



SECTION ON SOCIO-ECONOMICS NEWSLETTER

Section on Socio-Economics Annual Meeting Program Thursday, January 3, 2008 New York City

(Co-Sponsored by the Sections on Jurisprudence, Minority Groups, Poverty Law, and Women in Legal Education)

Positive and Normative Dimensions of Socio-Economics

- 8:45 - 9:00 Welcoming Remarks
9:00 - 10:00 Deans' Forum on Socio Economics and Economic Justice
10:10 - 11:10 Concurrent Sessions
11:20 - 12:20 Social Entrepreneurship and Moral Capitalism
12:30 - 2:00 Luncheon Address: Robert M. O'Neil, Thomas Jefferson Center for the Protection of Free Expression "Socio-Economics and Academic Freedom"
2:10 - 3:10 Concurrent Sessions
3:20 - 4:20 Black Reparations, Binary Economics, and Interest Convergence
4:30 - 5:00 The Future of Socio-Economics

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Luncheon Address Robert M. O'Neil

Thomas Jefferson Center for the Protection of Free Expression

Former President, University of Virginia
Former Chair, Committee on Academic Freedom and Tenure, and General Counsel, American Association of University Professors

"Socio-Economics and Academic Freedom"

(Tickets must be purchased from AALS by Jan. 2.)

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*** Please copy, post, and send to interested persons. ***

* For more information, please contact Robert Ashford, Program Chair - AALS Section on Socio-Economics, Syracuse University College of Law Syracuse, New York 13244; Tel (315) 677-4680; rhashford@aol.com

Section on Socio-Economics Annual Meeting Program

Thursday, January 3, 2008

Positive and Normative Dimensions of Socio-Economic

- 8:45 - 9:00 Welcoming Remarks:**
Guido Calabresi (Yale) and Robert Ashford (Syracuse) Co-Chairs
- 9:00 - 10:00 Deans' Forum on Socio Economics and Economic Justice**
Jim Chen (Louisville)
Roger Dennis (Drexel)
Richard Gershon (Charleston)
Dennis Honabach (Northern Kentucky)
Donald Polden (Santa Clara)
Ed Rubin (Vanderbilt)
Emily Spieler (Northeastern)
Kellye Testy (Seattle)
- 10:10 - 11:10 Concurrent Sessions**
1. Corporate Governance, Fiduciary Duties, and Social Responsibility
Wendy Duong (Denver)
Jose Gabilondo (Florida International)
Robert Hockett (Cornell)
Cheryl Wade (St. John's University)
 2. Socio-Economic Dimensions of Academic Freedom In Katrina's Wake
Robert Ashford (Syracuse)
Brian Bromberger (Dean, Loyola - New Orleans)
Matthew Finkin (Illinois)
Jordan Kurland (American Association of University Professors)
Robert O'Neil (Virginia)
David Rabban (Texas)
 3. How White-collar Criminologists Are Falsifying the Conventional Economic Wisdom and Building Socio-Economic Theory
William K. Black (Missouri - Kansas City, Exc. Dir. Institute for Fraud Prevention)
Robert Prasch (Economics - Middlebury)
Robert Tillman (St. John's)
Susan Will (John Jay College)
 4. Telecommunications and the Internet, Race, Ethnicity, Language and Socio-Economics
Leonard Baynes (St. John's)
Allen Hammond, IV (Santa Clara)
Catherine J.K. Sandoval (Santa Clara)
Anthony Varona (American University)
- 11:20 - 12:20 Social Entrepreneurship and Moral Capitalism**
William Drayton (Ashoka) "Social Entrepreneurship and Socio-Economics"
- 12:30 - 2:00 Luncheon Address: Robert M. O'Neil, Thomas Jefferson Center for the Protection of Free Expression "Socio-Economics and Academic Freedom"**
- 2:10 - 3:10 Concurrent Sessions**
1. Binary Economics and the History of Economic Thought
James Angressano (Economics - Albertson)
Demetri Kantarelis (Economics - Assumption)
Robert Prasch (Economics - Middlebury)
Charles Whalen (Economics - Labor and Employment Relations Association)
Sidney Greenfield (Anthropology, Wisconsin, Emeritus)
 2. Law and Economics: Under Cover of Science
Susan Carle (American)
David Driesen (Syracuse)
James Hackney (Northeastern)
 3. Biolaw and Socio-Economics: Are Market Incentives a Bane or a Boon to Biodiversity?
Jonathan Kahn - Moderator
Rebecca Bratspies, (CUNY)
Christopher Holman, (Missouri- Kansas City)
Andrew Torrance (Kansas)
 4. Theology and Socio-Economics
Larry Backer (Penn State)
Alfreda Robinson (George Washington)
Susan Stabile (St. Thoms - Minnesota)
- 3:20 - 4:20 Black Reparations, Binary Economics, and Interest Convergence**
Robert Ashford (Syracuse)
Derrick Bell (New York University)
Anthony Cook (Georgetown)
Emma Coleman Jordan (Georgetown)
- 4:30 - 5:00 The Future of Socio-Economics: (Roundtable of Day's Participants and Open Forum.)**

