscript. The vast majority of manuscript authors receive a first-round review response within ten weeks of submission. The members of our large editorial board deserve special thanks for their willingness to referee manuscripts. I am happy to report that in qualitative terms, the standard of our refereeing remains extraordinary, a feature of the journal on which authors comment frequently.

6. Book Reviews – Report of Alfred L. Brophy, Associate Editor for Book Reviews (September 2005-August 2006)

Report of the Book Reviews Editor (September 2005-August 2006)

From the beginning of September 2005 through the end of August 2005, *LHR* received approximately 149 books to consider for review and commissioned 67 reviews. We currently have 58 reviews in hand, awaiting publication. As I have said in past years, the good news is that we have plenty of reviews. The bad news is that we are running a publication lag of approximately fourteen to eighteen months, which is longer than has been typical for *LHR* and it is getting longer. The 2006 volume will publish only 40

reviews. (By comparison, the 2005 volume published 44 reviews and the 2004 volume published 41). To help with some of the space constraints, in 2004 we reduced the target length of reviews to 800 words and I have (more or less) successfully policed that limitation. In some instances, we publish longer reviews, such as Charles Donahue's review of Helmholtz' volume in the Oxford history and in cases of joint reviews, such as Stephen Siegel's joint review of Gross, Stanley, and Zipf and Elizabeth Hillman's joint review of Dobbs, Fischer, and O'Donnell.

I see three issues that need addressing. First, the practice of using book reviews as "filler" to bring each volume up to the right page count has meant that reviews are frequently pushed back because of expansion of the rest of the volume. (Sometimes this can be alleviated by the Society's purchase of an additional "signature" (16 pages). We need to do more of that.) This has been a particular problem in recent years because the University of Illinois Press has had unusual difficulty in estimating how much space articles will take. By the time we realize that the issue will be an overrun, it is too late to ask for additional pages. Moreover, even if we were printing 15 reviews per issue, that imposes a limit on the number of books that can be reviewed.

Second, and related to the first, is the publication lag. My sense is that the publication lag of reviews is not substantially longer than other leading journals that I have inquired about (*Journal of American History* is typically nearly a year and *Journal of Southern History* is also typically a year). *Reviews in American History* is substantially shorter, typically around six months or less. Because we turn in copy approximately nine months before an issue goes to print, it will be difficult to reduce dramatically the lag time unless we go to posting pre-prints of reviews, the way we do for articles. Obtaining additional space for reviews would help with the publication lag. It will also help with a growing problem: there simply is not space to print reviews of all the books that are (in my mind, at any rate) central to legal history.

Third, **I think it also makes sense to begin, if we can get additional space for book reviews, to think in terms of adding another book review editor, with the goal of having one person responsible for books on the United States (and English-speaking colonial America) and another for non-US books.** This is part of helping the journal expand and making the transition to what I hope will be going from three to four issues per year.

I have noticed a gender imbalance in the book review section, which I have taken steps to address. The imbalance may be due in significant part to the demographics of the legal history profession; it strikes me that legal history is still a surprisingly male field. In summer 2007, the most recent issue submitted to the editor-in-chief, there are 19 reviews scheduled. Eleven were written by women. That will be the first time in recent memory where a majority of reviews are authored by women. (The number of reviews may change due to the shifting of reviews, which I wrote about two paragraphs above. But as of right now, we are making some, though not enough, progress.)

I am increasingly interested in the gender and racial make-up of the profession and what that says about the subjects we study. However, for present purposes I will reserve comments to this noting that I am aware and bothered by the gender imbalance in the book reviews section and am going to continue to work to redress it.

In selecting books and reviewers, I have three primary goals. First, and most importantly, to maintain the journal's rigorous standards of scholarship. I try to send out books that make important contributions to the field and to solicit reviews from scholars who work in the area of (or who use similar methods to) the books under review. I sometimes try to select reviewers who have a different vantage from the author. I try to send out every book that is at the center of the field. (I rarely send out edited volumes, because they pose such great difficulties in preparing a coherent, short review. However, in a few instances a book is so central to the field and the essays are so centered around a theme that a useful review is possible within our space constraints. William LaPiana's review of Kronman's volume on Yale Law School's history is one example.)

Second, I hope that the reviews will advance the field by bringing attention to deserving scholarship. Thus, I try to select books that might not get much attention in other journals or that might otherwise escape attention of the journal's readers or that might not be at the center of the field of legal history. Finally, I hope the book reviews will help bring attention to younger scholars, as both reviewers and as the subject of reviews. To those ends, I have tried to recruit reviews from distinguished senior scholars in legal history and other fields, as well as the most promising emerging scholars.

I am proud that we have reviews in line awaiting publication on important books by important reviewers. Some of the highlights include reviews of Richard M. Valelly, *The Two Reconstructions: The Struggle for Black Enfranchisement*, by J. Morgan Kousser; Robert A. Williams, Jr., *Like a Loaded Weapon: The Rehnquist Court, Indian Rights, and the Legal Theory of Racism in America*, by Kevin Milliard; Mae M. Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America*, by Kerry Abrams; Mary Frances Berry, *My Face is Black is True: Callie House and the Struggle for Ex-Slave Reparations*, by Bernie Jones; Jordanna Bailkin, *The Culture of Property: The Crisis of Liberalism in Modern Britain*, by Susan Scafidi; Amanda I. Seligman, *Block by Block: Neighborhoods and Public Policy on Chicago's West Side*, by Richard Chused; Anders Winroth, *The Making of Gratian's Decretum*, by Charles Donahue; Martha J. McNamara, *From Tavern to Courthouse: Architecture and Ritual in American Law, 1658-1860*, by Claire Priest; Adriaan Lanni, *Law and Justice in the Courts of Classical Athens*, by Kyle Lakin; Rebecca J. Scott, *Degrees of Freedom: Louisiana and Cuba after Slavery*, by Julie Saville; and Bruce Laurie, *Beyond Garrison: Antislavery and Social Reform*, by Thomas J. Davis.

As in past years, I have relied on the generosity of a number of people in helping identify reviewers. I have drawn upon the good will of many, and repeatedly drawn upon the goodwill of Stuart Banner, Mary Sarah Bilder, Charles Donahue, Richard Helmholz, Chris Tomlins, David Tanenhaus, and James Whitman.

7. *LHR* and the History Cooperative

I have already referred in a previous section to our relations with the History Cooperative (see 3(d) above). Let me now explore this crucial aspect of the *LHR*'s operations more fully.

[a] Introduction

At its Board meeting in 2000 the ASLH accepted the History Cooperative's invitation to have *LHR* distributed online alongside the *Journal of American History* and the *American Historical Review*. Our membership in the Cooperative began formally in January 2001.

[b] Availability

Currently all issues published from 17:1 (Spring 1999) are posted on the History Cooperative site [www.historycooperative.org]. The current issue is now routinely available electronically at the same moment of publication as the print edition. This is an important achievement for the Cooperative.

Currently the Cooperative distributes electronic editions of twenty-one journals – JAH, AHR and LHR, plus the William and Mary Quarterly, Western Historical Quarterly, the History Teacher, Common-Place, Labor/Le Travail, Labour History, the Journal of World History, Environmental History, the History of Education Quarterly, the Journal of the Gilded Age and Progressive Era, the Oregon Historical Quarterly, the Indiana Magazine of History, the Massachusetts Historical Review, the Oral History Review, World History Connected, and three new members, Health and History, Journal of Social History, and the Pennsylvania Magazine of History and Biography. Negotiations with other journals are ongoing. The Cooperative is particularly interested in publishing electronic editions of the journals of major state historical societies. The Cooperative now also publishes conference proceedings. Its continued development of site tools for use by interested scholars is also noteworthy, including the revamping of the cooperative's own search engine.

Under the terms of the Cooperative, all subscribers to each member journal will continue to receive a print copy through the journal's existing subscription/fulfillment system. In addition, if the journal is "gated" (i.e. access restricted to subscribers) they will get password-controlled unlimited access to the journal on-line through the Cooperative web site. Non-subscribers will get time-limited access for which they pay the Cooperative. The site will be fully searchable across all constituent journals, but unlimited access will be available only to those journals to which the searcher (or home institution) has a subscription.

