

(Vol. 3, No. 1) “Retroactivity of Law”

This symposium discusses the implications of retroactive lawmaking and the academic controversy surrounding the practice.

Symposium Participants & Topics:

Matthew P. Harrington, Assistant Professor of Law, Roger Williams University. B.Th., McGill University; J.D., Boston University; LL.M., University of Pennsylvania.

Topic: Foreword: “The Dual Dichotomy of Retroactive Lawmaking”

Harold J. Krent, Dean and Professor of Law, Chicago-Kent College of Law; J.D., New York University School of Law

Topic: “Should Bouie Be Buoyed?: Judicial Retroactive Lawmaking and the Ex Post Facto Clause”

Dan M. Kahan, Professor of Law, University of Chicago Law School; former law clerk to Justice Thurgood Marshall of the U.S. Supreme Court (1990-91)

Topic: “Some Realism About Retroactive Criminal Lawmaking”

Matthew D. Sleprow, J.D., Roger Williams University School of Law; B.A., Amherst College

Topic: Note, “Resurrecting the Challenge Against Retroactive Estate Tax Legislation: Acquiescing to the Holding of *United States v. Carlton* – Over my Dead Body”

(Vol. 4, No.1) “Separation of Powers in State Constitutional Law”

This symposium explores the role that the separation of powers doctrine plays in state government: historical and normative perspectives.

Symposium Participants & Topics:

Carl T. Bogus, Professor of Law, Roger Williams University School of Law; J.D., Syracuse University; A.B., Syracuse University

Topic: Introduction

Rogan Kersh, Suzanne B. Mettler, Grant D. Reeher, Jeffrey M. Stonecash

Topic: “More a Distinction of Words than Things’: The Evolution of Separated Powers in the American States”

Michael C. Dorf, Robert S. Stevens Professor of Law, Cornell University Law School; J.D., Harvard Law School; B.A., Harvard College

Topic: “The Relevance of Federal Norms for State Separation of Powers”

Robert A. Schapiro, Dean, Emory University School of Law; J.D., Yale Law School

Topic: “Contingency and Universalism in State Separation of Powers Discourse”

James A. Gardner, Bridget and Thomas Black Professor of Law, SUNY Buffalo Law School; J.D., University of Chicago; B.A., Yale University

Topic: “The Positivist Revolution That Wasn't: Constitutional Universalism in the States”

Richard A. Hogarty, Professor of Political Science and Senior Fellow, McCormack Institute of Public Affairs, University of Massachusetts, Boston

Topic: “When Legislators Become Administrators: The Problem of Plural Office-Holding”

Robert F. Williams, Distinguished Professor of Law, Rutgers School of Law - Camden

Topic: “Rhode Island's Distribution of Powers Question of the Century: Reverse Delegation and Implied Limits on Legislative Powers”

(Vol. 5, No. 1) “Lawyer Collaboration with Systems of Evil”

For this symposium, the Law Review assembled a distinguished panel of law professors from around the country to examine a variety of instances, both historical and contemporary, in which lawyers may have collaborated with evil. The Law Review would like to thank the Providence, Rhode Island law firm of Decof & Grimm for sponsoring this symposium.

Symposium Participants & Topics:

Robert A. Burt, Alexander M. Bickel, Professor of Law, Yale University School of Law

Topic: “Wrong Tomorrow, Wrong Yesterday, but not Today: On Sliding into Evil with Zeal but without Understanding.” Professor Burt explores the circumstances in which the perpetrators of evil do not realize the wrongfulness of their actions at the time when they are acting.

Paul D. Carrington, Chadwick Professor of Law, Duke University

Topic: “Lawyers Amid the Redemption of the South.” Professor Carrington based his essay on a chapter of a work in progress, entitled *The Romance of American Law: Lawyers in American History*.

Paul Finkelman, Chapman Distinguished Professor of Law, University of Tulsa College of Law

Topic: “Thomas R.R. Cobb and the Law of Negro Slavery.” Professor Finkelman explores Thomas R.R. Cobb’s collaboration with evil through Cobb’s goal of keeping slavery alive and convincing the North that slavery was consistent with American law.

Richard Daynard, Professor of Law, Northeastern University School of Law

Topic: “Lawyer Management of Systems of Evil: The Case of the Tobacco Industry.” Professor Daynard discusses lawyers’ roles in the tobacco industry and how those roles are unprofessional, immoral, and evil.

Richard H. Weisberg, Walter Floersheimer Professor of Constitutional Law, Benjamin N. Cardozo School of Law of Yeshiva University

Topic: “The Risks of Adjudicating Vichy”

Susan P. Koniak, Professor of Law, Boston University School of Law

Topic: “The Other Way Around.” Professor Koniak discusses her reluctance to participate in the discussion of lawyer participation in systems of evil because she believed it could actually cause harm.

