HUMAN RIGHTS HISTORY:
RIGHTS, REVOLUTIONS, REPUBLICS, 1750-1850
THEORY & PRACTICE OF HUMAN RIGHTS LAWYERING, THROUGH THE WORK & WORKS OF
WILLIAM SAMPSON IN COLONIAL IRELAND, NAPOLEONIC FRANCE AND REPUBLICAN
AMERICA
Law A575, 4 cr, Winter 2013
Mon & Wed, 3.30-5.20 p.m., William Gates Hall
https://catalyst.uw.edu/gopost/board/wawa/21937/

Course Description

Comparative constitutional history of rights lawyering. Read political trials from
French Revolution in Europe through postcolonial Jacksonian American Republic. Learn
basic rhetoric of early human rights discourse: on treason, seditious libel, racial equality,
servitude, labor conspiracy, religious liberty, consumer protection, codification.
Interdisciplinary graduate and advanced undergraduate students welcome; no prerequisites.

Content and Method: This is a legal history and jurisprudence seminar in which you will study
early rights lawyering, including trial transcripts and other primary and secondary sources. Through this
series of political trials, as well as contemporaneous historical, philosophical and satirical pamphlets
published during the French Revolution in Europe, and crossing the Atlantic Ocean into the postcolonial
American Republic, students will learn the basic rhetoric of early human rights discourse.

These historical cases include trials for treason, sedition, seditious libel, racial equality, forced
servitude, labor conspiracy, religious liberty, and consumer protection, among others. By reading these
records in their entirety, students will closely observe the employment of political theory in courtroom
practice. Students will also regularly reenact portions of these authentic forensic examinations and
powerful advocacy, uncovering the practice as well as theory behind early human rights lawyering.

Other historical forms of human rights advocacy will also be read and discussed in this seminar,
including jurisprudential satire, polemical writing, and legal scholarship, and the relationship between
these various forms and trial advocacy will be explored. A recurring theme will be close links personal
and philosophical links between such postcolonial jurisprudence, specifically including the American
codification movement, and the literary nationalism expressed in Maria Edgeworth’s *Ennui*, James
Fenimore Cooper’s *The Pioneers*, and Herman Melville’s *Moby-Dick*.

These seminar materials are biographically connected through the authorship and advocacy of
William Sampson (1764-1836), perhaps the earliest international human rights lawyer, who was
imprisoned, disbarred, and banished by Act of Attainder for his early cause lawyering. Although this
fate prompted Sampson’s remark that “The advocates of the poor are few, and their reward is ruin”
(1807), a full quarter century later he could still declare himself “an advocate for the oppressed” (1831)
as he continued to win historic constitutional victories in exile. Our Course Materials, specifically the posted Source Documents, suggest that the Sampsonian jurisprudence of postcolonial republican democracy realized 18th century ideals of human rights shared with Tom Paine; ultimately defeated the rival utilitarian appeal to the unchecked will of democratic political majorities then expressed by Jeremy Bentham; and thus placed individual and minority rights at the very center of this radical constitutionalism that William Sampson firmly established in 19th century America.

**Pedagogical Goals and Objectives:** In this course the student will be introduced to the theory and practice of human rights lawyering by learning to make and to understand arguments based on first principles, and in their full historical context. Goals include:

- learning about trial and appellate rights advocacy;
- learning how to do critical and postcolonial jurisprudence;
- learning the substance of a range of historical legal doctrines, including free speech, religious freedom, criminal defense rights, labor law, and others;
- learning about law and society through legal history.

**Instructor:** Associate Professor Walter J. Walsh teaches comparative law and constitutional history at the University of Washington School of Law and in the Law, Societies and Justice (LSJ) Program. He holds law degrees from University College Dublin (B.C.L.), Yale University (LL.M.), and Harvard University (S.J.D.), where he wrote his doctoral dissertation on early human rights advocacy, and has practiced and taught law in Europe and in the United States. He has also trained in his native Dublin, Ireland, at the Incorporated Law Society, and in Strasbourg, France, at the Institut Internationale des Droits des l’Hommes. Professor Walsh is a founding faculty member and teaches each summer in the LSJ European Law & Society Program at the UW Rome Center.

