Pennsylvania Courthouse Architecture and Changing Attitudes Towards the Judiciary

by Mark W. Podvia

Alexander Milne Calder’s imposing bronze statue of William Penn no longer dominates the skyline of the City of Philadelphia, taller structures having long since overshadowed the likeness of the Founder of the Commonwealth of Pennsylvania. However, the building upon which the statue stands—Philadelphia’s City Hall—remains as one of the great architectural treasures of Penn’s City of Brotherly Love. Although bearing the name “City Hall,” this magnificent structure, built in the Second French Empire style, actually serves two functions. It is, of course, the center of government for one of America’s largest cities. However, it is also the courthouse of Philadelphia County, the city and county having been consolidated in 1854.¹

Each of Pennsylvania’s sixty-seven counties has its own courthouse that houses county courts and offices. These structures range in design from simple and functional to ornate and elaborate, covering a range of architectural styles. By and large, the style depends not on the size of the county, but rather on the era in which the courthouse was constructed. The style also reflects the public’s changing attitudes regarding government in general and the judiciary in particular.

Pennsylvania’s colonial courthouses tended to be functional buildings designed for the storage of land records and for court

Continued on page 5 COURTHOUSES
LH&RB

LH&RB is published three times each year by the Legal History & Rare Books Special Interest Section of the American Association of Law Libraries.

Submissions for publication are strongly encouraged. We have been known to beg. Correspondence can be sent to the appropriate editor at the following address:

Mark Podvia, Editor-in-Chief
Associate Law Librarian and Archivist
dickinson School of Law Library of the
Pennsylvania State University
150 S. College St.
Carlisle, PA 17013
Phone (717)240-5015/Fax: (717)240-5127
Email mwp3@psu.edu

Jennie Meade, Articles Editor
Bibliographer & Rare Books Librarian
George Washington University
Jacob Burns Law Library
716 20th St, N.W.
Washington, DC 20052
Phone (202)994-6857/Fax (202)994-2874
E-mail jmeade@gwu.edu

Kurt X. Metzmeier, Articles Editor and Webmaster
Associate Director
University of Louisville Law Library
Belknap Campus
2301 S. Third
Louisville, KY 40292
Phone (502)852-6082/Fax (502)852-8906
E-mail kurt.metzmeier@louisville.edu

Joel Fishman, Ph.D., Book Review Editor
Assistant Director for Lawyer Services
Duquesne University Center for Legal Information
Allegheny County Law Library
921 City-County Building
414 Grant Street
Pittsburgh, PA 15219
Phone (412)350-5727/Fax: (412)350-5889
E-mail fishman@duq.edu

Daniel Blackaby, Legal History Column Editor
Reference & Cataloging Librarian
Western State University College of Law Library
1111 North State College Blvd.
Fullerton, CA 92831
Phone (714)738-1000/Fax (714)871-1406
dblackaby@wsulaw.edu

C. Frederick LeBaron, Member News Column Editor
Reference Librarian
Loyola Univ. of Chicago School of Law Library
25 East Pearson St.
Chicago, IL 60611
Phone (312)915-6842/Fax (312)915-6797
flebaron@luc.edu

Anne Mar, Recent Acquisitions Column Editor
Project Archivist, National Equal Justice Library
Georgetown University Law Library
111 G St., N.W.
Washington, DC 20001
Phone (202)662-4043/Fax (202)662-9911
E-mail am626@law.georgetown.edu

Amy Taylor, Exhibits Column Editor
Reference Librarian and Lecturing Fellow
Duke University School of Law Library
P.O. Box 90361
Durham, NC 27708
Phone (919)613-7113/Fax (919)613-7237
E-mail taylor@law.duke.edu

Sarah Yates, Special Collections Cataloging Column Editor
Cataloging Librarian
University of Minnesota Law Library
229 19th Ave. S.
Minneapolis, MN 55455
Phone (612)625-1898/(612)
E-mail vates006@tc.umn.edu
From the Chair

LH&RB Elections: In July of this year, I will step down as LH&RB-SIS Chair and our wonderful Vice-Chair Stacy Etheredge will take the reins. To prepare for that transition, LH&RB is holding an online election for the office of Vice-Chair/Chair-Elect. Long-time members of our SIS will recall that we prefer to keep our elections friendly and collegial. To that end, we run uncontested elections. The current Vice-Chair is responsible for selecting a slate of candidates and presenting that slate to the membership for an “up or down” vote. Your LH&RB board is delighted to announce this year’s slate: Amy Taylor is the candidate for Vice-Chair/Chair-Elect. Please read more about Amy elsewhere in this Newsletter, and watch your email in-boxes for news about the election from our Secretary/Treasurer Dan Blackaby. And please express your support and thanks to Amy by remembering to vote!

Volunteering: Whether you are new to our SIS, or a seasoned member seeking to become more involved with LH&RB, I heartily encourage you to join a committee or two. Most of the wonderful work that our section does is accomplished by our committees. For example, in just the past year or so, our committees have been responsible for:
1. Proposing and reviewing the excellent Annual Meeting programming you’ve come to expect from us (Education Committee);
2. Publishing our terrific new LH&RB-SIS brochure and selecting the “Top 10 Legal History Articles” published in Law Library Journal (Publications Committee);
3. Getting our new Morris L. Cohen Student Essay Contest up and running, and publicizing it (Morris L. Cohen Student Essay Contest Committee); and

Come join us! There are lots of ways to get involved without fear of becoming overburdened. Take a look at the list of our committees and their charges at http://www.aallnet.org/sis/lhrb/officers.html, and get in touch with me or the Chair of your chosen committee(s). I look forward to hearing from many of you! And last but not least, I would be remiss if I did not take this opportunity to thank all of our current committee members and chairs for all of the work they have done on behalf of our SIS; we could not do it without you.