[c] Open Access

It is important to note that *LHR* is "open access" – not restricted to subscribers only. To the extent that the ASLH considers its role to be the promotion of legal history to the world at large, maintaining open access to legal-historical scholarship published on-line is one of the most significant expressions of that role. Cooperative statistics continue to show that *LHR* is one of the most widely used journals on the Cooperative site. Usage is exceeded only by the large-circulation journals – the *AHR*, *JAH*, the *History Teacher*, and *WMQ*. Relative to its own subscriber base, *LHR* can still claim to be the most widely used journal on the Cooperative site.

[d] Costs

Costs of converting our production files to a form compatible with the site and site services (site-wide searching) are rising. The ASLH should anticipate that per page figures for conversion may increase.

8. *LHR* and JSTOR

The complete *LHR* backset, through the year 2000, is available for searching and browsing on JSTOR. Volumes will be added on an annual basis. Currently the History Cooperative search engine (which is linked to the JSTOR data base) can produce results from the *AHR* and *JAH* backsets on JSTOR [On-line access to the actual materials cited in search results will require that the user or their institution be a JSTOR subscriber.]

I also am pleased to report that beginning in 2006 as part of its revenue sharing plan, JSTOR will pay *LHR* \$2,000. As Ariana Souzis, JSTOR's Communications and Outreach Specialist, explained: "In 2004 JSTOR reached a new milestone—with over 2,100 participating institutions, our revenue from annual access fees exceeded \$13 million. While we are currently distributing 15% of this revenue to our participating publishers, this level of success allows us to recognize with an additional monetary benefit the important role that publishers play in the creation and sustainability of the archive. Beginning in 2006 (and in subsequent years where annual access fees exceed \$13 million for the preceding year), we will make a supplemental payment to each journal available in the JSTOR archive that has a moving wall of 5 years or less. Journals with moving walls of 4-5 years will receive \$1,300 per title, while those with moving walls of 3 years or less will receive \$2,000 per title. This approach recognizes the contributions made by those publishers who have chosen to make more recent issues accessible through the archive. Your journal, *Law and History Review*, will be eligible for this yearly supplemental payment of \$2,000."

9. *LHR* and Hein On-Line

LHR now has an agreement with "Hein On-Line" (subtitled "The Modern Link to Legal History"). For those who may not be familiar, Hein On-Line <<http://heinonline.org>> is essentially an on-line archive of law journal backsets. So far Hein has mounted (or is in the process of mounting) some 250 law journals. It has another 200 under contract. As the project develops it will expand from law journals to select documents, select cases, and "classics" of legal scholarship.

Hein On-Line is marketed primarily to law schools – 80% of ABA-credited schools now subscribe.

As a result, of our agreement Hein now has rights to reproduce *LHR* page images in hardcopy, microform, and digital. The agreement is a 5-year, renewable, non-exclusive agreement to produce "exact electronic reprints" of retrospective volumes. Like JSTOR the process is at Hein's expense. Hein offers a 15% Royalty on net revenues (JSTOR has also begun offering a royalty).

Hein anticipates that full mounting of all journals with which it has or is seeking contracts will take 5-10 years. Mounting of the most recent volume of a publication will not occur until 6-12 months after the last issue of the volume has been made available.

Joining Hein On-Line ensures that the journal's contents are properly represented on-line in three major ways each serving a distinct component of our overall community of users: through JSTOR we will be represented in the major Arts and Sciences archive; through Hein we will be in the major law library archive (we are already of course in Lexis); through the History Cooperative we are already in the most sophisticated history archive available, added to which the Cooperative publishes our simultaneous electronic edition.

The possibility of harm for the journal lies in the effects on its institutional subscriber base. We have always been weak in this area, and despite our subscription campaign three years ago, we have had little success in adding new institutional subscribers. It is unlikely in my view that on-line availability through Hein will diminish the number of current institutional subscriptions any time soon, but this is also worth monitoring.

10. Future Developments

[a] *LHR* is planning to publish a special issue in 2008 on legal histories of war and peace.

[b] **At the Austin and Cincinnati Board meetings, the question of expanding *LHR* to a quarterly has been broached. According to Clydette Wantland, a fourth issue per year (224-page default) would cost \$6,900, excluding mass mailing postage. As she explained, the good news is that by going to four issues per year, *LHR* can apply for a periodical postage permit, thus lowering postage costs. Positive benefits also include more pages translating into higher royalties; ASLH could raise offprint fees to authors to help cover the additional costs; and the Society could charge more to libraries since they are getting another issue and more content. The downsides include paying for more pages for mounting in the History Cooperative, and also substantially more work for the editors.**

Although I support the idea in principle of *LHR* becoming a quarterly, I believe that this matter requires careful consideration.

Local Arrangements, 2006

The Committee was made up of myself (Baltimore), David Bogen (Maryland), Jane Dailey (Hopkins) as the chairs, with Michael Myerson, Garrett Power, Jeffrey Sawyer and Jason Trombour also on the committee.

We would like to report that everything is in place for a plenary and reception at Westminster Hall, with buses to and from the hotel, and that there are details about local history and entertainment up on the website.

We look forward to welcoming you to Baltimore!

Mortimer Sellers, Co-chair

Membership Committee

Activities in 2006

A lot of changes have been implemented this year, in comparison with previous years on the Membership Committee. Virtually a completely new committee was assembled on the principle of geographic and vocational coverage, creating a series of two-person teams for each of 6 US regions, plus committee members for overseas, graduate students, non-academics, and law librarians. The structure will enable the committee to do targeted outreach to a variety of groups identified using the membership database maintained by the University of Illinois Press.

Main activities thus far: a culling of the database has identified approximately 200+ individuals or institutions whose memberships have been lapsed longer than 12 months. This list was divided among the various committee members and letters have been sent to encourage rejoining the ASLH.

Prior to this activity, some upgrades were necessary to the ASLH website, to incorporate information that would be needed for prospective members, including: a list of all UNC Press books in the Studies in Legal History series that they could receive a discount on; a link to the UNC Press for purchasing the same; clearer presentation of membership levels and dues. Revisions to the website are ongoing, but at present, it is much easier for would-be members to find what they need and see what benefits would come from joining the Society.

Database managers at the Illinois Press and UNC Press have been extremely helpful in making modifications to assist us. Tom Franklin at UNC built a separate page that holds the series data in static form so that we could have a stable URL to link to. Paul Arroyo has been making improvements at UIP so that we could have real-time access to the membership database, and alerts as new members signed up. These relationships are valuable and need to be maintained in future.

Upcoming activities:

- Appeals to graduate trainers/mentors for the purchase of student memberships

- Appeals to non-members interested in legal history (names obtained from AHA, APSA, AALS and other databases)

- Appeals to current members to consider upgrading to life memberships

- Special appeals to graduate students, law librarians, and non-academics through other means (e.g., journal ads, elists, flyers).

Concerns for the future

We'll need to attract new members to strengthen the committee in a few key areas (Midwest and Southwest, where there is only one member handling the work currently) and plan for the eventual departure of members taking on other work. This can wait until summer 2007.

We need to create a work log of the months and seasons various appeals are made, so that future campaigns for membership can be handled without reinventing the wheel each year. [I'm keeping a log, but it needs to be put into an easy to read format.]

Sally Hadden, Chair

Murphy Research Award

I am writing to inform you that the Paul L. Murphy Research Award Committee (Michal Belknap, Harry Scheiber, Sandra VanBurkleo, and myself) has completed its review of applications for the 2006 Murphy Award. Because we were disappointed with the number (two) and quality (marginal) of the applications in the current cycle, we are recommending that no Murphy Award be made for 2006. Furthermore, it is the sense of the Committee that it would be prudent to redefine the award for future application cycles in order to attract more and better applications. I believe that the continuing members of the Committee will be submitting a redefinition proposal to the Society sometime this fall.

John Johnson, Chair

Proposal

We recommend that Board adopt the following resolution:

“The Paul Murphy Prize is an annual prize to honor an article of great distinction published in the previous year in the field of American legal and constitutional history, with preference to articles that treat civil liberties, civil rights and human rights. Comparative studies in which the history of the United States is a major focus will qualify for the prize.”