**Assessment:**

i) **Required Course Website Postings**, required response to each Book Chapter & the accompanying posted Source Documents, no later than 6 p.m. before next day class discussion, minimum 1,000 words per week (for 40% of final grade);

**PLUS**

ii) **Class Participation** in discussions, and also in regular role plays including reenacting actual courtroom examinations and advocacy selected from historic trial pamphlets (for 10% of final grade);

**PLUS**

iii) **20-page Paper** on human rights, legal or constitutional history, jurisprudence, cause lawyering theory and practice, or any related topic (which may not focus on Sampson), selected by student with instructor’s approval by end of Week 2, and due last day of exam period (for 50% of final grade).

For all inquiries, please contact Professor Walsh’s assistant Ms. Ruth Beardsley at giaconi@u.washington.edu or (206) 543-0524 . . .
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servitude, labor conspiracy, religious liberty, consumer protection, codification.
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WEEK 1
Wed, 1/9, read and post on:
Chapter 1. Postcolonial Radical
and assigned documentary sources posted on our UW Catalyst course website Human Rights
History: Rights, Revolutions, Republics https://catalyst.uw.edu/gopost/board/wawa/
introduction
Chapter 2. One Hundred Halberdiers
and assigned documentary sources posted on our UW Catalyst course website:
views of law, constitution and history in late 18th century America, Ireland, and France

WEEK 2
Mon, 1/14, read and post on:
Chapter 3. The Furious Democrats
and assigned documentary sources posted on our UW Catalyst course website:
Trial of King v. Rowan (Dublin 1794) (seditious libel, due process, constitutional theory)
1st Trial of King v. Proprietors of Northern Star (Dublin 1794) (seditious libel, due process,
constitutional theory)
Trial of King v. Drennan (Dublin 1794) (seditious libel, due process, constitutional theory)
2nd Trial of King v. Proprietors of Northern Star (Dublin 1795) (seditious libel, due process,
constitutional theory)
Trial of King v. Reverend Jackson (Dublin 1795) (treason, due process, constitutional theory)
Chapter 4. A Daring Insolence
and assigned documentary sources posted on our UW Catalyst course website:
Lion of Old England (Belfast 1794) (jurisprudential satire on imperialism)
Trial of Hurdy Gurdy (Belfast 1794) (jurisprudential satire on free speech)
Advice to the Rich (Dublin 1796) (political tract predicting 1709 rebellion if no reform)
Trial of King v. Orr (Belfast 1797) (treason, due process, constitutional theory)
Trial of King v. Finerty (Belfast 1797) (seditious libel, due process, constitutional theory)

Wed, 1/16, read and post on:
Chapter 5. Profligacy, Villainy and Obscenity
and assigned documentary sources posted on our UW Catalyst course website:
Maria Edgeworth’s Ennui (London & Dublin 1809) (colonial literary nationalism)

Chapter 6. A Collier Bound for Whitehaven
and assigned documentary sources posted on our UW Catalyst course website:
William Sampson’s Appeal to the Public (Dublin 1798) (due process and fair trial)

WEEK 3
Mon, 1/21, No Class
Happy Martin Luther King Day!