--Karen Beck
Boston College Law Library

Legal History & Rare Books SIS
2008-2009 Officers

Chair: Karen Beck
Curator of Rare Books/Collection Development Librarian
Boston College Law Library
885 Centre Street
Newton, MA 02459
Phone (617) 552-8607/Fax (617) 552-2889
Email beckka@bc.edu

Vice Chair/Chair Elect: Stacy Etheredge
Reference Librarian
University of South Carolina
Coleman Karesh Law Library
701 South Main St.
Columbia, SC 29208
Phone (803) 777-1667/Fax (803) 777-9405
E-mail ethereds@gwm.sc.edu

Secretary/Treasurer: Sarah Yates
Cataloging Librarian
University of Minnesota Law Library
229 19th Ave. S.
Minneapolis, MN 55455
Phone (612) 625-1898/Fax: (612) 625-3478
Email yates006@tc.umn.edu
Editor’s Corner

Along with the first day of Spring comes our Spring issue of LH&RB! You will notice that this is a much shorter LH&RB than our 54-page Fall issue. While editing a shorter newsletter makes my job much easier, I actually prefer putting together a longer issue. Please remember to send us your member news, information on your acquisitions and exhibits, as well as book reviews and feature articles.

You will notice that the feature article in this issue carries my byline (this article is actually a rewrite of a paper that I prepared for a master’s class more than a decade ago). I try to avoid running my own articles in LH&RB and generally do so only when feature articles are not submitted by others. Remember that feature articles and book reviews from LH&RB are considered for republication in our on-line journal, Unbound: An Annual Review of Legal History and Rare Books.

Please note that our on-line election will soon be underway. As one of our local radio commentators used to say, remember to vote early and vote often!

The deadline for the next issue of LH&RB is June 29th. I look forward to hearing from you.

–Mark Podvia
The Dickinson School of Law of the Pennsylvania State University Law Library

LH&RB SIS On-Line Election

It’s not November, but it is Election Time again!

The LH&RB-SIS election opens for voting on Monday, March 23, and continues until 11:59 pm CDT on Sunday, March 29.

This year, Amy M. Taylor is running for the position of Vice-Chair/Chair Elect. Ms. Taylor joined the Duke Law Library in May 2008. She received a Master of Science in Library and Information Science from The Catholic University of America in 2006, her J.D. from the University of Alabama in 2005, and a B.A. in religious studies from Rhodes College in 1995. Prior to joining Duke, Ms. Taylor was a reference librarian at Georgetown University and a library intern at the Supreme Court of the United States.

Ms. Taylor co-teaches a section of Legal Analysis, Research and Writing and coordinates the library's Empirical Legal Research Program. She is a member of the American Association of Law Libraries, the American Library Association, the Special Libraries Association, the American Bar Association, and the Alabama State Bar. She is coordinating a workshop on Empirical Legal Research for the 2008 AALL Annual Conference. She has authored articles on Empirical Legal Research for the Legal Information Alert and the AALL Academic Law Librarians’ newsletter. Her research interests include empirical legal studies, criminal law, specifically sentencing policy and capital punishment, and legal history.

Please visit the voting site at https://vote.aallnet.org/sis-LH&RB/index.asp the week of March 23 to cast your vote! If you have any questions about the elections process, please e-mail Dan Blackaby, LH&RB Secretary-Treasurer, at dblackaby@wsulaw.edu
purposes. The colonists viewed their rulers with a wary eye, and saw little purpose for county government beyond record-keeping and providing justice. In many counties the courts originally met in taverns, those being the only public buildings available. In Cumberland County, for example, the early courts were held in “Widow Piper’s Tavern,” a limestone building located in Shippensburg.²

**Widow Piper’s Tavern, Shippensburg**

The earliest purpose-built courthouses in the Commonwealth were often roughly-constructed wooden structures. One such wooden courthouse, a log building built in 1773, once stood on the Public Square in Bedford, Pennsylvania.³ However, wooden courthouses were generally replaced with brick or stone buildings as quickly as county finances would permit. This was not because of architectural concerns, but rather because wooden building were more likely to burn, destroying county land records.⁴

Philadelphia’s first courthouse was constructed in 1709 “in the middle of High (Market) Street just beyond the Second Street intersection.”⁵ The building was described as follows:

Both its placing and its form were characteristic of English-continental usage—a not dissimilar one is the Town Hall of Amersham (Bucks) in England, dating from 1682. With an arched ground story given over to marketing and storage, the main level above was for court and town offices. This upper story was reached originally by outside stairs that began along either side of the building and mounted after turning the corners to a hooded balcony before the central door. In the fashion of its day, the roof was very steep, the coved cornice carried across high pitched gable ends. Between stories ran a brick string course, jogged at the corners. The first windows were casements...with little panes set in leaden frames. A central cupola contained the town bell, previously suspended in a crotch at the top of a pole.⁶

While this was a much more substantial building than Bedford’s log structure, it was still a relatively simple structure. Like a 1724 stone building in nearby Chester that once served as Chester County’s Courthouse and later as the Courthouse of Delaware County, the first Philadelphia Courthouse differed “very little from a well-built but unpretentious house of the time.”⁷

A similar unpretentious structure was constructed in Bedford County in 1774:

The new Court house had a frontage of about 65 feet on Juliana Street. It was three stories high, with a peaked roof, capped with a tall steeple. The first floor was used as the jail. One large room was used to hold persons who did not pay their debts. Part of the jail was reserved for the jailer. The second floor was the Courtroom, while the third floor was divided into several rooms for the grand and petit juries.

To reach the Courtroom it was necessary to climb a wide uncovered stairway located on the outside. An extension of it led to the jury rooms. The building was of limestone blocks.⁸

Despite the relatively simple structures constructed prior to the Revolutionary War and the wary eye with which the colonists viewed government, “[g]reat regard was had for the dignity of the Court, and great reverence felt for forms and ceremonies.”⁹ The Colonial Courts upheld the pomp demanded by English Common Law tradition. In Allegheny County the judges “donned scarlet robes, throwing a majestic splendor over the ‘bench’ made of unfinished split logs.”¹⁰

With America’s independence came a change in the public’s attitude towards their officials,
although this changed attitude was not one of greater respect. Rather, Americans adopted “a marked hostility toward the mildest social distinctions expressed in titles or salutations.” The public officials themselves recognized this. When an attorney began to address Pennsylvania Supreme Court Justice Thomas Smith as “Your Honor,” the judge quickly cut him off with these words:

The gentlemen of the Bar frequently use this expression in addressing this court; but the appellation not being given to us by the Constitution or Laws of the Country, it will be agreeable to the court if you decline giving it in the future. If we possess sufficient legal abilities and an intimate and accurate knowledge of the practice:--if we administer the Laws with decision, dispatch and rigid integrity:--if we consult and promote the real permanent interests, and social happiness of our fellow-citizens, as far as in our power in our present situation, they will respect us without any titles: But should we appear unequal to our office--should we betray the want of legal abilities, or should our judgments be bad or influenced by our affections, or passions, or by any personal or party considerations, no titles or appellations, however pompous, could secure to us the respect of an enlightened people.