Nominating Committee

This year's efforts were completed entirely via e-mail, rather than with scheduled conference calls, as in the past. This procedure seemed sufficient to complete the Committee's business on schedule. There were five board positions to be filled, requiring a slate of ten candidates, and two nominating committee positions to be filled, requiring a slate of four candidates. The chair sent an initial e-mail to the members of the committee on 3/23. From a list of some forty names circulated by members of the committee, an initial list of fourteen, plus alternates, was assembled by 5/8. Thirteen of the fourteen on that list agreed to stand for election, although one of those subsequently withdrew. Two candidates for the board were moved up from the waiting list. Acceptances from all candidates were received by 6/2. Biographies were all received by 6/15. The President and Secretary-Treasurer were sent the slate and edited biographies (attached) on 6/15.

In 2005, the committee proposed consideration of a change in election procedures allowing for divided slates to facilitate the election of members from underrepresented constituencies, e.g., certain geographic or chronological specializations (see "Report of the Nominating Committee 2004-5"). No action has been taken on this proposal. The committee continues to support such a change, which would assist in the task of making the society's governing bodies more broadly representative.

The committee notes that the bylaws do not in fact require two candidates for each open spot. This should be addressed at the next revision of the bylaws.

Adam Kosto, Chair
Ken Mack
Wes Pue
Tahirih Lee
Chris Tomlins

SLATE OF CANDIDATES FOR ASLH ELECTION 2006

Board of Directors (10 candidates; top 5 elected)

Lauren Benton is Professor of History at New York University. Benton received her Ph.D. in Anthropology and History from Johns Hopkins University, and her A.B. from Harvard University. Her research focuses on the comparative history of colonial law, especially early modern European empires in the Atlantic world. Recent publications include “Legal Spaces of Law: Piracy and the Origins of Ocean Regionalism,” *Comparative Studies in Society and History* 47 (2005) and *Law and Colonial Cultures: Legal Regimes in World History, 1400–1900* (2002), which won the Book Award from the World History Association and the James Willard Hurst Prize from the Law and Society Association. Benton is currently working on a book about the relation of law and geography in the formation of sovereignty in European empires through the end of the nineteenth century. She has been an active participant in meetings of the ASLH since 1999, and has served for the past two years on the Surrency Prize Committee.

Christine Desan is a Professor of Law at Harvard Law School. Her current research tries to understand the arrival of modern market-based liberalism by exploring its constitution as a matter of political economy. She has published parts of that work in “The Market as a Matter of Money: Denaturalizing Economic Currency in American Constitutional History,” *Law and Social Inquiry* 30 (2005) and “Money Talks: Listening to a History of Value,” *Common-Place* 6:3 (2006), and is working towards a book on the history of the early American political economy, called *The Practice of Value: Early American Money and Finance as a Form of Governance*. She received her J.D. from Yale Law School and an M.A.L.D. from the Fletcher School of Law and Diplomacy, Tufts University, both in 1987, and has held fellowships from the Charles Warren Center, the American Philosophical Society, the ACLS, and the NEH. She has served on the ASLH Program Committee for the 1999 and 2005 meetings, the Willard Hurst Prize Committee (2000), the Preyer Committee, the Board of Editors of the *Law and History Review* (since 2001), and as Co-Chair of the Harvard Law School Legal History Colloquium (2003–2006).

William Forbath holds the Lloyd M. Bentsen Chair in Law and is Professor of History at UT Austin. He directs the Colloquium on Law, History, and the Humanities at UT, also has taught at UCLA and Columbia, and will be visiting at Harvard in 2007–2008. He holds degrees from Harvard (A.B.), Cambridge (M.A.), and Yale (J.D., Ph.D.). Current work addresses the role of law in the creation of the modern American state; the rise and fall and reconstruction of social citizenship in the USA and abroad; and race, nation-making, and state-building in the law and politics of European immigration to the USA at the turn of the last century. He is the author of *Law and the Shaping of the American Labor Movement* (1991) and about sixty articles, book chapters, and essays on social, legal, and constitutional history and theory. He has been active in the American Society for Legal History since the late 1980s, has served on the Program and the Future of the Society committees, and has been a member of the Editorial Board of *Law & History* since 2001. He also serves on the Editorial Board of *Law & Social Inquiry*.

Annette Gordon-Reed is a Professor of Law at New York Law School. She a graduate of Dartmouth College (1981) and Harvard Law School (1984). She has published *Thomas Jefferson and Sally Hemings: An American Controversy* (1997), written

numerous articles and book reviews, edited *Race on Trial: Law and Justice in American History* (2002), and worked with Vernon Jordan on his memoir, *Vernon Can Read* (2001). Her book, *The Hemings Family of Monticello: A Story of American Slavery*, the first of what will be a two-volume work, is forthcoming from W.W. Norton in the Fall of 2007. Gordon-Reed is on the Advisory Committee for the Omohundro Institute of Early American Culture, where she serves on the Editorial Board of the *William & Mary Quarterly*; the Advisory Committee for the International Center for Jefferson Studies, the Executive Committee of *The Papers of Thomas Jefferson*, the Frederick D. Patterson Research Institute of the United Negro College Fund, and the Council on Foreign Relations. She previously served on the Nominating Committee for the American Society For Legal History and is currently serving as one of the judges for ASLH's newly created John Philip Reid Prize for the best book written on legal history.

Sally Hadden is Associate Professor of History and Law at Florida State University. She received her Ph.D. (1993) and J.D. (1989) from Harvard, and her B.A. from the University of North Carolina, Chapel Hill. Her book *Slave Patrols: Law and Violence in Virginia and the Carolinas* appeared in 2001. Other publications include "The Fragmented Laws of Slavery in the Colonial and Revolutionary Eras," in Christopher Tomlins and Michael Grossberg, eds., *Cambridge History of Law in America* (forthcoming), and "Benjamin Lynde, Junior: Servant of the Commonwealth," *Massachusetts Legal History* 9 (2003). She is currently writing a comparative study of legal cultures in eighteenth-century Boston, Philadelphia, and Charleston, which has received funding from the NEH. She is a life member of the ASLH, and has served the association in various capacities since 1994. She has worked on the Program Committee for the 1996 meeting and the Nominating Committee for 2002–2005 (chair for 2003–2005), and she currently leads the society's Membership Committee. She has served on the H-Law editorial board since 1997. Recently, she joined the *Law and History Review* editorial board (2005–2010). Previously, she was a member of the editorial board for *Law and Social Inquiry* (2000–2003).

Tamar Herzog is Professor of History at Stanford University. She received her Ph.D. from the Ecole des Hautes Etudes, Paris (1994), and both a J.D. and an M.A. in Latin American Studies from the Hebrew University of Jerusalem. She was a member of the Institute for Advanced Study, Princeton, and has taught in Madrid at the Universidad Complutense and the Universidad Autónoma and at the University of Chicago. She teaches European Legal History, as well as Early Modern Spanish and Spanish American History. She is the author of *Upholding Justice: State, Law and the Penal System in Quito* (2005), *Defining Nations: Immigrants and Citizens in Early Modern Spain and Spanish America* (2003), several other books (in Spanish) dealing with various aspects of Spanish colonial law, and numerous articles in American, English, Canadian, Spanish, French, Italian, German, Colombian, Ecuadorian, Peruvian, Argentinian, and Brazilian journals and edited books.. She is the co-editor of *The Collective and the Public in Latin America. Cultural Identities and Political Order* (2000) and *Observation and Communication: The Construction of Realities in the Hispanic World* (1997) Her current project focuses on the relation between land-use, jurisdiction and territorial rights in eighteenth century Spain and Spanish America.