(Vol. 6, No. 1) “Rational Actors or Rational Fools? The Implications of Psychology for Products Liability”

This symposium brings together legal and social science scholars to discuss the implications of cognitive psychology for products liability.

Symposium Participants & Topics

Carl T. Bogus, Associate Professor, Roger Williams University School of Law

Topic: Professor Bogus introduces the symposium as well as the usefulness of psychologists in understanding the implication of cognitive psychology for products liability.

Martha Chamallas, Professor of Law, University of Pittsburgh

Topic: “The Disappearing Consumer, Cognitive Bias and Tort Law.” Professor Chamallas explores the “consumer” and consumer law through a historic lens.

Angelo DeNisi & Raed Elaydi

Angelo DeNisi, Professor, Department of Management, Lowry Mays College and Graduate School of Business Texas A&M University

Raed Elaydi, Ph.D student in Management, Graduate School of Business Texas A&M University

Topic: “Which Came First, the Irrational Consumer or The Irrational Corporation?”

Baruch Fischhoff, Professor, Department of Engineering and Public Policy and Department of Social and Decision Sciences, Carnegie Mellon University

Topic: “Need to Know: Analytical and Psychological Criteria”

Jacob Jacoby, Merchants Council Professor of Consumer Behavior, Leonard N. Stern Graduate School of Business, New York University

Topic: “Is it Rational To Assume Consumer Rationality? Some Consumer Psychological Perspective On Rational Choice Theory”

Paul Slovic, Professor of Psychology, University of Oregon; President, Decision Research

Topic: “Rational Actors and Rational Fools: The Influence of Affect on Judgment and Decision-Making.” Professor Slovic argues that “humans are *both* Rational Actors and Rational Fools.”

James A. Henderson, Jr. & Jeffrey J. Rachlinski

James A. Henderson, Jr., Frank B. Ingersoll Professor of Law, Cornell University. A.B., Princeton University. L.L.B., L.L.M., Harvard University

Jeffrey J. Rachlinski, Professor of Law, Cornell Law School. B.A., M.A. (Psychology), The John Hopkins University. J.D., Ph.D. (Psychology), Stanford University

Topic: “Product-Related Risk and Cognitive Biases: The Shortcomings of Enterprise Liability”

Jon D. Hanson & Douglas A. Kysar

Jon D. Hanson, Professor of Law, Harvard University. B.A., 1986, Rice University. J.D., 1990, Yale University

Douglas A. Kysar, Assistant Professor of Law, Cornell University. B.A., 1995, Indiana University. J.D., 1998, Harvard University

Topic: "Taking Behavioralism Seriously: A Response to Market Manipulation"

(Vol. 7, No.1) "Information and Electronic Commerce Law: Comparative Perspectives"

Modern technologies have enhanced both domestic and international commerce. Although technology has increased business and consumer transaction efficiency, it poses a variety of legal issues. In particular, the adaption of private contract law to electronic contracting tosses many well-settled issues into an electronic vortex of confusion. For example, it is not clear how electronic standard-form contracts fare under traditional rules governing the transactions. The issue is magnified in contracts involving the sale of goods. In addition, authenticity can be called into question with the use of electronic documents and signatures. Nevertheless, despite the uncertainty, the need for greater access to information and commerce is high and, therefore, the topic is usually discussed in connection with private and public interest factors.

Symposium Participants & Topics

David A. Rice, Professor, Roger Williams University School of Law

Topic: Introduction

Charles R. McManis, Professor of Law, Washington University in St. Louis

Topic: "Database Protection in the Digital Information Age"

Brian F. Fitzgerald, Professor and Head of the School of Law and Justice at Southern Cross University in New South Wales, Australia

Topic: "Digital Property: The Ultimate Boundary?"

Maureen A. O'Rourke, Professor of law, Associate Dean for Administration & Graduate Programs, Boston University School of Law

Topic: "What the Future Holds: Policy Choices in the Global E-Marketplace"

Amelia H. Boss, Professor of Law, Temple University James E. Beasley School of Law

Topic: "Taking UCITA on the Road: What Lessons Have We Learned?"

(Vol. 8, No.1) "National Fisheries Law & Policy"

This symposium presents a new light to fishery management by adding a legal spin to the discussion. With approximately 44% of the world's population living within 93 miles of the sea, fisheries play an important role in our society. There is a strong necessity to manage fisheries in

a manner that respects the growing ecosystems within the seas. A healthy fishery environment will increase the length of production by reducing pollution. The area of law is only beginning to develop and therefore, the area could greatly benefit from new managerial techniques.