PROGRAM DESCRIPTION**Welcoming Remarks: (8:45 - 9:00)****Plenary: Deans Forum on Socio-Economics and Economic Justice: (9:00 a.m. - 10.00 a.m.)**

Eight law school deans supportive of socio-economics share their views on (1) the relationship between socio-economics and economic justice, (2) the importance of the socio-economic approach in legal education, and (3) ways to enhance the understanding and use of socio-economic analysis in legal education.

Concurrent Sessions: 10:10 a.m. - 11:20 a.m.**1. Corporate Governance Fiduciary Duties, and Social Responsibility.**

This session explores socio-economic analyses that suggest that corporations can enhance corporate and shareholder wealth by benefitting their stakeholders and by taking a longer-term, more holistic view of wealth maximization.

2. Socio-Economic Dimensions of Academic Freedom In Katrina's Wake:

In the 1940 Statement of Principles on Academic Freedom and Tenure of American Association of University Professors (AAUP), universities and colleges may terminate the "continuous appointment" tenured faculty members when the termination is "because of financial exigency...demonstrably bona fide." Following Hurricane Katrina, certain universities in New Orleans determined to terminate the tenured employment of scores of tenured professors citing the economic exigency. An AAUP Special Committee on Hurricane Katrina and New Orleans Universities found that there was "nearly universal departure from (or in some cases complete abandonment of) personnel and other policies" by five New Orleans institutions. The Report resulted in four censures. In this sessions, representatives of the AAUP responsible for the investigation will present and discuss the Report and the response to it.

3. How White-Collar Criminologists Are Falsifying the Conventional Economic Wisdom and Building Socio-economic Theory.

The Nobel Laureate in Economics, George Stigler, proudly proclaimed economics "The Imperial Science" and dismissed other social science disciplines as non-sciences. The claim that neo-classical economics provides a uniquely, and universally, valid means for understanding society was asserted as self-evident truth. Stigler's imperial pretensions have suffered badly as neo-classical economics' predictions have been falsified by events. Neo-classical economics' predictions with regard to white-collar crime have proved particularly embarrassing. White-collar criminologists have, since their inception, demonstrated the falsity of neo-classical economists' predictions about white-collar crime and criminals. Logically, "if it's bad criminology, it's bad economics." White-collar criminologists, however, have gone beyond falsifying erroneous neo-classical theories and have launched a multidisciplinary development of theory that has been shown to have superior predictive power. The logic is: "if it's good white-collar criminology, it's good economics." A panel of experts in white-collar criminology will discuss the development of modern theories of corporate misconduct.

4. Telecommunications and the Internet, Race, Ethnicity, Language and Socio-Economics

This panel will explore the intersection of telecommunications law and policy with race, ethnicity, language and gender issues. Panelists will explore issues including the digital divide in access to telecommunications technology, minority ownership of media, antitrust market definition and the Federal Communications Commission's proceeding regarding whether the rules about broadcast ownership should be changed.