Carl Landauer, practicing as the international lawyer for Charles Schwab, taught in the history departments of Yale, Stanford, and McGill Universities and, most recently, international legal theory at the University of California, Berkeley (Boalt Hall). He received a B.A. from Stanford University, a Ph.D. from Yale University, and a J.D. from Harvard Law School. He writes on the history of modern legal thought, primarily international legal thought and U.S. legal thought. His articles in these areas include: “A Latin American in Paris: Alejandro Alvarez’s *Le droit international américain*,” *Leiden Journal of International Law* 19 (2006); “Antinomies of the United Nations: Hans Kelsen and Alf Ross on the Charter,” *European Journal of International Law* 14 (2003); “From Status to Treaty: Henry Sumner Maine’s *International Law*,” *Canadian Journal of Law and Jurisprudence* 15 (2002); “Deliberating Speed: Totalitarian Anxieties in Post-War Legal Thought,” *Yale Journal of Law and the Humanities* 12 (2000); and “Social Science on a Lawyer’s Bookshelf: Willard Hurst’s *Law and the Conditions of Freedom in the Nineteenth-Century United States*,” *Law and History Review* 18 (2000). He has been on the editorial advisory board of the *Yale Journal of Law & the Humanities* since 1995.

Dylan Penningroth is Associate Professor of History at Northwestern, where he teaches courses in African American and U.S. history. He received a BA from Yale University (1993) and an MA and PhD from Johns Hopkins (2000). Before coming to Northwestern, he taught at the University of Virginia. His research focuses on African American history, with special interests in the history of slavery and emancipation, African history, and everyday legal experience. His book, *The Claims of Kinfolk: African American Property and Community in the Nineteenth-Century South* (2003), won the 2004 Avery O. Craven Award of the Organization of American Historians, and as a dissertation won the Allan Nevins Prize of the Society of American Historians. Honors include an OAH Huggins-Quarles Award, a Smithsonian summer fellowship, a Carter G. Woodson Predoctoral Fellowship, and a National Endowment for the Humanities Fellowship at the Newberry Library. From 2005–2008 he is serving as an OAH Distinguished Lecturer. A member of ASLH since 2002, he has presented papers at the annual meeting and currently serves on the Surrency Prize Committee. He also serves on the 2006 Program Committee for the Southern Historical Association, and the 2008 Program Committee for the Organization of American Historians.

Miranda Spieler is Assistant Professor at the University of Arizona in the Department of History. She holds an A.B. in History and Literature from Harvard University and a Ph.D. in History in 2004 from Columbia University, where she worked with Simon Schama, Isser Woloch, and David Armitage. She is an historian of France and of the French Empire whose work explores the relationship between law and violence against marginal groups such as enemies of state, convicts, slaves, and former slaves. She is completing a monograph based on her dissertation, “Empire and Underworld: Guiana in the French legal imagination, c. 1789–c. 1870,” for Harvard University Press.

Robin Chapman Stacey is the Howard and Frances Keller Endowed Professor of History at the University of Washington. A specialist in medieval Irish and Welsh law, she is the author of several articles and two books: *The Road to Judgment: From Custom to Court in Medieval Ireland and Wales* (1994), and the forthcoming *Dark Speech: The Performance of Law in Early Ireland*. Her current book project, tentatively entitled *Law as Literature in Medieval Wales*, explores a new way of reading the

lawbooks of 13th-century Wales: not merely as a repository of native custom, but as a form of political literature and a forum for the discussion of contemporaneously controversial issues, such as divorce, royal succession, princely exactions, and the participation of women in Welsh political life. She has been a member of the editorial board of *Law and History Review* since 1996, is a Past President of the Celtic Studies Association of North America, and was recently elected a Councillor of the Medieval Academy of America. Her work has been supported by grants from the Guggenheim Foundation and the American Council of Learned Societies, and she just this year received the University of Washington's Distinguished Teaching Award.

Nominating Committee (4 candidates; top 2 elected)

Margot Canaday is the 2005–2008 Cotsen-Perkins Postdoctoral Fellow in the Society of Fellows at Princeton University. She holds degrees from the University of Iowa (B.A.) and the University of Minnesota (M.A., Ph.D.). Her 2004 dissertation, “The Straight State: Sexuality and American Citizenship, 1900–1969,” won prizes from the Law and Society Association, the Organization of American Historians, and the University of Minnesota. It examines federal regulation of sex and gender non-conformity over the early- to mid-twentieth century to ask how homosexuality came to be a meaningful category for the state during those years. Other work has appeared in the *Journal of American History*, *Law and Social Inquiry*, *Feminist Review*. Her research has been twice funded by fellowships from the Social Science Research Council, and she was the recipient of the AHA's Littleton-Griswold Grant in Legal History and the OAH's Galbraith-Merrill Grant in Political History. She has served as a consultant to the Center for the Study of Sexual Minorities in the Military, and has just completed a three-year term on the Governing Board of the AHA's Committee on Lesbian and Gay History. She is a recent graduate of the Hurst Institute, and has been a member of ASLH since 2003.

Christopher Capozzola is Associate Professor of History and Lister Career Development Professor at the Massachusetts Institute of Technology. He completed his Ph.D. at Columbia University at 2002, and has held fellowships from the American Academy of Arts and Sciences, the National Endowment for the Humanities, the Social Science Research Council, and the Carnegie Scholars Program. His research interests focus on the history of war and citizenship in the modern United States. He is the author of *Uncle Sam Wants You: The Politics of Obligation in America's First World War* (forthcoming, 2007); “Life and Limb: Pain, Capitalism, and Citizenship in Industrializing America,” *Georgetown Law Journal* 93 (2005); and “The Only Badge Needed Is Your Patriotic Fervor: Vigilance, Coercion, and the Law in World War I America,” *Journal of American History* 88 (2002); and has published in *The Boston Globe*, *Christian Science Monitor*, and *Washington Post*. He is currently beginning work on *Following the Flag*, a transnational history of law, military service, and citizenship in the United States and the Philippines in the twentieth century. He is a regular attendee and presenter at ASLH conferences and served on the 2006 Program Committee.

Julie Novkov is Associate Professor of Political Science and the Director of Women's and Gender Studies at the University of Oregon. From the fall of 2006, she will be Associate Professor of Political Science and Women's Studies at the University at Albany/SUNY. She holds degrees from Harvard-Radcliffe (A.B., 1989), NYU School of Law (J.D., 1992), and the University of Michigan (M.A., 1994; Ph.D., 1998). Her first

book, *Constituting Workers, Protecting Women: Gender, Law, and Labor in the Progressive Era and the New Deal Years* was published in 2001; her second, *Racial Constructions: Regulating Interracial Sex and Building the White State in Alabama, 1865-1954*, will appear in 2007. She has also authored several articles in books and scholarly journals, including *Law and History Review*. She is currently working on two co-edited volumes, one on race and US political development and another on race, gender and militarization. Her next major research project will be a political and developmental history of the legal regulation of child labor in the United States. She has been a member of the American Society for Legal History since 2001 and also belongs to the American Society for Legal and Political Philosophy and the Law and Society Association.

David S. Tanenhaus is the James E. Rogers Professor of History and Law at the University of Nevada, Las Vegas, where he teaches both in the Department of History and the William S. Boyd School of Law. He holds degrees from Grinnell College (B.A. in History) and the University of Chicago (M.A. and Ph.D. in History). He has written extensively on children and the law, including *Juvenile Justice in the Making* (2004) and co-edited, with Margaret K. Rosenheim, Franklin E. Zimring, and Bernardine Dohrn, *A Century of Juvenile Justice* (2002). He is currently working on the origins and development of federal juvenile justice policy. He has taught courses on American legal and constitutional history, the Gilded Age and Progressive Era, children and society, and introductory surveys of U.S. History. During 2000–2001, he was a Mellon Postdoctoral Research Fellow at the Newberry Library. In 2004, the American Society for Legal History appointed him to a five-year term as the Editor of *Law and History Review*.

Publications Committee

The *Law and History Review* and the Studies in Legal History series are in such good hands that the Committee was mercifully inactive this year, with the small exception of approving a subvention. For this signal service, the Committee wishes to thank David S. Tanenhaus, Thomas A. Green, and Daniel R. Ernst, for their extraordinarily dedicated and effective stewardship of the *Review* and the series, and the University of Illinois Press and the University of North Carolina Press for their continued support of our scholarship.

