



GUEST WORKSHOP ON LEGAL TRANSFERS, TRANPLANTS AND TRANSLATIONS

ABSTRACTS



Sean Bottomley (Institute for Advanced Study in Toulouse)

Patent cases at common law in seventeenth and eighteenth-century England

The talk will outline how the jurisdiction in patent validity cases transitioned from the prerogative courts and the Privy Council to the common law courts during the seventeenth and eighteenth-centuries. In principle, patents for invention had always been triable at common law, a principle which was given legislative confirmation by the Statute of Monopolies (1624). However, the provisions of the Statute were ignored by the English Crown, which was seeking to award political favourites with monopolies of manufacture, under cover of patents of invention; royal favourites could enforce these 'patents' in the Privy Council. It was only with the constitutional changes heralded by the Restoration of the English Crown after the Civil War (1660) and the Glorious Revolution (1688) that the provisions of the Statute of Monopolies came to be respected. Finally, the talk will also outline how this remains a current issue. It has recently been argued in the Supreme Court that it is unconstitutional for the United States Patent Office to revoke patent grants, based in part on what English practice was in the 1790s.



Tom Hamilton (Cambridge University)

The King's Justice: Criminal Law and Legal Transfer in Early Modern France

France had perhaps the most sophisticated criminal justice system and the highest density of magistrates in early modern Europe. Its appeal courts had a far greater role in criminal justice than, for example, the King's Bench in England or the Reichskammergericht in the Holy Roman Empire. Existing studies of justice in France have prioritised legal doctrine over practice or taken a statistical approach to local jurisdictions, especially in the later eighteenth century. Yet historians have neglected the criminal archives of the oldest, largest, and most prestigious courts, the royal appellate courts of the *parlements*. These courts judged serious crimes in the name of 'the king's justice', operating within a legal world of multiple norms – case precedents, customary law, natural law, Roman law, royal ordonnances – that were always being negotiated as part of a transfer between local and central authorities.

This paper will introduce my current research project that explores how criminal justice retained a broad appeal for people across France at a time of social inequality, religious conflict, and political troubles, during crucial phases in the making of the *ancien régime* from 1560-1715. In early modern France, anyone condemned to a sentence of corporal punishment or above had their case re-examined by a *parlement*, with the costs covered by the accuser. That the condemned themselves could be financed to take their case on appeal to a royal court shows how early modern state formation did not proceed down from the king's will, but by negotiating a transfer of legal authority up through the hierarchy of courts and involving office-holders with appellants and plaintiffs at all levels of society.