Plenary: Social Entrepreneurship and Socio-Economics (11:20 a.m. - 12:20 p.m.)

Socio-economists believe in doing good scholarship and research that does good. With a socio-economic approach to economic analysis, much good can be done in a market economy by way of education, practice and service. This session features William Drayton (Yale 1970) Mr. Drayton is a supporter of the socio-economic approach to law-related economic issues with a long personal history of activist leadership in aid of social and economic reform, Mr. Drayton will discuss the important connection between social entrepreneurship and socio-economics.

Biographical Note: William Drayton, the innovator who popularized the term "social entrepreneur," is the founder and CEO of Ashoka, an organization that offers venture capital for social entrepreneurs. He also chairs three other organizations established to promote social good: *Youth Venture*, *Community Greens*, and *Get America Working*. In 2005, Mr. Drayton was chosen as one of America's 25 Best Leaders by *U.S. News & World Report*. A graduate of Harvard University, he has been recognized as one its 100 "Most Influential Alumni." He also attended Yale Law School and Oxford University. Before creating Ashoka Mr. Drayton served as Assistant Administrator at the U.S. Environmental Protection Agency. Started with an annual budget of \$50,000, that has grown to nearly \$30 million in 2006, Ashoka was founded on the premise that the most effective way to promote positive social change is to invest in social entrepreneurs with innovative solutions that are sustainable and replicable, both nationally and globally. Upon first reading the three-paragraph definition of Socio-Economics, Mr. Drayton said, "I could not agree with it more."

Luncheon Address by Robert M. O'Neil on "Socio-Economics and Academic Freedom." (12:30 - 2:00 p.m.) (This represents a change from the information published in the AALS Program Booklet)

The hegemony of any dominant paradigm of mainstream thinking raises questions of academic freedom for professors who teach, research, and serve in ways that challenge the reasons for the paradigm's dominance. Professor O'Neil will address the Section on Socio-Economics Annual Luncheon, offering views on tension between individual and institutional academic freedom and the impact of economic considerations.

(Luncheon description is continued on p. 4)

PROGRAM DESCRIPTION (Continued)

Biographical Note: Robert M. O'Neil became founding director of The Thomas Jefferson Center for the Protection of Free Expression in August, 1990, after serving five years as president of the University of Virginia. He continues as a member of the University's law faculty and as a University Professor. His administrative career began as provost of the University of Cincinnati in the early 1970's. He was vice president of Indiana University for the Bloomington Campus, and later president of the statewide University of Wisconsin before coming to Virginia. He taught law at each institution. A long-time champion of the First Amendment and academic freedom, Professor O'Neil chaired Committee A (Academic Freedom and Tenure) of the American Association of University Professors from 1992-99, of which he was general counsel in 1970-72 and again in 1990-92. He currently chairs AAUP Special Committees on Academic Freedom and National Security in Time of Crisis and the Effect of Hurricane Katrina on New Orleans Universities. He is the author of several books, including *The Rights of Public Employees* (second edition, 1993), *Classrooms in the Crossfire* (1981), and *Free Speech in the College Community* (1997), *The First Amendment and Civil Liability* (2001), and *Academic Freedom in the Wired World* (forthcoming fall 2007) as well as many articles in law reviews and other journals.

Afternoon Concurrent Sessions: 2:10 - 3:10 p.m.**1. Binary Economics and the History of Economic Thought:**

Three economists explore the binary economic approach to (1) promoting sustainable, economic growth and (2) reducing inequality and poverty by opening the process whereby capital is acquired with the earnings of capital. The concept of binary growth holds that the promise of more broadly distributed capital acquired with the earnings of capital will both [1] profitably employ more fully existing capacity and [2] promote more sustainable economic growth. Economics Professor Robert Prasch, whose specialities include the history of economic thought, will present a paper that advances the concept of "binary growth" as a distinct theory of growth that is new to the history of economic thought. Economists Demetri Kantarelis, and Charles Whalen will provide commentary.