Along with a change in the manner of addressing judges came a change in judicial garb. The judicial robe and wig—symbols of the authority of English judges for centuries—were removed from the Pennsylvania courtroom:

Thomas Jefferson and other leaders of the republic opposed judicial raiment, and the wig and robe became symbols of a rejected system. The new democracy wanted to correlate the law with the new social experiment, and the aristocracy of the robe was eliminated.

Such an attitude did not lend itself to the construction of elaborate public buildings. A new courthouse built in Philadelphia in 1787, located just west of the State House (Independence Hall), was a “box-like brick building” that largely mirrored Old City Hall, built during the same era and located just east of the State House. The buildings were described as being “quaint in their simplicity” and “solid in their structure.” Like the earlier courthouse, this structure differed little from the homes of the era.

On the other side of the Commonwealth, a new courthouse was constructed in Allegheny County in 1789, replacing the earlier log structure.

It was located on what is now known as Market Street. The structure made of brick, was two stories high and not devoid of some pretensions. It was capped with a peaked steeple and proudly looked out through a row of wooden fluted columns, which, alas, failed to excite the appropriate awe, because visitors tried out their penknives on them and left initials and figures which added nothing to the aesthetics of the building.

A similar unpretentious structure was built

Cumberland County Courthouse, Carlisle
Built in the Greek Revival style; the columns were damaged by Confederate shells during the Gettysburg campaign.
in Mercer County in 1807 at a cost of $7,116. “The courthouse was a square structure of brick, two stories high, with wings on the east and west side of the first story. The lower story was occupied by the court room. The upper story was divided into jury rooms and the wings housed the county offices.”

Courthouse design began to change with the rise of the Greek Revival style following the War of 1812:

Architects such as Robert Mills (1781-1855), William Strickland (1799-1854), and Thomas U. Walter (1804-1887) proposed numerous public buildings all designed in the Greek Revival style to maintain the national ideology of independence, worldliness, and liberty adopted by Jefferson and Clerisseau. By the mid-1800s all public buildings and most large residential buildings were being built in the Greek Revival style. Greek Revival had become the adopted symbol of democratic America and produced some of the most symbolic and celebrated early American buildings that would influence generations of architects to come.

Courthouses built in this style originally “used the simple Doric or Tuscan orders; later they were more likely to sport the fancier Ionic or Corinthian” columns.” However, the Commonwealth’s Greek Revival courthouses were not grand structures. Although they often were the object of civic pride, they retained a functional simplicity.

The conclusion of the Civil War brought a change in the public’s attitude towards courthouses. Simplicity gave way to increasingly elaborate designs. Courthouses often became the sites of memorials honoring the Union dead.

The time was ripe for courthouse building in the United States. When the Civil War ended, the states were ready for a display of pride. Thomas U. Walter’s magnificent new dome for the Capitol, completed in 1867, became an inspiration for architects and state officials throughout the country. The functions of the state government were expanding, and more space was needed. The newer areas of the country were ready for their first monumental public symbols. In all, it was a time for a wave of construction, and the cruciform domed configuration was foremost in popularity. As the state capitals grew and developed, so grew the counties and their need for their own symbols, which often followed the lead of the capitals.

The movement to larger and more elaborate courthouses was aided by the rise of a new upper class.

Perhaps the most noticeable change in the life of the very rich was their “consciousness.” In the ante-bellum days the rich of New York or Philadelphia usually lived in houses the modest facades of which gave little hint of their occupants’ wealth; that was displayed in luxurious ballrooms and lavish interiors. Now the rich built extravagant mansions that publicly proclaimed their wealth.
Wealthy individuals who had no qualms proclaiming their own wealth were unlikely to oppose the spending of public money for elaborate public buildings.

The end of the Civil War also brought a change in attitude towards the use of titles. Judge William Hall of Bedford County wrote that when he went on the bench in 1871, even his court tipstaff insisted on being address as “Colonel.” The days when a judge such as Thomas Smith would be refuse to be addressed as “Your Honor” were long past.

By the time the Civil War ended the City of Philadelphia was in need of a large municipal building to house the combined city/county government, which had long since outgrown the antiquated building of the late 1700s. After considerable controversy over where the new building should be located, it was determined to build the new City Hall at the intersection of Broad and Market Streets. John McArthur, Jr., was selected as architect.

McArthur created what is still claimed to be the largest and tallest municipal building in the world, larger than even the United States Capitol in Washington, D.C. Designed in the then-popular Second French Empire-style, the structure covers 4.5 acres—four full city blocks—and includes 630,000 square feet (14.5 acres) of floor space. It contains more than 600 rooms and over 250 sculptures. Philadelphia was, after all, a great city and county, second only to New York City in population and wealth. Such a city deserved a City Hall that was second to none, or so the Victorian designers thought.

The building was built around an open courtyard, entered by portals on each side. The most ornate entrance was the north portal, described as follows:

The North Portal was designed to be the building’s Ceremonial and Legislative Entrance. The main chamber contains two grand stairways (open only for special functions) leading to a balcony and a second floor exterior entrance to Conversation Hall. A passageway from the main chamber leads to a secondary chamber with solid granite walls almost 20 feet thick, and highly polished granite columns 3 feet in diameter.