Bruce H. Mann, Chair

Reid Prize

The Committee has agreed to award the Reid Prize to Daniel J. Hulsebosch, *Constituting Empire: New York and the Transformation of Constitutionalism in the Atlantic World, 1664-1830*. The Committee also agreed that Stuart Banner, *How the Indians Lost their Land: Law and Power on the Frontier*, should be announced publicly as the runner-up.

Publishers in Canada and the United States (including the Cambridge and Oxford Presses) nominated approximately 40 books for the prize. Each member of the Committee submitted approximately six titles for reading by the Committee as a whole. Two books, Hulsebosch and Holly Brewer, *By Birth or Consent: Children, Law & the Anglo-American Revolution in Authority*, were suggested by all four committee members. Banner's book was suggested by three. No other book was suggested by more than one member of the Committee. We thought, however, that we should read more than three books, and after discussion we accordingly decided that we also would read Rebecca Wittmann, *Beyond Justice: The Auschwitz Trial*, and James A. Wooten, *The Employee Retirement Income Security Act of 1974: A Political History*.

The Committee was divided about whether to award the prize to Hulsebosch or Banner. Because he is a member of the same faculty as Hulsebosch, the chairman did not express an opinion or vote on whether Hulsebosch or Banner should receive the prize, although he did participate in discussions on the strengths and weaknesses of both books. After lengthy discussion, the Committee voted to award the Reid Prize to Hulsebosch.

Studies in Legal History

Studies in Legal History is publishing one book in 2006:

Assaf Likhovski, *Law and Identity in Mandate Palestine*

One book is currently scheduled for 2007:

Jeannine DeLombard, "Slavery on Trial: Law, Abolitionism, and Print Culture"

Five manuscripts are under advance contract, three in American legal history and two on the European side:

Thomas A. Green and Hendrik Hartog, eds.: Elizabeth B. Clark, "The Politics of God and the Woman's Vote: Religion in the American Suffrage Movement, 1848-1895"

Stephen Jacobson, "Catalan Advocates: Lawyers, Society and Politics in Barcelona, 1759-c. 1900"

Bruce A. Kimball, "C.C. Langdell and the Legal Foundation of Modern Professional Education, 1826-1906"

Michael Millender, "The Transformation of the American Criminal Trial, 1776-1860"

Richard Wetzell, "Between Retributive Justice and Social Hygiene: Penal Reform in Modern Germany, 1880-1945"

Likhovski was originally submitted to the series while Thomas Green and Hendrik Hartog were editors. Green and Hartog are jointly editing the Green & Hartog and Millender. Green is editing Jacobson and Wetzell. Ernst is editing DeLombard and Kimball.

During the past year, the editors received many new manuscripts and proposals for consideration. These divided evenly between the American side (Ernst) and the non-American side (Green). As to the latter, where the editors hope to expand our publication program gradually over the next several or more years, currently manuscripts under consideration include a half dozen on England and several on the continent. Much of the editors' time has been devoted to work on manuscripts under an advance contract; some to giving authors readings of their work, in anticipation of a revision and resubmission for consideration for an advance contract; and some to advising authors at an earlier stage in their book projects.

The editors want to express their gratitude to our editor at the Press, Chuck Grench and to Chuck's assistant Katy O'Brien. As always, we want also to thank Kate Torrey, Director of the Press, and David Perry, Editor in Chief; the Society owes a great deal to the University of North Carolina Press for its support and excellent standards of production over the past three decades.

Daniel Ernst, Thomas A. Green, Editors

Surrency Committee

The winner is Andrea McKenzie for “‘This Death Some Strong and Stout Hearted Man Doth Choose’: The Practice of Peine Forte et Dure in Seventeenth- and Eighteenth-Century England” in LHR 23:2. And we awarded an honorable mention to Sally H. Clarke for “Unmanageable Risks: MacPherson v. Buick and the Emergence of a Mass Consumer Market” in 23:1. The citation follows:

Most historical accounts of punishment focus on those doing the punishing: the state and its agents. In this insightful and original article, Andrea McKenzie examines the meaning of the choices made by those enduring punishment. This account of the use of peine forte et dure in seventeenth- and eighteenth-century England argues that courts interpreted the refusal of criminal defendants to answer charges against them as an attack on their own authority and legitimacy. Often, in fact, some defendants intended exactly that. In capital felony cases, judges subjected the uncooperative accused to the peine forte, the most gruesome method of physical torture at their disposal. Famously employed against an accused wizard in late seventeenth-century Salem, Massachusetts, the peine forte usually killed slowly and horribly. Those subjected to it either bore their fate stoically or quickly changed their minds and agreed to plead. McKenzies account emphasizes the nature of legal and judicial authority and, just as important, the motives of those who willingly chose the peine forte, knowing it probably meant death. For some, the chance to invert the inherent power structure of the criminal process was the opportunity to assert the ultimate moral authority in society. Moreover, the display of manly courage and resolve in the face of torture could be read as a rejection of the deferential, passive role thrust upon [such offenders] by the courts. McKenzie employs an expressive literary style, in keeping with the pathos of her sources, while unsentimentally exposing the power of the judicial process in the lives of ordinary people. This piece contributes fresh insights to the history of capital punishment, the meaning of pain and suffering, the interweaving of legal authority and religious faith, and the representation of masculinity in the early modern period. Its skilful blending of cultural and legal history provides a model for many other areas of inquiry.

Philip Girard, Chair

Sutherland Committee

Let me begin by thanking both my fellow committee members, Professor Joseph Biancalana of the University of Cincinnati and Professor David Lemmings of the University of Newcastle, Australia. Both dealt with a mass of reading and the rather disorganised management of the committee chair with admirable efficiency and good humour. Our deliberations were immensely aided by Charlie Donahue's provision of a research assistant, who created the core list of eligible articles and chapters from which we worked. Each committee member read a third of the total items on the list (distributed so as to avoid conflicts of interest), and recommended 2-3 items for the committee's joint consideration.

The Committee is very pleased indeed to recommend that the ASLH's Donald Sutherland article prize for 2006 be awarded to Dr Andrea McKenzie (Assistant Professor of History, University of Victoria, Canada), for ' "This Death Some Strong and Stout Hearted Man Doth Choose": The Practice of Peine Forte et Dure in Seventeenth- and Eighteenth-Century England', *Law & History Review*, 23, 2 (2005). McKenzie's winning article is distinguished by both its chronological range and its analytical reach. The practice of the peine, the pressing to death with heavy weights of those accused criminals who impeded the normal course of justice by refusing to plead to their indictments, stands as an anomaly both in the English legal tradition and in English legal historiography. At odds alike with the English law's much-celebrated opposition to judicial torture and to its vaunted reliance on jury trials to determine guilt and innocence, the peine has hitherto puzzled legal historians, who have conventionally attributed defendants' willingness to subject themselves to this horrific ordeal to the desire to transmit estates to heirs by avoiding criminal conviction. McKenzie's article not only exposes the limits of this received interpretation but also provides a convincing series of alternative explanations. Her interpretation illuminates the history of the peine by situating legal practice within the context of the counter-theatre of the law as well as a spectrum of popular attitudes and discourses that range from religious conceptions of the martyr to plebeian conceptions of masculinity. The result is a compelling analysis that weaves together first-rate legal, social and cultural history to provide a compelling resolution to the conundrum of why early modern men and women chose to subject themselves to death by pressing rather than appealing to the celebrated mercies of the English jury system.

Margot C. Finn, Chair

American Society for Legal History
Board of Directors
Annual Meeting, November 16, 2006
Radisson Lord Baltimore Hotel, Baltimore, Maryland
Royal Boardroom, 7:30 pm

Committee Reports (Second Set)

Cromwell Fellowships Committee	2
Documentary Preservation Committee	6
Reid Prize (Supplement)	9
University of Illinois Press—Report on <i>LHR</i> and Dues	10

Cromwell Fellowships Committee

September 7, 2006

Conrad Harper, Esq.
Henry Christensen, III, Esq.
Sullivan & Cromwell
125 Broad Street
New York, New York 10004-2498
United States

Dear Mr. Harper and Mr. Christensen:

On behalf of the Cromwell Fellowship Advisory Committee, I present to you a slate of eight names, all of whom we think deserve the support of the William Nelson Cromwell Foundation. We received thirteen completed or nearly completed applications for fellowship, and of those these eight leaped to the top. Collectively, they are as strong as last year's slate was weak. In the opinion of the members of the committee, the weakest recommended application this year is as strong as the strongest was last year. And they show, as last year's applicants did not, the immense strength of the field of American legal and constitutional history at this moment. The topics they are exploring are wide ranging and exciting. The methods they are using in their research are both innovative and appropriate. They are all hardworking and productive young scholars. In funding their research, you will be giving symbolic and material aid to young women and men at the beginning of important careers, and you will be supporting transformative scholarship in American legal history.