2. Law and Economics: Under Cover of Science:

This session explores the history of the development of the Law and Economics by way of an examination of Professor James Hackney's recent book entitled *Under Cover of Science*. Endorsed by Judge Richard Posner and Professor Duncan Kennedy, Professor Hackney's authoritative intellectual history describes the law and economics movement from the early days of the Republic to the present and argues that the incorporation of economic analysis into legal decision making is not an inherently objective enterprise, but rather often cloaks ideological determinations – particularly regarding the distribution of wealth – under cover of science. Professors David Driessen (Syracuse) and Susan Carle (American) will join the author in a discussion of the book.

3. Biolaw and Socio-Economics: Are Market Incentives a Bane or a Boon to Biodiversity?

Concern about global warming, biodiversity, and genetically modified organisms underscore the importance of a global approach to environmental issues. This panel will consider what socioeconomics, with its attention to the interaction between markets and the common good, can contribute to the development of a global infrastructure for environmental issues. In particular, the panel will focus on the role of intellectual property in promoting biodiversity and sustainability, and the intersection of law and changing technology in the regulation of genetically modified organisms.

4. Theology and Socio-Economics Socio-economists recognize (1) that faith in a higher power affects economic behavior and (2) an understanding of how faith affects economic behavior will enhance one's ability to address law-related economic issues. This session continues an inquiry began at last year's annual meeting to explore the connection between theology and Socio-economics.

Plenary: Black Reparations, Binary Economics, and Interest Convergence (3:20 - 4:20)

Professor Derrick Bell has noted (1) that progress in achieving racial and economic justice for Blacks seemingly generally depends on a convergence of Black interests with one or more of the interests embraced by the dominant power structure and (2) that such convergent interests may not be stable over time so that lasting progress is compromised or defeated. In "King the and Beloved Community: A Communitarian Defense of Black Reparations," 68 *Geo. Wash. L. Rev.* 959 (2001, at 999-1014), Professor Anthony Cook advanced a binary economic plan (of interest to Rev. Dr. King) to finance reparations by expanding the competitive right to acquire capital with the earnings of capital. Binary economics explains how reparations can be financed without redistribution. In "Memo On Binary Economics to Attorneys for People of Color and Women Re: What *Else* Can Public Corporations Do For Your Clients?," 79 *St. John's Law Review* 1221 (2005) Professor Robert Ashford has generalized Professor Cook's argument by asserting that the binary economic approach to economic growth and distribution reveals (1) a transcendent convergent interest between Blacks and the vast majority of women, and poor and working whites and (2) hence an opportunity for economic reform. This transcendent convergent interest is in broadening the right to acquire capital with the earnings of capital. Cook and Ashford argue that the discourse regarding economic justice will be transformed beneficially in favor of the interests of Black people if binary economics is included within the discussions regarding reparations and other important issues. This session explores (1) whether the binary economic approach reveals an important, stable interest convergence among Blacks, most women, poor and working people, and major corporations, and (2) whether the inclusion of binary economics in the discourse regarding reparations and other issues of race will enhance the prospects or racial and economic justice.

Concluding Plenary: The Future of Socio-Economics (4:30 - 5:00 p.m.) All participants and attendants.

Join Today!
Section on Socio-Economics

Tel: 202-296-8851

Fax: 202-296-8869

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Chair-Elect: Robert Cooter (California - Berkeley)

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Opinions expressed herein are not necessarily those of
 the Section and do not necessarily represent the
 position of the AALS.