The Crypt of the Tower is directly beneath the massive tower. [Alexander] Calder’s theme in the crypt is The World. It is a theme repeated often throughout the building. Here it is represented in the column capitals and keystones at arches located at each compass point. [On the Western keystone] the head of a bear represents America and the Atlantids at the column capitals are American Indian. To the South is a tiger keystone and African figures representing the African continent. The Eastern keystone is an elephant with Mongolian figures to represent Asia, while the North depicts Europe with a bullock and Caucasian figures.

Other portions of the building—offices, courtrooms and public spaces which space does not permit describing—were no less grand. Philadelphia’s City Hall was the most expensive municipal building ever built in the United States, with a cost of over $24.4 million.

Pittsburgh’s Gilded Age courthouse, while not as ornate as its eastern counterpart, is no less impressive. Designed by architect H.H. Richardson in 1883, the City-County Building was completed in 1888.

The courthouse is primarily built of Milford pinkish gray granite, quarry faced on most surfaces and smooth for accents....The surface texture changes under differing angles of light. The window arrangements were designed to
give as many rooms as possible natural light from two directions, using the huge interior court. Since the visual dominant features viewed from the outside are the formidable stone walls, it is surprising how well the interior is flooded with natural light. The tall tower, in addition to providing a civic symbol, originally was intended to draw in a better quality air than was available at the very polluted ground level.31

City-County Building, Pittsburgh (on right)

Luzerne County, located in Pennsylvania’s anthracite region, also built a new Victorian courthouse, perhaps the most elaborate ever constructed in Pennsylvania. The structure, begun in 1906, was strongly influenced by the “White Cities” movement that came out of the 1893 World’s Columbian Exposition in Chicago, Illinois.32

The entire rotunda, including the arches of the penetrations under the dome, is finished with marble. The four piers supporting the dome and the rusticated walls of the first story are of Botticino stone, a buff-colored marble resembling Caen stone in color. The cornices, columns, balustrades and corridor wainscoting are of white Italian marble, and the wainscoting base of Alps green. Statuary finish bronze has been used effectively in the marble cornice of the second floor gallery and main stairway. The elevator enclosures, electroliers and office screens are also of cast bronze. The floors throughout, with the exception of some of the smaller offices, are of Tennessee marble, those of the corridors, gallery and rotunda being laid in patterns.

Luzerne County Courthouse
Influenced by the “White Cities” movement

The interior of the dome is executed in plaster and is colored with the prevailing tone of the Botticino stone. The panels are terra verte, with such portraits and emblems as are used, painted as cameos. Gold leaf is used on the moldings. The pendentives are painted with figures on mosaic backgrounds.

Luzerne County Courthouse rotunda

The vaulted ceiling of the rotunda corridor and entrance corridors are treated with Mosaics, the pendentives of the vaults having painted portraits of various people prominently connected with the history of the County. The lunettes along the corridor walls which adjoin the mosaic vaults are painted with subjects apropos of the early settlement of the Wyoming Valley.
There are five court rooms, four of which are located on the third floor; the fifth, or Orphans' Court room, being on the second floor. The third floor court rooms are similar in design; two are finished in mahogany and two in Circassian walnut. The Judges' chambers adjoin the court rooms and are similarly treated. The third floor court rooms are embellished with a notable mural painting over the Judges' bench: "Justice," "Prosperity Under the Law," "The Judicial Virtues," and "The Awakening of a Commonwealth," having been executed by Messrs. Edwin H. Blashfield, Will H. Low, Kenyon Cox and William I. Smedley, respectively.

With the construction of these elaborate courthouses, judges abandoned Jeffersonian and Jacksonian simplicity in their dress. In 1889, the Justices of Pennsylvania's highest court returned to wearing of judicial robes:

The Chief-Justice and Associate Justices of the Supreme Court of Pennsylvania henceforward are to wear, when seated in court, the judicial robes (black silk gowns) that are worn by the Justices of the Supreme Court of the United States. There is probably not a Judge among them who would think of putting on these robes if it were a mere "putting on of airs," and certainly the [Philadelphia] Ledger would have no sympathy with him if he had such notion. Every one of them doubtless regards the change, as the public will, as an advisable recurrence to a former wholesome custom, which had the effect of an impressive presence all the way from the judicial bench through the bar to the benches for suitors and spectators.34

At least one reason given for the return of judicial robes was that conservatives were hoping to use the courts as a bulwark against the rising Populist movement.35 Although it took time for judicial robes to gain acceptance in the Commonwealth's lower courts, the practice of wearing judicial robes gradually became universal; by the 1950's virtually every trial judge in Pennsylvania wore robes when appearing on the bench.

Courthouses built in Pennsylvania since the Second World War continue to provide a dignified setting for judicial functions. Gone is the opulence of the Gilded Age structures; the concept of functional simplicity has largely returned. However, the judicial robes and courtroom decorum that came with the Guided Age remain with us still. Today even Pennsylvania's Magisterial District Judges—the Commonwealth's lowest-level judicial officials—are required to wear judicial robes "to maintain the dignity of [the] office."36

NOTES

Mark Podvia is Associate Law Librarian, Legal Research Professor and Archivist at The Dickinson School of Law of the Pennsylvania State University.

1. 1854 Pa. Laws 21. City and County offices were not fully merged until the adoption of a Home Rule Charter in 1951.

2. CUMBERLAND JUSTICE: LEGAL PRACTICE IN CUMBERLAND COUNTY, 1750-2007 (2001). The Cumberland County seat was moved to its current location, Carlisle, in 1751.

3. HISTORY OF BEDFORD, SOMERSET AND FULTON COUNTIES, PENNSYLVANIA 196 (1884). Bedford is the county seat of Bedford County.

4. On March 24, 1845, Cumberland County's 1765 courthouse was destroyed by fire. Fortunately, most of the county's records were saved. John Hays, Destruction of the Court House, 1845: An Eyewitness Account, 14 CUMB. CO. HIST 71 (1997).


6. Id.

7. IRWIN RICHMAN, PENNSYLVANIA'S ARCHITECTURE 18 (1977). The Old Courthouse in Chester is the oldest surviving public building in Pennsylvania.