Symposium Participants & Topics

Ronald C. Baird, Director, National Sea Grant College Program, National Oceanic and Atmospheric Administration
Topic: Introduction

Barry A. Costa-Pierce, Director, Rhode Island Sea Grant College Program & Professor of Fisheries, University of Rhode Island
Topic: Opening Comments

Jonathan H. Adler, Assistant Professor of Law, Case Western Reserve University
Topic: "Legal Obstacles to Private Ordering in Marine Fisheries"

Kathleen M. Burch, Professor of Legal Writing, Roger Williams University School of Law
Topic: "Due Process in Micronesia: Are Fish Due Less Process?"

Kristen M. Fletcher, Director, Sea Grant Law Center
Topic: "Fix It! Constructing a Recommendation to the Ocean Commission for the Future of Fisheries"

Margaret E. Petruny-Parker, Senior Fellow, Coastal Institute & Fisheries Outreach Specialist, University of Rhode Island
Kenneth F. Payne, Senior Policy Advisor, State of Rhode Island
Robert Ballou, Chief of Staff, Rhode Island Department of Environmental Management
Topic: "Development of the 'Commercial Fishing Licenses Act of 2000' - A New Approach"

(Vol. 10, No.2) "Religious Liberty in America and Beyond: Celebrating the Legacy of Roger Williams on the 400th Anniversary of his Birth"

The legacy of Rhode Island's famous founder, Roger Williams, extends well beyond the borders of this state and even this nation. Professor of Law Edward J. Eberle introduces Williams as a "seminal thinker on religious freedom, the idea and utility of the social contract, and the relationship between church and state." The articles comprising this Symposium edition address a central theme of Williams' life work: Freedom of conscience.

Symposium Participants and Topics:

Edward J. Eberle, Professor of Law, Roger Williams University: School of Law.
Topic: "Roger Williams on Liberty of Conscience"

Steven D. Smith, Warren Distinguished Professor of Law, University of San Diego.

Topic: “The Tenuous Case for Conscience”

Kathleen A. Brady, Associate Professor of Law, Villanova University School of Law.
Topic: “Foundations for Freedom of Conscience: Stronger than You Might Think”

Michael J. Perry, Robert W. Woodruff Professor of Law, Emory University; Senior Fellow, Law and Religion Program, Emory University.
Topic: “A Right to Religious Freedom? The Universality of Human Rights, The Relativity of Culture”

Richard S. Kay, George and Helen England Professor of Law, University of Connecticut, School of Law.
Topic: “Michael Perry's Right to Religious Freedom”

Jónatas E.M. Machado, Professor in the Faculty of Law of the University of Coimbra, Coimbra, Portugal.
Topic: “Freedom of Religion: A View From Europe”

(Fall 2005) “A Symposium on Sentencing Rhetoric: Competing Narrative Post-Booker”

Symposium Participants & Topics

David M. Zlotnick, Associate Professor of Law, Roger Williams University School of Law, J.D. Harvard Law School, 1986.
Topic: “Symposium on Sentencing Rhetoric: Competing Narratives in the Post-Booker Era”

Ronald F. Wright, Professor, Law Faculty, Wake Forest University.
Topic: “Incremental and Incendiary Rhetoric in Sentencing after *Blakely* and *Booker*”

Naomi Murakawa, Professor, Political Science, University of Washington, Ph.D. Yale University.
Topic: “The Racial Antecedents to Federal Sentencing Guidelines: How Congress Judged the Judges from *Brown* to *Booke*”

Ian Weinstein, Professor, Law Faculty, Fordham University School of Law
Topic: “The Historic Roots of Regional Sentencing Variation.”

Stephanie Weinstein, Associate, Jackson Lewis LLP, J.D. University of Pittsburg School of Law, 2005

Arthur Wolfson, Law Clerk, The Honorable Richard A. Morgan, Office of Administrative Law Judges, United States Department of Labor, J.D. University of Pittsburg School of Law, 2005.
Topic: “Toward a Due Process of Narrative: Before You Lock My Love Away, Please Let Me Testify.”

Lynn Adelman, United States District Court Judge for the Eastern District of Wisconsin

Jon Deitrich, Law Clerk, Judge Lynn Adelman, Eastern District of Wisconsin.
Topic: “Fulfilling *Booker’s* Promise”

Eva S. Nilsen, Professor, Law Faculty, Boston University School of Law, J.D. 1977.
Topic: “Indecent Standards: The Case of *United States versus Weldon Angelos.*”

(March 2006) “Challenges and Changes to the Military from the War on Terror”

This symposium was dedicated to current issues that were present in military law.

Symposium Participants & Topics:

The Honorable Frank J. Williams, Chief Justice of the Rhode Island Supreme Court
Nicole J. Dulude, Esq., Law Clerk to the Honorable Frank J. Williams, Chief Justice of the Rhode Island Supreme Court, J.D. 2006, Roger Williams University School of Law.
Topic: “Still a Frightening Unknown: Achieving a Constitutional Balance between Civil Liberties and National Security during the War on Terror.”