Definition of Socio-Economics

Socio-economics begins with the assumption that economics is not a self-contained system, but is embedded in society, polity, culture, and nature. Drawing upon economics, sociology, political science, psychology, anthropology, biology and other social and natural sciences, philosophy, history, law, management, and other disciplines, socio-economics regards competitive behavior as a subset of human behavior within a societal and natural context that both enables and constrains competition and cooperation. Rather than assume that the individual pursuit of self-interest automatically or generally tends toward an optimal allocation of resources, socio-economics assumes that societal sources of order are necessary for people and markets to function efficiently. Rather than assume that people act only rationally, or that they pursue only self-interest, socio-economics seeks to advance a more encompassing interdisciplinary understanding of economic behavior open to the assumption that individual choices are shaped not only by notions of rationality but also by emotions, social bonds, beliefs, expectations, and a sense of morality.

Socio-economics is both a positive and a normative science. It is dedicated to the empirical, reality testing approach to knowledge. It respects both inductive and deductive reasoning. But it also openly recognizes the policy relevance of teaching and research and seeks to be self-aware of its normative implications rather than maintaining the mantle of an exclusively positive science. Although it sees questions of value inextricably connected with individual and group economic choices, socio-economics does not entail a commitment to any one paradigm or ideological position, but is open to a range of thinking that treats economic behavior as involving the whole person and all facets of society within a continually evolving natural context.

Unique among interdisciplinary approaches, however, socio-economics recognizes the pervasive and powerful influence of the neoclassical paradigm on contemporary thought. Recognizing that people first adopt paradigms of thought and then perform their inductive, deductive, and empirical analyses, socio-economists seek to examine the assumptions of the neoclassical paradigm, develop a rigorous understanding of its limitations, improve upon its application, and develop alternative, perhaps complementary, approaches that are predictive, exemplary, and morally sound. With modest amendment, this description of socio-economics was the substance of the petition signed by more than one hundred twenty law professors from over fifty AALS member schools, to establish the AALS Section on Socio-Economics. It serves as the constitution of the Section.

Socio-Economic References

1. Paul Stern, "The Socio-Economic Perspective and Its Institutional Prospects," *The Journal of Socio-Economics*, Volume 22, No. 1, 1993, pp. 1-11.
2. Richard Coughlin, "Whose Morality? Which Community? What Interests? Socio-Economic and Communitarian Perspectives," *The Journal of Socio-Economics*, Volume 25, 1996, pp. 135-55.
3. Robert Ashford, "Socio-Economics: What Is Its Place in Law Teaching?" *Wisconsin Law Review*, Volume 1997, p. 611-623.
4. Jeffrey L. Harrison, "Law and Socio-Economics," Volume 49, *Journal of Legal Education*, 224 (1999).
5. Richard E. Hattwick, "The Future Paradigm for Socio-Economics: A Call for Papers," Volume 28, *The Journal of Socio-Economics*, 1999, pp. 511-532.
6. Robert A. Solo, *The Philosophy of Science, and Economics* (1991) and *Economic Organizations and Social Systems* (2000).
7. Steve Keen, *Debunking Economics - The Naked Emperor of the Social Sciences* (2001).
8. Socio-Economics and Corporate Law Symposium: The New Corporate Social Responsibility, 76 *Tulane Law Rev.* 1187 (2002).
9. Symposium: Teaching Law and Socio-Economics 41 *San Diego Law Review* 1 (2004).
10. Lynne Dallas, *Law and Public Policy: A Socio-Economic Approach* (2004).

Some Program Highlights
Wednesday, January 3, 2008

(For complete program and program description see pages 2 - 4)

Deans Forum on Socio-Economics and Economic Justice
Plenary: (9:00 a.m. - 10:00 a.m.)

Eight law school deans supportive of socio-economics share their views on (1) the relationship between socio-economics and economic justice, (2) the importance of the socio-economic approach in legal education, and (3) ways to enhance the understanding and use of socio-economic analysis in legal education. Participant include: Jim Chen (Dean, Louisville), Roger Dennis (Dean Drexel), Richard Gershon (Charleston), Dennis Honabach (Northern Kentucky), Donald Polden (Santa Clara), Ed Rubin (Vanderbilt), Emily Spieler (Northeastern), and Kellye Testy (Seattle)

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Luncheon Address
(12:30 - 2:00 p.m.)

Robert M. O'Neil

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