Wed, 1/23, read and post on:
Chapter 7. The Unhappy Warriors
and assigned documentary sources posted on our UW Catalyst course website:
Act of Attainder (1798) (Banishment Act)
Rolls of the Kings’ Inns (1798) (“struck off” the List of barristers, disbarment)

Chapter 8. Two Friars, A Fidalgo, and Several Fish Carriers
and assigned documentary sources posted on our UW Catalyst course website:
Memoirs of William Sampson (1807) (imprisonment. trial in Portugal, asylum in Paris)

WEEK 4
Mon, 1/28, read and post on:
Chapter 9. They Have No Tithes
and assigned documentary sources posted on our UW Catalyst course website:
Open Letter to Lord Spencer (1807) (colonial versus republican law and society)

Chapter 10. Curricles, Coaches, Tandems and Gigs
and assigned documentary sources posted on our UW Catalyst course website:
In re Emmet (New York 1805) (legal profession, religious barriers to admission)
In re Sampson (New York 1806) (readmission, future rule against noncitizens)

Wed, 1/30, read and post on:
Chapter 11. A Happy Asylum from Persecution and Injustice
and assigned documentary sources posted on our UW Catalyst course website:
Memoirs of William Sampson (1807) (the early publishing industry, republicanism, federalism, immigration)
Chapter 12. *The Few Straggling Fees*
and assigned documentary sources posted on our UW Catalyst course website:
view of early legal profession, beginnings of fusion between counselors (barristers) and attorneys (solicitors)

**WEEK 5**

Mon, 2/4, read and post on:
Chapter 13. *An Editor's Duty*
and assigned documentary sources posted on our UW Catalyst course website:
*Trial of Arcularius v. Coleman* (New York 1807) (libel of public official, free speech)
*Trial of Livingston v. Cheetham* (New York 1807) (libel of public official, free speech)
*Trial of Bonneville v. Cheetham* (New York 1810) (libel of Tom Paine’s lady companion, free speech)

Chapter 14. *The Dominion of Prejudice*
and assigned documentary sources posted on our UW Catalyst course website:
*Trial of People v. Little* (New York 1808) (battery, race, marriage)
*Trial of Commissioners of the Alms-House v. Whistelo* (New York 1808) (paternity, race, science, jurisprudential satire)
*Trial of People v. Broad* (New York 1809) (battery, slavery)
*Trials of People v. Johnson and People v. Hill* (New York 1811) (murder, race)

Wed, 2/6, read and post on:
Chapter 15. *A Fine Library*
and assigned documentary sources posted on our UW Catalyst course website:
*Trial of Parker v. McDougal* (New York 1808)
*Trial of People v. Lieutenant Renshaw* (New York 1809) (the end of duelling, honor)
*Trial of People v. Captain Whitby* (New York 1812) (jurisprudential satire, impressment, individual responsibility for crimes under international law, War of 1812)
*Trial of People v. Reverend Parkinson* (New York 1811) (assault and battery, gender)
Samuel Woodworth’s *Beasts at Law or Zoologian Jurisprudence; A Poem, Satirical, Allegorical, and Moral* (New York 1811) (jurisprudential satire, natural science)

Chapter 16. *These Sleek and Pampered Masters*
and assigned documentary sources posted on our UW Catalyst course website:
*Trial of People v. Melvin* (New York 1811) (trial of the New York journeymen cordwainers for a common law conspiracy to raise their wages, 2nd American labor trial, labor history, trade unions, the closed shop, constitutions v. common law, jurisprudential satire)

**WEEK 6**

Mon, 2/11, read and post on:
Chapter 17. *A Comfortable Fireside with Ease and Plenty*
and assigned documentary sources posted on our UW Catalyst course website:
views of family, gender, legal profession

Chapter 18. *Men of Letters and of Science*
and assigned documentary sources posted on our UW Catalyst course website:
William Cooper’s *Guide in the Wilderness* (Dublin 1810) (early publishing, origins of American
literary nationalism, James Fenimore Cooper’s *The Pioneers*)

Wed, 2/13, read and post on:
Chapter 19. *The First Free Exercise Case*
and assigned documentary sources posted on our UW Catalyst course website:
*Trial of People v. Philips* (New York 1813) (1st victory for religious freedom in constitutional
history, also origin of priest-penitent evidentiary privilege)
Chapter 20. *An Irish-American Cultural History*
and assigned documentary sources posted on our UW Catalyst course website:
views of antebellum law and society

WEEK 7
Mon, 2/18, No Class
Happy President’s Day!