Along with this letter, I am sending you a rank ordering of the slate of recommended applicants, a copy of all of the files we received, plus a copy of the notice we sent out.

This year the selection committee advertised on H-Law, and we sent copies of that notice to approximately sixty senior academics located in History Departments and Law Schools, asking them to post the notice and to pass it on to junior colleagues.

Our reading of the files raised two issues.

In the first place, we have had to confront what we mean by the sentence "Preference will be given to scholars at the early stages of their careers." Most of the applications we received were from young scholars unmistakably at the "early stages" of what we predict will be distinguished careers. However, two of the applicants seemed clearly to stand outside or beyond the "early stages" preference. Both had tenure at universities. Both had completed and published at least one book. They were relatively easy for us to reject on that basis. But two other applicants seemed to stand in a less clear relationship to the standard: In one case, the applicant had tenure at a law school before beginning graduate work where he is completing a dissertation, and in the other case, the candidate is still working on his first book even though he has just received tenure at a law school. In both cases, we were quite excited by the work these two young scholars were doing, and we decided to recommend both of them for support. We discussed whether we wanted to restate the "preference" in more direct and unambiguous terms. We decided, subject to your review, that we would leave our criteria for seniority vague, as a preference.

Second, we wondered about the extent to which the funds of the William Nelson Cromwell Foundation should be available for work outside of narrowly defined “American legal history.” Clearly, the notice we wrote this year specified American legal history, and we received only one application outside of the category, one on early modern English legal history (which we rejected). But, as we are sure you realize, much of the most interesting recent work in legal history these days crosses narrow national boundaries and traditional definitions of the field. And we wonder if the foundation would be interested in supporting some of that wider body of new work.

Again, let me emphasize with what enthusiasm we submit this list of applicants. It’s a great group, and the work they produce will do credit to the William Nelson Cromwell Foundation.

Please call me, if you have any questions.

With all best wishes,

Hendrik Hartog
Chair, Cromwell Fellowship Advisory Committee
Class of 1921 Bicentennial Professor in the History of American Law and Liberty
Director, Program in American Studies

Rank Ordered List of Applicants

1. Nicholas Parrillo, J.D./ Ph.D (candidate), Yale Law School. Golieb Fellow, NYU Law School

He works on the legal history of governmental salaries and pay. He is asking for \$4206 to continue his doctoral dissertation research.

(tie)

1. Christopher Beauchamp, Ph.D., University of Cambridge. Postdoctoral scholar
He works on patent litigation in the late nineteenth century. He is asking for \$4330, to begin postdoctoral research in turning his dissertation into a book

3. Daniel J. Sharfstein, J.D. Yale Law School. Golieb Fellow, NYU Law School
He is writing a book length study of families whose racial identities shifted from African American to white from the eighteenth to the twentieth centuries. He is asking for \$5951, to support a series of research trips.

(tie)

3. Kenneth W. Mack, J.D. Harvard Law School; Ph. D. Princeton University.
Harvard Law School faculty

He is completing a book on African American lawyers and their legal practice during the first half of the twentieth century. He is asking for \$1220 for archival research.

(tie)

3. Kunal Parker, J.D. Harvard Law School; Ph.D. Princeton University
(candidate). Cleveland State Law School faculty; Golieb Fellow, NYU Law School

He works on changing understandings of history and of custom in nineteenth century legal thought. He is asking for \$5000 to support the completion of his dissertation.

6. Sophia Lee, J.D./Ph.D (candidate), Yale Law School. Graduate Student, Yale University

She is completing a study of the NAACP and labor law. She is asking for \$5000 to support archival research necessary for her dissertation.

(tie)

6. Michael Boucai, J.D. Georgetown Law School. Researcher

He is at work on a project entitled, "Closed Cases and Unopened Closets: A Legal History of the Gay Movement." He is asking for \$990, to cover interviewing and other research costs.

(tie)

6. Linda Tvrdy, J.D., Ph.D (candidate), Columbia. Graduate Student, Columbia University

She is completing a dissertation on how Reconstruction affected the administration of justice in North Carolina. She is asking for \$6598, to cover archival research expenses.

Other applicants: Andrew Wender Cohen, Bruce Kimball, Roman J. Hoyas, Jennifer Armiger, David Smith.

Cromwell Fellowship

The William Nelson Cromwell Foundation announces the availability of a number of awards for 2006, intended to support research and writing in American legal history. The number of awards to be made, and their value, is at the discretion of the Foundation. In the past two years, three to five awards have been made annually by the trustees of the Foundation, in amounts up to \$5,000. Preference will be given to scholars at the early stages of their careers. The Society's Cromwell Fellowships Advisory Committee reviews the applications and makes recommendations to the Foundation.

Applicants should submit a three to five page description of a proposed project, a budget, a timeline, and two letters of recommendation from academic referees. There is no application form.

Applications must be received no later than June 30, 2006. Successful applicants will be notified by mid-November, and an announcement of the awards will also be made at the annual meeting of the American Society of Legal History.

To apply, please send all materials to:

Professor Hendrik Hartog
Chair, Cromwell Fellowships Advisory Committee
History Department
Princeton University
Princeton, NJ 08544



SCHOOL OF LAW

THE UNIVERSITY OF TEXAS AT AUSTIN

727 East Dean Keeton Street • Austin, Texas 78705 • (512) 471-5151 • Facsimile (512) 471-6988

MEMORANDUM

November 1, 2006

TO: Charles Donahue, Jr. and Members of the Board

FROM: Michael J. Churgin, chair

RE: Committee on Documentary Preservation

The work of the University of Maryland business school project concerning the electronic records of the failed Brobeck firm has come to a successful juncture. The advisory committee, including Robert Gordon, Ray Solomon, and me, met last winter and discussed various approaches to obtain the records for researchers, while being cognizant of the confidentiality of attorney client communications. A formal proposal was submitted to the bankruptcy court in San Francisco, and the judge declared the electronic records abandoned, of no value for the estate and directed that they be maintained as recommended. No one objected to the proposal and the records have been preserved.

I have continued my practice of commenting to the National Archives concerning agency proposals for disposition of records, usually arguing for expanded retention of various files. Accompanying this report is a response from the National Archives agreeing to my suggestion concerning Department of Homeland Security records.

Committee member DeLloyd Guth has recommended that the committee organize a panel at the Phoenix meeting on the state of documentary preservation, and we will submit a proposal to the 2007 program committee.

President Bush once again recommended a zero budget for the National Historical Publications and Records Commission. I consulted with President Donahue, and he submitted a letter on behalf of the Society to the appropriate congressional committee. (A copy accompanies this report.) Congress has rebuffed President Bush and funded the NHPRC at last year's level.



National Archives and Records Administration

8601 Adelphi Road
College Park, Maryland 20740-6001

April 4, 2006

Professor Michael J. Churgin
University of Texas School of Law
727 East Dean Keaton Street
Austin, TX 78705

Dear Professor Churgin:

~~This letter is in response to your March 31, 2006 email message regarding the eight-day delay in receiving the Federal Register package. This concern required us to investigate our internal office mailing procedures and procedures with our mail service contractor Service Source, Inc. Due to the weight of the Federal Register package, it was inadvertently sent to you via media mail not first class. We regret this error.~~

~~We will now identify and mark all NWML Federal Register comment packages as first class before the package leaves our office and we will train appropriate staff to follow this mailing procedure.~~

Your second concern centered on the Transportation Security Administration (TSA) Major Incident Records disposition in Job No. N1-560-05-1. Your concerns on the proposed permanent selection criteria of major incident cases as being underinclusive are valid. We agree that incidents involving terrorists, explosions, and cases that cause significant loss of life or property should be preserved and expanded to include other types of important case files. In consultation and concurrence with TSA, we revised the following descriptive statement for item 8 to:

Major Incident Records: Includes reports and records related to incidents that involve a terrorist, explosion, other event that causes significant loss of life or property. Also included are cases that result in national and/or regional media attention, have public and/or Congressional interests, and cases that lead to substantive change in agency policies and procedures.