Peter Margulies, Professor, Law Faculty, Roger Williams University School of Law
Laura Corbin, Captain, United States Army Reserve.
Topic: “Reliability and the Interests of Justice: Interpreting the Military Commissions Act of 2006 to Deter Coercive Interrogations.”

Victor Hansen, Professor, Law Faculty, New England School of Law
Lawrence Friedman, Professor, Law Faculty, New England School of Law.
Topic: “The Case Against Secret Evidence.”

Eudene R. Fidell, President, National Institute of Military Justice, Professor, Law Faculty, Washington College of Law, American University.
Topic: “Is There a Crisis in Military Appellate Justice?”

Robert Gary Branknell, Major, United States Marine Corps. J.D. University of Maryland School of Law, L.L.M. Harvard School Of Law
Topic: “Trust Not Their Presents, Nor Admit the Horse: Countering the Technically-Based Espionage Threat.

Michael A. Newton, Professor, Law Faculty, Vanderbilt University Law School.
Topic: Modern Military Necessity: The Role & Relevance of Military Lawyers.

Elizabeth Cameron Hernandez, Captain, United States Army Reserve.
Topic: “The United States Army Reserve: Welcome to the Hotel California *We are all just prisoners here.*”

(Vol. 13, No.1) “Genuine Tort Reform”

Tort reform initially referred to efforts to improve victims’ ability to hold wrongdoers and those in a position to prevent harm accountable, but today it means nearly the opposite. The political conservative movement in the 1970’s and 1980’s successfully transformed the meaning of tort reform to be protections for business and industry from law suits. The average citizen today does not believe or know of the benefits the common law brings to protecting public health and safety. This symposium sought to create more research on improving the tort system, and did so by asking symposium participants to make one proposal for improving the tort system, without any parameters on that proposal.

Symposium Participants & Topics:

Carl T. Bogus, Professor of Law, Roger Williams University School of Law

Topic: Introduction

Deborah R. Hensler, Judge John W. Ford Professor of Dispute Resolution, Stanford Law School

Topic: “Jurors in the Material World: Putting Tort Verdicts in Their Social Context”

Valerie P. Hans, Professor of Law, Cornell Law School

Topic: “Empowering the Active Jury: A Genuine Tort Reform”

Peter H. Schuck, Simeon E. Baldwin Professor, Yale Law School

Topic: “FDA Preemption of State Tort Law in Drug Regulation: Finding the Sweet Spot”

Joseph Sanders, A.A. White Professor of Law, University of Houston Law Center

Topic: “Reforming General Damages: A Good Tort Reform”

Ellen Wertheimer, Professor of Law, Villanova University School of Law

Topic: “Calling It a Leg Doesn’t Make It a Leg: Doctors, Lawyers, and Tort Reform”

Jay M. Feinman, Distinguished Professor of Law, Rutgers University School of Law, Camden

Topic: “Incentives for Litigation or Settlement in Large Tort Cases: Responding to Insurance Company Intransigence”

Ross E. Cheit, Associate Professor of Political Science and Public Policy, Brown University

Topic: “Tort Litigation, Transparency, and the Public Interest”

(Vol. 13, No.2) “Legal Dilemmas in a Dangerous World: Law, Terrorism and National Security”

This symposium addressed the need for balance between protecting national security and core freedoms through the law in our complex post-9/11 world. Symposium participants addressed this complexity from a variety of topics, “including the habeas corpus rights of prisoners at Guantanamo Bay, the state secrets privilege, defense lawyering before the military commissions,

and opportunities for Muslim-Americans to both comply with laws regulating the financing of terrorist groups and fulfill their faith-bound obligation of charitable giving.”

Symposium Participants & Topics:

Peter Margulies, Professor of Law, Roger Williams University School of Law
Laura Corbin, J.D. 2008 Roger Williams University School of Law
Topic: Introduction

Timothy K. Kuhner, Associate Professor of Law, Roger Williams University School of Law
Topic: “The Corruption of Civilizations”

Nina J. Crimm, Professor of Law, St. John’s University School of Law
Topic: “Muslim-Americans’ Charitable Giving Dilemma: What About a Centralized Terror-Free Donor Advised Fund?”

Stephen I. Vladeck, Associate Professor, American University Washington College of Law
Topic: “Habeas Corpus, Alternative Remedies and the Myth of *Swain v. Pressley*”

Robert M. Chesney, Associate Professor, Wake Forest University School of Law
Topic: “Legislative Reform of the State Secrets Privilege”

Ellen Yaroshefsky, Clinical Professor of Law and Director of the Jacob Burns Ethics Center, Benjamin N. Cardozo School of Law

Topic: “Zealous Lawyering Succeeds Against All Odds: Major Mori and the Legal Team for David Hicks at Guantanamo Bay”