Wed, 2/20, read and post on:
Chapter 21. *Stuffs of Foreign Manufacture*
and assigned documentary sources posted on our UW Catalyst course website:
*Address of the American Society for the Encouragement of Domestic Manufacturers, to the
People of the United States* (New York 1817) (origins of lobbying in Congress, economic
history)
Chapter 22. *Is a Whale a Fish?*
and assigned documentary sources posted on our UW Catalyst course website:
*Trial of Maurice v. Judd* (New York 1819) (consumer protection legislation, natural history,
zoology, history of science, philosophy, jurisprudential satire, early publishing, origins of
American literary nationalism, Herman Melville’s *Moby-Dick*)

WEEK 8
Mon, 2/25, read and post on:
Chapter 23. *Not to Set Out Like a Lordling*
and assigned documentary sources posted on our UW Catalyst course website:
William Curran’s *Life of John Philpott Curran* (New York 1820) (cause lawyering)
*Trial of People v. Goodwin* (New York 1821) (criminal procedure)
*In re Niven* (1822) (legal profession, attorney malpractice)
Chapter 24. *The Law of a Free People*
and assigned documentary sources posted on our UW Catalyst course website:
William Sampson’s *Anniversary Discourse Showing the Origin, Progress, Antiquities,
Curiosities, and Nature of the Common Law* (New York 1824) (jurisprudence, codification,
critical theory, comparative law, jurisprudential satire)
Wed, 2/27, read and post on:
Chapter 25. **Codification the Rage**
and assigned documentary sources posted on our UW Catalyst course website:
Pishey Thompson’s Sampson’s *Discourse and Correspondence with Various Learned Jurists, upon the History of the Law* (Washington 1826) (jurisprudence, codification, critical theory, comparative law)
James Kirke Paulding’s, *The Merry Men of Gotham* (New York 1826) (jurisprudential satire)
Bouviers’s *Law Dictionary* (New York 1831) (common law, jurisprudence)

Chapter 26. **Hate, Speech and Freedom**
and assigned documentary sources posted on our UW Catalyst course website:
*Trials of People v. Moore and People v. M’Evoy* (New York 1824) (the Greenwich Village Orange Day riots, hate speech, religious freedom, religious speech)

WEEK 9
Mon, 3/4, read and post on:
Chapter 27. **A House Wanting Every Kind of Repair**
and assigned documentary sources posted on our UW Catalyst course website:
Theobold Wolfe Tone’s *Life* (Washington 1826) (republicanism, postcolonial literary nationalism, historiography)

Chapter 28. **Broken Promises**
and assigned documentary sources posted on our UW Catalyst course website:
*Supreme Court Appeal of Odgen v. Sanders* (Washington 1826) (constitutional theory, state bankruptcy laws, critical jurisprudence, codification, jurisprudential defeat by Sampson and fellow codifier Edward Livingston provokes federalist Justice Marshall’s only dissent!)

Wed, 3/6,
NOTE: DUE DATE FOR POSTING OF STUDENT PAPER DRAFTS FOR CLASS DISCUSSION!
read and post on:
Chapter 29. **Religious Distinctions and Quarrels**
and assigned documentary sources posted on our UW Catalyst course website:
William Sampson’s *Address of the Meeting of Irishmen in New York to the People of Ireland* (New York 1825) (religious freedom, international campaign for Catholic emancipation in Britain)
*Trial of the Philadelphia Orange Day Rioters* (Philadelphia 1831) (the Philadelphia Orange Day riots, hate speech, religious freedom, religious speech)

Chapter 30. **Sampson’s Postcolonial Jurisprudence**
and assigned documentary sources posted on our UW Catalyst course website:
views of jurisprudence