Please submit any comments you may have on this schedule within 30 days from the date of this letter. We will of course consider any comments you wish to make, and will revise any of the schedules if we believe changes are warranted.

Again, we apologize for the mailing delay and hope that our internal corrective measure will prevent future mailing delays. I hope we have also adequately addressed your comments regarding Job N1-560-01. Thank you for your concerns and if I can be of any other assistance, please do not hesitate to contact me at (301) 837-1539 or at laurence.brewer@nara.gov.

Sincerely,

LAURENCE BREWER
Director
Life Cycle Management Division



THE AMERICAN SOCIETY FOR LEGAL HISTORY

Charles Donahue, Jr., President
Harvard Law School
Cambridge, MA 02138

The Honorable Joseph Knollenberg
Chair, Subcommittee on Transportation, Treasury, and Housing and Urban Development,
The Judiciary, District of Columbia,
of the House Appropriations Committee
2358 Rayburn House Office Building
Washington D.C. 20515

Dear Representative Knollenberg:

Re: National Historical Publications and Records Commission (NHPRC)

I am writing on behalf of the American Society for Legal History. Our organization is a thousand members strong. We are spread across the nation, and include both academic and practicing lawyers, historians who teach in colleges and universities, and those who work in non-teaching environments. Our members research and write principally about the legal history of the United States. None of us can do our work if historical records are not preserved.

The NHPRC is a small agency, tucked under the umbrella of the National Archives, but it is of utmost importance to the preservation of our national and local historical records. Unfortunately, the President has proposed that the agency's grant-making and programmatic staff support be zeroed out for next fiscal year. If approved by Congress, this would be a tragic development. Last year, Congress was faced with the same situation and funded NHPRC. The need for this agency continues. I urge the subcommittee to provide \$10 million for grant-making and an additional \$2 million for staffing and program administration.

The NHPRC has used its small level of funding wisely. Not only has it taken a leadership role in identifying historical records for preservation, but it has a record of success of using a small amount of federal funding to leverage other contributions for worthy projects.

If I could provide you with further information, please do not hesitate to contact me.

Charles Donahue, Jr.
President, American Society for Legal History
Paul A. Freund Professor of Law
Harvard University
email: blambert@law.harvard.edu

Reid Prize (Supplement)

The Committee is pleased to recommend that the ASLH's John Reid Prize for 2006 be awarded to Daniel Hulsebosch, Professor of Law, New York University School of Law, for his book "Constituting Empire." Daniel Hulsebosch's book offers a sweeping reinterpretation of early American constitutional history that takes the reader from the imperial constitution of Lord Coke to the constitutional imperialism of Chancellor Kent. The heart of the analysis reassesses the meaning of the American Revolution as a constitutional event. Bringing original sources to light, using canonical sources in new ways, and building on the work of John Reid that has forced historians to take the legal grievances of the eighteenth century seriously, Hulsebosch demonstrates that the state and federal constitutions were shaped by North America's imperial past. He shows how the raw material of the English constitution got remade by colonists and imperial agents on the ground, as well as by the British American lawyers who are now called Founding Fathers. He also illuminates the process by which legal practices were abstracted into formal ideas and how this formalization was a means to an end: first to unite a transatlantic empire, then to forge a more perfect Union. "Constituting Empire" does not pretend to have the last word on the American founding. But it may well have pioneered a new line of scholarship exploring the social politics of constitutionalism.

University of Illinois Press—Report on *LHR* and Dues

8 November 2006

To: William P. LaPiana, Secretary-Treasurer, ASLH

From: Clydette Wantland, Journals Manager, UIP

Subject: Annual Report on *Law and History Review* and ASLH Dues Collection Income.

For the period July 1, 2005 to June 30, 2006 (FY 06), income collected was \$88,030.36. This includes receipts from membership dues, permission fees, royalties, mailing list rentals, and advertising income. The total income collected is significantly higher this fiscal year under the new contract agreement than in previous years.

Membership / Subscription Numbers. Member/Subscriber numbers have increased by 177 since the November 2005 report. This is great news for the Society! See attached Membership Numbers for details.

Expenses. The relatively new (began Jan. 05) quarterly payment arrangement to UIP covers all expenses for production of *LHR*, maintaining the records for ASLH, order entry, membership management, warehousing, accounting, etc. The profit/loss line currently shows a healthy profit of \$37,367.06 to ASLH. According to my calculations, this is a 49% increase over FY05. I attribute this increase to higher membership numbers and to the set expenses under our new agreement between ASLH and UIP.

ASLH New Member Reports and Other Enhancements. Working directly with Sally Hadden, Membership Committee Chair, over this past summer and fall, UIP has created a live, Web-accessible view into the ASLH Membership Fulfillment System (Eclipse). We've also added a function that allows for the full export of all ASLH Member information into an Excel spreadsheet report that can be sent to the Membership Committee on a regular basis.

The searchable ASLH Member online directory (<http://www.press.uillinois.edu/journals/lhr/directory>) has been completely updated and improved. In addition to finding fellow members by name, location, or areas of interest, the directory now has a system that allows members to update their own personal information in the online directory as well as in the Membership Fulfillment System. Finally, an automated notification system has been developed to automatically generate personalized thank-you email messages to new and renewing members. The email notice also contains detailed instructions for accessing the ASLH Member online directory. The automated notification system also creates a complete report of all new and renewing member activity, and it can email this report, including member name, ID number, and address information, to the Membership Committee.

ASLH / LHR Membership
 Numbers as of 11/8/06

Emeritus	61
Honorary	9
Institution	367
Life Members	69
Sponsor	18
Student	122
Individual (\$150,000 and above)	54
Individual (\$125,000-\$149,000)	43
Individual (\$100,000-\$124,999)	39
Individual (\$75,000 - \$99,999)	40
Individual (\$50,000 - \$74,999)	62
Individual (Below \$50,000)	390
Total	1274
Individuals	907
Institutions	367
Total	1274

INCOME

Dues received by UIP and transferred to ASLH 7/05-6/06

TOTAL DUES RECEIVED FY06 \$ 83,030.36

Receipts for advertising (25% ASLH, 75% UIP)

Portion transmitted to ASLH \$ 1,051.38

Portion retained by UIP \$ 3,345.37

TOTAL INCOME ADVERTISING \$ 4,396.75

Receipts for permission fees (50/50 split)

Portion remitted to ASLH \$ 867.65

Portion retained by UIP \$ 670.63

TOTAL PERMISSION FEES \$ 1,538.28

Receipts for royalties (50/50 split)

Portion remitted to ASLH \$ 2,817.42

Portion retained by UIP \$ 2,558.74

TOTAL ROYALTIES \$ 5,376.18

Receipts from mailing list rental (\$75 per rental to UIP)

Portion transmitted to ASLH	\$	375.00	
Portion retained by UIP	\$	225.00	
TOTAL INCOME FROM MAILING LIST RENTAL			\$ 600.00
NET INCOME			\$ 88,141.81
EXPENSES			
Fees Paid to UIP for Services			
Copyediting and proofreading			
Issue design, production scheduling, transmittal to typesetter and printer			
Typesetting			
Promotion and advertising in print media			
Display at scholarly/professional exhibits			
Direct mail promotion to potential new subscribers			
Registration of copyright; administration of rights and permissions			
Recordkeeping and reporting for dues and subscription payments			
Offprints			
Renewal notices; preparation, printing, mailing			
Catch-up Issues: Mailing labor and postage			
Warehousing: replacement of unreceived/lost/damaged issues, shipment of sample copies			
Telephone, office supplies, equipment			
TOTAL SERVICE FEES			\$ 46,279.00
Fees Paid for Page Overages			\$ 1,500.00
Mass Mailing Postage Reimbursement			\$ 2,995.75
TOTAL EXPENSES			\$ 50,774.75
PROFIT/LOSS FOR ASLH			\$ 37,367.06

American Society for Legal History
Board of Directors
Annual Meeting, November 16, 2006
Radisson Lord Baltimore Hotel, Baltimore, Maryland
Royal Boardroom, 7:30 pm

Committee Reports (Third Set)

Annual Meetings Committee	2
Preyer Committee	3

Annual Meetings Committee

Baltimore Acknowledgments

Baltimore, MD, Nov. 16-19, 2006. Many thanks to Tim Sellers (Baltimore), Dave Bogen (Maryland) and Jane Dailey (Hopkins), as well as Michael Myerson, Garrett Power, Jeffrey Sawyer and Jason Trompbour, for what we know already will be a wonderful meeting!