13. English judicial robes are of religious origin; prior to the 1300’s English judges and lawyers were clerics.

14. Glenn W. Ferguson, To Robe or Not to Robe?—A Judicial Dilemma, 39 J. Am. Judicature Soc’y 166 (1958). Only the United States Supreme Court retained its judicial robes. The Jay court wore scarlet robes; they were replaced by simple black robes by Chief Justice John Marshall. Associate Justice William Cushing of Massachusetts was the only member of the Court to wear an English-style wig—he stopped wearing it after being pursued through the streets of New York City by a band of little boys and a sailor who called out “My eye! What a wig!” History of the Court, http://www.supremecourthistory.org/ (last visited Mar. 19, 2009).


17. Kelly, Allegheny County, supra note 10, at 86.


19. Id.


22. Id. Such a memorial can be seen in front of the Centre County Courthouse in Bellefonte.


25. William M. Hall, Reminiscences and Sketches, Historical and Biographical 100 (1890).


27. Philadelphia City Hall Trivia & Fun Facts, http://www.geocities.com/Athens/Delphi/2115/Mainframeset.html (last visited Mar. 19 2009). The building took thirty years to complete and was out of style by the time it was dedicated.

28. Id. The existence of a special stairway for ceremonial use shows the increased deference to government and judicial officials.

29. Id..

30. Williams, County Courthouses, supra note 21, at 29-30.

31. Id. at 30.

32. Luzerne County Courthouse History, supra note 23. Ironically photography is not
permitted in this opulent building because of security concerns; the author was permitted to take photographs for this article only when accompanied by a guard. This did not occur in any other courthouses that the author visited.

33. Id.


36. Pa.R.M.D.J. 101. Magisterial District Judges handle all traffic cases, other minor criminal cases and civil cases involving amounts up to $8,000. At least one modern commentator has written that far from promoting courtroom dignity, “[t]he silliness of American judicial garb...makes [judges] look like dorks.” Charles M. Yablon, Judicial Drag: An Essay on Wigs, Robes and Legal Change, 1995 Wis. L. Rev. 1129, 1130.

The scholarship dealing with the Framing generation and the writing of the constitution has largely omitted the influence of classicism on that generation. Although discussed, most historians give little credence to any meaningful influence of ancient history and classical ideas on the Framing generation’s political views. Challenging historians such as Gordon Wood and Bernard Bailyn who view classicism as marginal to the Framing generation’s political experience, David J. Bederman argues that classical antiquity provided the foundation for their political values as well as the basis for the writing of the constitution. Bederman, an Emory University law professor, not only challenges traditional constitution historiography, he seeks to provide modern constitutional lawyers with a foundation for understanding the mentality of the Framing generation, and thus the “originalism” of the constitution.

Bederman bases his argument largely on the common educational experience of nearly all of the Framers as well as on the Framers’ voluminous texts that quote or reference classical works. Throughout the eighteenth century, colonial American education strictly adhered to a rigorous training in the classics. Restricted to Latin and Greek sources, classical education in the American colonies had an established canon of works of with which all the Framers would be familiar. Ancient historical works such as those by Polybius served as core texts in many of the Framers’ education. Consequentially, as Bederman argues, this generation had a common political language and set of political values derived from classical works. Providing extensive excerpts from many of the Framers’...
pamphlets and debates, Bederman demonstrates that they consistently relied upon and drew examples from antiquity to promote their vision of the constitution, whether federalist or anti-federalist. Ultimately, crucial elements of the United States constitution such as bicameralism and separation of powers resulted because of this common classical education.

Although he seeks to reconstitute the role of classicism in the Framers' political values, Bederman maintains in his conclusion that classicism was not the main influencing element in the writing of the constitution or in the lives of the Framers. He concludes that classicism should be weighed equally alongside the Framers' understanding of the Enlightenment, religious orthodoxy, and common law. Bederman consistently provides evidence that the Framers frequently cited antiquity. However, he neglects to provide adequate evidence that they did not equally quote Enlightenment philosophers. Focusing solely on the Framers' frequent employment of classical references creates a distorted picture of the intellectual influences of this generation. A comparison of the use of both Enlightenment philosophers and classical texts references by the Framers would have created a more balanced representation of the intellectual influences that helped to shape the political views of the Founding Fathers.

Although at times simplistic, Bederman makes a strong case for a reinterpretation of the intellectual framework of the generation that created the constitution. Not only an important addition to the historiography of the American constitution, this book is as well an import work for constitutional lawyers and judges. Bederman provides a new perspective on the origins of many ideas in the constitution.

--Joseph A. Hurley
Government Documents Assistant
Hillman Library, University of Pittsburgh, Pittsburgh, PA


Dr. Allison (Senior Lecturer in the Faculty of Law, University of Cambridge and a Fellow of Queens College) "attempts to put forward a historical constitutional understanding of basic doctrines and institutions of English constitutional law, not preoccupied with their supposedly systematic character" (p.xi). England's admission to the European Union has changed the insularity of the English constitution and is now exposed to the European Communities Act of 1972, the Human Rights Act of 1998, etc.

Allison begins his work with a discussion of Victorian Albert Dicey's An Introduction of the Study of the Law of the Constitution (1885; 10th ed, 1959 is the one Allison refers to), who emphasized the rule of law and parliamentary supremacy as major components of English constitutional law. Allison discusses three different approaches to historical constitutional law studies: the antiquity of law being important just because it is old, an emphasis upon a romantic view of a golden age as in Coke's writings on common law, and an historical approach that is based on continuity and change as well as observing how European and continental law has affected English law (pp.15-16). Allison discusses the historical approaches of Maitland, Holdsworth, and the Whig history of Herbert Butterfield in providing additional background to the text that follows.

Looking first at the Crown (Ch. 3) as the center of the government, Allison recognizes paradoxes between the views of the Crown and how it has evolved through the centuries. During the Middle Ages, based on Roman law and Catholic theology, the Crown stood not just for the king but for the corporate identity of the king which as a corporation sole is distinct from the body of the king, commonly known as the King's two bodies. Maitland decried this concept, but in mid-twentieth century the crown and government were linked in the Crown Proceedings Act of 1947. Later court cases coming under European
law held that actions against agencies of the crown could be held against them overriding parliamentary sovereignty.