WEEK 10
Mon, 3/11, read and post on:
Student Paper Drafts and Presentations
Wed, 3/13, read and post on:

Chapter 31. **Good Company, Rural Scenery, Flowers, Blossoms, Fruit, Music and Song**

and assigned documentary sources posted on our UW Catalyst course website:
William Cooke Taylor & William Sampson’s *History of Ireland* (New York 1833) (postcolonial literary nationalism, historiography)

**FINAL PAPER DUE LAST DAY OF EXAM PERIOD, MARCH 23!**

**Assessment:**

i) **Required Course Website Postings**, required response to each Book Chapter & the accompanying posted Source Documents, no later than 6 p.m. before next day class discussion, minimum 500 words per week (for 40% of final grade);

**PLUS**

ii) **Class Participation** in discussions, and also in regular role plays including reenacting actual courtroom examinations and advocacy selected from historic trial pamphlets (for 10% of final grade);

**PLUS**

iii) **20-page Paper** on human rights, legal or constitutional history, jurisprudence, cause lawyering theory and practice, or any related topic (which may not focus on Sampson), selected by student with instructor’s approval by end of Week 2, and due last day of exam period (for 50% of final grade).

**Posting Requirement:** On our UW Catalyst course website, you must post something no later than 6 p.m. the day before each Monday and Wednesday class, leading our discussion and showing that you have carefully read and considered the assigned book chapter and the documentary sources. For clarity, please open your own new conversations for each chapter. For this purpose, every week you should write and post at least 2 double-spaced pages of your own thoughts (500 words or more). What should you write about? The choice is yours: you may ask and discuss your own question raised by the materials. In the responses, you will hear the reactions of other readers and you will have the opportunity to engage directly with those who have raised their own questions.

**Draft Presentation:** By Week 9, please post the 1st Draft of your 20-page final paper on our Catalyst course website for all of us to read and query. During the following Week 10, you will discuss your draft work-in-progress with our class, so that when you submit it later your final paper takes into account any written or classroom perspectives or information that you consider germane.

**Required Text, and Accompanying Documentary Sources:** Your weekly readings consist of two Book Chapters for each class (one for first hour, one for second hour), together with accompanying assigned documentary sources. Your two book chapters and your other readings for the coming week are posted on our UW Catalyst Human Rights History: Rights, Revolutions, Republics course website in their own discussion areas. The structure of this class requires that we all read the text together, and that you post your simultaneous reactions to each chapter at the same time as the narrative and theory unfold.
Office Hours: My office hours are every Monday after class, or speak to me during class to pick any other time you need to meet, or else make an appointment at your convenience through Ms. Beardsley (giaconi@u.washington.edu or (206) 543-0524.

W.J.W
RIGHTS, REVOLUTIONS, REPUBLICS

FROM IRISH BANISHMENT & FRENCH ASYLUM,
WILLIAM SAMPSON RECONSTITUTES AMERICA,
1764-1836

by

Walter J. Walsh

being the True Adventures of the

Friend of a Free Press, Defender of Religious Equality,
Champion of Labor, Advocate of the Oppressed,
and Creator of Jurisprudential Satire,

a Study of

THE SAMPSONIAN JURISPRUDENCE OF POSTCOLONIAL REPUBLICAN DEMOCRACY,

that realized 18th century United Irish ideals of human rights shared with Tom Paine,
eclipsed the alternative utilitarian majority rule proposed by Jeremy Bentham,
and established individual and minority rights in 19th century American constitutionalism,

and Details of

dissident democrats in Ireland, sedition, treason, and the 1798 Rebellion against colonial British rule;
incarceration, shipwreck, and transportation through wartorn Europe; exile in Napoleonic France;
refuge and further political agitation in the United States among Jeffersonian Republicans and
Jacksonian Democrats; courtroom struggles for civil rights; promotion of constitutions and codes over
common law; and the nurturing of literary nationalism.