Meetings Scheduled

Tempe, AZ, Oct. 25-28, 2007. ASLH is grateful for the diligent advance planning of Jon Rose and the Sandra Day O'Connor College of Law, and the promised warm Western hospitality and venue.

Ottawa, ON, Nov. 13-16, 2008. With gratitude to Constance Backhouse, DeLloyd Guth and a pan-national team, the Society looks forward to a bracing stay at the historic Fairmont Chateau Laurier in the heart of Canada's legal and governmental capital.

Future Meetings Input Solicitation

Past years' reports have contained a detailed set of factors for meeting site selection, including affordability of sleeping and meeting rooms, appeal of the city, travel expense, demographics of membership, and the like. These factors might be re-canvassed generally at the board meeting, if time permits. The committee seeks guidance, however, primarily on two more specific matters:

Geographical preferences. In rotational terms, the Society is overdue for a Southern swing in 2009, with probably a return to the Midwest in 2010. What criteria should predominate in the committee's considerations? After the 2007 and 2008 meetings in Tempe and Ottawa, will centrality to our base demographics and easy air access be of primary concern to members? Expense in travel and accommodations? A charming locale? Savannah, for example, offers beauty and history, but not the simplicity of an annual meeting at an Atlanta airport hotel. A site like Nashville might offer the delights of a mid-sized city, interesting venues, convenient travel, and meeting rates affordable to the Treasury. New Orleans is again mostly open for business. The committee would be grateful for the board's sense of the membership's likely priority among possible competing factors.

Local arrangements vs. central management. Traditionally, as this year and next, the Society has benefited greatly from the "local knowledge" of its members in annual meeting host cities regarding such matters as hotel selections and restaurant recommendations, as well as (although somewhat variably) from local committees' fundraising to enhance events. The burden of conducting meetings, however, and of managing finances, falls inevitably on the Secretary-Treasurer. In addition, the availability or unavailability of local arrangements chairs significantly bounds site selections. For 2009 and 2010, unless the board objects, the committee proposes to experiment more liberally with the possibility of selecting venues based primarily on input from the Secretary-Treasurer and the Society's third-party planner.

Craig Joyce, Chair

Preyer Committee

This winter, the Preyer Committee began considering its charge to get the Preyer Competition up and running. After consultation with Past President Scheiber and President Donahue and detailed discussion between committee members, we posted the following announcement on H-Law on April 7.

ASLH Call for Papers: Kathryn T. Preyer Scholars Competition. The Kathryn T. Preyer Memorial Committee of the ASLH invites submission for the Kathryn T. Preyer Scholars Competition. The competition is named in honor of the late Kitty Preyer, a distinguished historian of early America and beloved member of the Society. The two winners of the competition will be named Kathryn T. Preyer Scholars. Each will present the paper that he or she submitted to the competition at the Society's annual meeting in Baltimore on November 16-19, 2006. Kathryn T. Preyer Scholars will receive a \$250 cash award and reimbursement of expenses of up to \$750 for travel, hotels and meals.

Submissions are welcome on any legal, institutional and/or constitutional aspect of American history. Graduate students, law students, and other early-career scholars who have presented no more than two papers at a national conference are eligible to apply. Papers already submitted to the ASLH Program Committee, whether or not accepted for an existing panel, and papers never submitted are all equally eligible for the competition.

Submissions should include a curriculum vitae of the author, contact information, and a complete draft of the paper to be presented. The draft may be longer than could be presented in the time available at the meeting (twenty minutes) and should contain supporting documentation, but one of the criteria for selection will be the suitability of the paper for reduction to a twenty-minute oral presentation.

The deadline for submission is June 15, 2006. The Preyer Scholars will be named by August 1.

We also publicized the award in other ways, as best as we were able. For example, we sent notice of the award to historians who train large numbers of American legal historians and historians of early America. Despite the relatively late announcement of the award, we received more than twenty submissions, some of which were outstanding.

After substantial discussion, we chose our first two Preyer Scholars. They are Sophia Z. Lee, a JD/PhD student at Yale, for her paper, "Hotspots in a Cold War: The NAACP's Postwar Labor Constitutionalism, 1948-1964" and Karen M. Tani, a JD/PhD student at the University of Pennsylvania for her paper, "Fleming v. Nestor: Anticommunism, The Welfare State and the Making of 'New Property.'" The first Preyer Panel will feature the work of both. We hope that the panel will be well-attended. To that end, we considered ourselves exceptionally fortunate to tap as chair President Donahue, who will say something about Kitty Preyer and, coincidentally, edited Charles Reich's "New Property" when he was on the Yale Law Journal. Commentators are Dan Ernst and Laura Kalman.

Though the first round of the Preyer Competition went more smoothly than we had any right to expect, given our late start, some questions remain about which we would appreciate the Board's guidance.

1. Deadline for the competition and placement of Preyer Scholars on the program. The deadline for Preyer Competition submissions is currently June 15. While this deadline is good for graduate students who might not otherwise submit paper proposals to the Program Committee and whose inclusion we want to encourage, it is not ideal for the Program Committee, which has already settled on the program by the time. If the Program Committee could simply reserve a

slot for the “Preyer Panel,” the situation would be more manageable. And indeed this year, both winners fit together substantively in the same panel well.

One solution is to put all winners, whatever their topics, together on a Preyer Panel. This decision would undoubtedly make life easier for Program Committee members. It does not, however, seem ideal to us, as it runs the risk of grouping Preyer Scholars together on no basis other than their junior status. Finding commentators who could link the two presentations together might prove difficult as well (though one Preyer Committee member suggested that we might lay that problem to rest by drafting Bob Gordon as commentator in perpetuity!)

If we do not take the single panel approach, and if we have two winners who work in different areas, the Program Committee would have to insert the winners belatedly in established panels, thereby upsetting months of hard work.

What we would face, then, is the likelihood that in some years, the Preyer Scholars would belong together on a Preyer Panel because of shared interests and, in other years, would have to be belatedly divided up between panels, with each winner being designated the “Preyer Scholar” on the panel.

None of these contingencies pose a problem for the members of the Preyer Committee. They may, however, pose a problem for the Program Committee.

How shall the Preyer Committee proceed?

2. Periodization and focus. Some members of the Preyer Committee think that the language of the Preyer Committee Call for Papers should more explicitly target a particular time period. That would make it more likely that the two winning papers would be more likely to hang together in one panel. Others suggest that making the award time-specific would be ill-advised because at different times, some periods attract more graduate students than others. Should we target a particular time period in the CFP? Moreover, there is also a question about whether we should limit our focus to “America.” Should we broaden the focus to “the Americas?”

3. Attracting more applicants who work in early America. We wonder whether Kitty Preyer would be spinning in her grave if she knew that the first two recipients of an award honoring her memory work in the twentieth century. (This anxiety is chiefly that of the Preyer Committee chair, who herself works in the twentieth century, but it keeps her awake some nights). Of course, Kitty showed legendary graciousness to all young scholars, whatever their field. But given her interests, it does seem to us that it would be desirable to attract better submissions in Early American history. We have some ideas as to how we can work towards this goal in the year ahead, but we seek the advice of the Board on how to do so as well.

In conclusion, we thank the Board for appointing us to the Preyer Committee. We have worked together very collegially, and we have welcomed the opportunity to honor Kitty Preyer’s memory.

Respectfully submitted,
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