Allison then discussed the separation of powers (ch. 4), noting the important distinctions between continental and English concepts, the former evolving from actions during the French Revolution, while English ideas derived from Locke, Montesquieu and Blackstonian ideas of separation of powers have been highly criticized in the past two centuries. Jeremy Bentham, William Holdsworth, William Robson, and most recently Geoffrey Marshall criticized the idea of separation of powers when the Lord Chancellor was both a government minister and head of the judiciary. Twentieth century complaints led to the Constitutional Reform Act of 2005 that created a new Supreme Court to replace the House of Lords as a judicial body and an independent Judicial Appointments Commission helped in selecting new judges, and other changes that shows improvements, but still leaves some separation of powers features not completely separate as in the French system.

A discussion of parliamentary sovereignty (ch. 5) begins with Dicey and Jeffrey Goldsworthy views of parliamentary or legislative supremacy as an insular historical development, but is now contradicted by judicial decisions that overrule English legislation under the European Communities Act of 1972. The acceptance of judicial review of legislation has not been part of English constitutional law, but there is an ongoing debate among constitutionalists over the role of the judiciary by William Wade, Lord Bridge, H.L.A. Hart, Trevor Hart and others.

In the following three chapters, Allison deals with the rule of law. First, he presents a discussion of Edward Coke's emphasis upon the rule of reason and common law as described in his cases (Bonham's Case) and treatises, contradictions between common law and parliament, and his support of judicial review over parliamentary sovereignty that pose an ongoing controversy.

Second, he discusses Dicey's “progressive and reactionary rule of law” (title of ch. 7), in which he portrayed historical development of the rule of law after Coke, the application of Whig interpretation of history that made the English rule of law superior to the continental transformation in Europe in the nineteenth century.

Third, Allison in “Beyond Dicey” (ch. 8), analyzes Dicey's rule of law as it applies in the late twentieth century with the development of public law in Europe. He discusses several judicial cases that rejected Dicey's parliamentary supremacy over administrative developments, the debates over resources and sources between English and continental scholars (Trevor Allen, Joseph Raz, and Friedrich von Hayek) an extended discussion of England and its relationship to the Human Rights Act of 1998. He further discusses dual or bi-polar sovereignty that refers to sovereignty both in parliament and the courts which is contradictory to Dicey's view of parliamentary sovereignty. Further, the Human Rights Act of 1998 incorporates the European Convention Act into English domestic law providing for judicial interpretation of its provisions and its application by the courts.

Dr. Allison summarizes his conclusions in the final chapter of the book. He repeats his findings of how the historical constitution has evolved in the past fifty years based on continuity and change in legislative and judicial changes.

In conclusion, Dr. Allison presents an important work on English constitutional law and its development over the centuries. His ability to show continuity and change in the historical constitution and the current relationship to European law makes this work an attractive study for those interested in this topic.

--Joel Fishman, Ph.D.
Assistant Director for Lawyer Services
Duquesne University Center for Legal Information/Allegheny County Law Library, Pittsburgh, PA

Dr. Allison's arguments are well-supported and his analysis of English constitutional law is thorough and insightful. His discussion of the separation of powers, parliamentary sovereignty, and the rule of law is particularly strong and adds to the existing body of scholarship in this area.

Joel Fishman
2009 has gotten off to a slow but interesting start in terms of legal history articles. The year began with Robin Feldman’s article in the Minnesota Journal of Law, Science & Technology, “Law’s Misguided Love Affair with Science” (10 Minn. J.L. Sci. & Tech. 95), in which she conducts a unique overview of the relationship between law and science. Briefly touching on the interactions that occurred during the time of the Enlightenment, her concentration is on the evolution in the United States from the time of the Civil War onwards, including in depth discussions of the attitudes of the Progressives, the Legal Realists, and the Legal Process School, with particular attention given to the growing links between law and economics.

Reaching even farther in time, the Mississippi College Law Review has published Australian lecturer M.R.L.L. Kelly’s “Common Law Constitutionalism and the Oath of Governance: “an hieroglyphic of the laws”” (28 Miss. C. L. Rev. 121), a speech examining the relationship of law to the practice of oath-taking by medieval kings upon their ascendance to their thrones. Kelly demonstrates how the oaths evolved in concert with the relationship of government to the state and the people.

Josh Dugan’s article in the Georgetown Law Journal, “When Is a Search Not a Search? When It’s a Quarter: The Third Amendment, Originalism, and NSA Wiretapping”, (97 Geo. L.J. 555), brings us back to American legal history with an incisive examination of an element of constitutional law that is not often examined in constitutional law classrooms, the Third Amendment’s quartering provision. Dugan asks both what the phrase meant to the Framers, and what it would mean in today’s legal context.

Another interesting article of early 2009 on the history of constitutional law was David N. Mayer’s “The Myth of “Laissez-Faire Constitutionalism”: Liberty of Contract During the Lochner Era”, (36 Hastings Const. L.Q. 217)

In the essay “A Restatement of Jurisprudence: Why Not?”, written by Jack Van Doren for the 2008/2009 issue of the Gonzaga Law Review, (44 Gonz. L. Rev. 159), the author examines the titular question in the way that traces both the evolution of the legal schools of the last hundred years, and the American Legal Institute’s publishing and editorial practices. This is of particular interest for law librarians as its discussion of the Restatement Movement provides insight into an element of legal materials librarianship that we’re not often asked to examine – not only what the material is, but why it is.

Reaching a bit farther back in time, Ajay K. Mehrotra’s piece for the Loyola University Chicago Law Journal, “Render Unto Caesar ...”: Religion/Ethics, Expertise, and the Historical Underpinnings of the Modern American Tax System”, (40 Loy. U. Chi. L.J. 321) makes an extended examination of how religion and the social justice movement were integrated into American law, and how this impacted the development of our modern tax system.

January’s Michigan Bar Journal contained a quite interesting and entertaining supplement, “The Verdict of History: The Forgotten Years: 1870-1940: Sherwood v. Walker: Cows and Contracts,” (88 MI Bar Jnl. 2), in which a sterile cow’s “miraculous” pregnancy created a unique contract scenario. There is a surprising number of facets to the article, as it delves not only into contract law, but into the history of whisky distilleries in the upper Midwest, the politics of the late 19th century Michigan Supreme Court, and even the Aristotelian theory of forms’ relationship to a milk cow.

An article that may be of particular interests to the law librarian set is Charles Oates’ “The Regent University Law Library: The First Thirty Years,” (21 Regent U.L. Rev. 229), in which Oates’ describes the evolution of a
library throughout its inception, the ABA accreditation process, and into the modern electronic age. The article is particularly interesting when discussing the role played in the library’s setup by the late Roy Mersky, and his “meticulous construction” of the collection.


That concludes the round-up this time around. If there’s any article, book, conference or other piece of legal history news you’d like to bring to the attention of the rest of the LH&RB-SIS, please drop me a line, and I’ll be sure to include it!

Exhibits

Amy Taylor

Karen Beck reports that two new exhibits have recently appeared (virtually and in the flesh) at the Boston College Law Library. The first, “A Law Student Collects: Simon Greenleaf and Michael Morales,” celebrates the collecting passions of third-year law student Michael Morales, and documents his obsession with Simon Greenleaf. The exhibit will be on view through early June, and you are encouraged to pay us a visit if you are in the Boston area. Exhibit highlights, plus a handout of the complete exhibit, are available at this not-at-all-tiny URL: http://www.bclawroom.com/law/library/about/rarebook/exhibitions/grgreenleaf09.html.

The second exhibit is a virtual exhibit of the library’s small but colorful collection of law-related ephemera, much of it donated by Michael H. Hoeflich of the University of Kansas. You can view the exhibit anytime by visiting http://picasaweb.google.com/BCLawRareBookRoom/LegalEphemeraInTheDanielRCoquilletteRareBookRoom#. Any and all feedback is most welcome!

Recent Acquisitions

Anne Mar

Boston College Library’s Recent Acquisitions by Karen Beck, Curator of Rare Books, Boston College Law Library

Boston College Law Library has added a number of items to its Daniel R. Coquillette Rare Book Room, including several unique
documents and manuscripts. From Michael H. Hoeflich we received a magnificent manuscript copy of Thomas Craig’s *Ius Feudale*. Originally published in 1603, the *Ius Feudale* solidified the idea of a separate body of Scotch law. It takes its place in our collection alongside other important Scottish legal works such as the *Regiam Majestatem*. This manuscript, beautifully bound in speckled calf leather with delicate floral borders tooled along the spine, probably dates from the seventeenth century. It was written by an unknown person who had probably gotten hold of an early printed edition of the work, and wanted to make a copy for himself or herself.

Also just in are two manuscript account books compiled by early American lawyers. Asa Holten (1786-1841) kept his book from 1814 to 1841. His Claremont, New Hampshire practice was wide-ranging, as the entries in this book show, and included litigation work, settling estates, drafting documents, collecting debts, and appearing in court on a wide variety of subject matters. Dating from the 1790s, the second book was compiled by John H. Remsen, a solicitor in New York City’s Court of Chancery. He kept daily accounts of the case transactions associated with his law practice in this 246-page book. Remsen made loans to Aaron Burr and John Jay, and conducted transactions for James Roosevelt and many of the New York Dutch families. The account book provides a fascinating glimpse into New York in the 1790s, as well as the daily life of a working lawyer. Both of these manuscripts complement an outstanding collection of early American legal and land use documents given to the library in 2003 by Robert E. Brooker III. They were purchased with funds donated by Mr. Brooker.

Last, but not least, is a rare survival of an 18th century Boston court docket, dated 1788. A number of cases are listed in this 11-page manuscript, as well as notes about them, possibly written by a judge or justice of the peace. More information about these items, as well as images of them, can be found on our blog at [http://rarebookroom.blogspot.com/](http://rarebookroom.blogspot.com/).

**Yale Law Library’s Recent Acquisitions**

by

Mike Widener, Rare Book Librarian, Lillian Goldman Law Library, Yale Law School

The Lillian Goldman Law Library’s Rare Book Collection has acquired seventy titles since my last report in the Fall 2008 LH&RB Newsletter. Following are just a few of the highlights.

For our growing collection of illustrated law books:

- **Quadravium ecclesie** (Paris, 1509) by Johann Hugonis de Sletstat (a.k.a. Johann Hug), considered the first text on German constitutional law; only one other copy in the U.S. (Robbins Collection).
- The first edition in German of Damhoudere’s *Praxis rerum criminalium* (Frankfurt, 1565), a standard work on the criminal law of northern Europe with woodcuts illustrating crimes and criminal procedure; the only U.S. copy.
- **Juristische Ergötzlichkeiten vom Jungfrauen-Rechte** (Frankfurt & Leipzig, 1715) bound with *Juristische Ergötzlichkeiten vom Jung-Gesellen Rechte* (Frankfurt & Leipzig, 1723), a pair of little books on law for young women and young men, respectively, with charming frontispieces; the only U.S. copies.
- Two standard works, Justinian’s *Institutes* (1516) and the *Liber Sextus* (1514) in lovely editions published by the Giunta family in Venice, with dozens of woodcut illustrations. They join an illustrated Giunta edition of the *Decretals* (1514) we acquired 60 years ago.
- Esdaile’s *Temple Church Monuments* (London, 1933) showing the tombs of Edmund Plowden and John Selden.
- Jesse Turner’s *A Page from the English State Trials* (1907?) extra-illustrated with 55 plates.
- Several 19th-century trials adorned with portraits of the accused and/or their victims.
- Fire on the Nunnery Grounds (2000), a graphic novel based on the arson attack on the Ursuline Convent in Boston.

We also obtained *The Charlestown Convent: Its Destruction by a Mob, on the Night of August 11, 1834* (Boston, 1870), an account of the attack and the trials that followed.
We have acquired several law-related children's books to join the Juvenile Jurisprudence Collection donated by Professor Morris L. Cohen, including:


The American Trials Collection grew by 28 titles, including:

- Several trials with women victims: *The Authentic Life of Mrs. Mary Ann Bickford* (Boston, 1846); *Lizzie Nutt’s Sad Experience* (Philadelphia, 1886), *Myron Buel, the Murderer of Catharine Mary Richards* (Binghamton, NY, 1879), *Poor Mary Pomeroy!* (Philadelphia, 1874), *Trial for Libel: Susanna Torrey, Plaintiff* (Fayetteville, VT, 1835), *Confession of John Joyce: Who Was Executed on Monday, the 14th of March 1808, for the Murder of Mrs. Sarah Cross, with an Address to the Public and People of Colour* (Philadelphia, 1808).
- *A Report of the Trial, of James Sylvanus M’Clean* (Philadelphia, 1812), an early use of the insanity plea, involving an extortion attempt against Stephen Girard, the wealthiest American of his time.
- More murder trials: *Cluverius: My Life, Trial and Conviction* (Richmond, 1887); *Report of the Trial of Dominic Daley and James Halligan for the Murder of Marcus Lyon* (Northampton, MA, 1806); *Confession of Jesse Strang* (Albany, 1827); *Report of the Trials of the Murderers of Richard Jennings* (Newburgh, NY, 1819); *Trial of John Schild* (1813).

- And... a small collection of manuscript court documents and transcripts relating to the trial of William Fitzgerald, accused of murdering a Shawnee Indian in Indiana Territory in 1802.

Additions to our William Blackstone Collection included:

- Blackstone’s *Letter to the author of The Question stated* (London, 1769), his contribution to the debate over the John Wilkes election.
- *Outlines of the Jurisdiction of All the Courts in England and Wales* by R. Maugham (London, 1838), a work closely tied to the Commentaries.

And a few odds & ends:

- The first edition of Edmund Plowden’s *Commentaries* (London, 1571), the first and for centuries the finest of the nominative reports.
- *Statuti della Honoranda universitā de mercatanti ... di Bologna* (1550), with a vellum musical manuscript used in the binding; the only U.S. copy.

**Member News**

C. Frederick Le Baron


The book grew out of her interest in a manuscript letter book owned by the BC Law Library's Daniel R. Coquillette Rare Book Room. John Henry Senter [1848-1916] was a lawyer who practiced law in a small Vermont town. His letter book, which contains 326 letters copied between April 1879 and 1884, records his business dealings, goals and thoughts. The book has two parts. The first part is a biography of Senter and a history of his practice. The second is a transcription of the letter book.

Roman Law Interest Group

Lucia Diamond

The streets at night are dark and dangerous. A traveler, carrying a leaded whip for protection, takes a torch from a storefront to light the way. The storeowner chases after the traveler and grabs his arm. The traveler strikes the owner with his whip. A fight ensues and the traveler is blinded in one eye. The thief sues the owner. With such hypotheticals and ensuing explanations did legal writers of the first century B.C. present the law of ancient Rome. Maybe not so much has changed in two millennia of legal teaching.

If you would like to discuss crime and justice in Rome or its influence on modern legal discourse, please come to the first meeting of the Roman Law interest group at the 2009 Annual Meeting on Monday, July 27, 10-11 a.m. (check final schedule for location). This year we are asking people to read Jill Harries' Law and Crime in the Roman World (Cambridge University Press, 2007) to kick off our discussion. If you only have time to read the first chapter “Competing discourses.” you will find the discussion of the definition of crime in the context of a society stimulating, and maybe you will want to dip into other chapters, including “The thief in the night.”

Also, please bring to the group ideas for future activities and suggestions for the next book to read. Contact Lucia Diamond (ldiamond@law.berkeley.edu) or Dan Wade (daniel.wade@yale.edu) with questions or suggestions.

AALL Announcements

$50 AALL Member Appreciation Discount for 2009 Annual Meeting & Conference

AALL wants to help during these tough economic times. Members who register by March 31 will receive an additional $50 Member Appreciation Discount off the already reduced early registration rate (deadline: June 1). Registration opens February 26. Register by March 31 and save up to $150!

Tools for Success in Today’s Economy

In response to the U.S. recession and its impact on law libraries, AALL has created a wiki of Tools for Success in Today’s Economy. On the wiki you will find:

- Tips for operating your law library with a tight budget
- Advice on negotiating contracts with vendors
- How to interview effectively for your next job
- Resources for professional development
- And much more

Any AALL member can add material to the wiki, so we encourage you to use the tools and share more resources that will help our friends and colleagues in AALL.

March AALL Webinar: Guided Tour of Your AALL Membership

So you’ve joined AALL (or are thinking about
joining)—now what? Your Association has many membership benefits, services, and opportunities for you to explore. This free Webinar with help you navigate the landscape, learn how to make the most out of your membership, and introduce you to new members like yourself. Get a jump start and join us on a guided tour of your membership. Date: March 17, 12-1 p.m. EST Cost: Free!

**AALL and NELLCO Members Receive 50% Discount to Computers in Libraries 2009 Conference**

The New England Law Library Consortium (NELLCO) and InfoToday have teamed up to offer NELLCO and AALL members a 50 percent discount on the Computers in Libraries 2009 registration fee—$234, instead of $469 for the three-day conference. To take advantage of this offer, simply complete the registration form and fax or mail it back to NELLCO with payment.

Conference Date: March 30-April 1
Location: Arlington, Virginia

**The Last Word**

The next time you receive a rejection letter from a law journal, just send them the following reply:

Dear Editor,

Thank you for your letter of (date of letter). After careful consideration, I regret to inform you that I am unable to accept your refusal to publish my article. This year I have been particularly fortunate in receiving an unusually large number of rejection letters. With such a varied and promising field of journals, it is impossible for me to accept all refusals. Thus, I find that your rejection does not meet my needs at this time. I will initiate publishing with your journal immediately.

I look forward to working with you.

Sincerely,

Law Librarian

**REMEMBER TO VOTE IN THE LH&RB SIS ELECTION**
**MARCH 23-29**