

## **HARRY PHILLIPS AMERICAN INN OF COURT 2014-2015 PROGRAM SUMMARIES**

**September 16, 2014**

### ***Burwell v. Hobby Lobby: Corporations' First Amendment Freedoms***

One of the most significant decisions handed down by the United States Supreme Court during its 2013 term was in the consolidated cases of *Burwell v. Hobby Lobby Stores, Inc. and Conestoga Wood Specialties Corp. v. Burwell*, 134 S. Ct. 2751 (2014). The Court held that closely held for-profit corporations and the persons who owned and controlled them were “persons” for the purpose of the Religious Freedom Restoration Act (RFRA) and that the Affordable Care Act’s contraceptives mandate, as applied to closely held for-profit corporations, substantially burdened the exercise of religion for the purposes of RFRA. The goals of this program are: (1) to describe the factual backgrounds of these cases, (2) to discuss the details of the Court’s decision, and (3) to analyze the implications of the decision.

**October 21, 2014**

### ***Amending Constitutions***

In November 2014, Tennessee’s voters will have an opportunity, unprecedented in recent times, to vote on four separate amendments to the Constitution of Tennessee. These amendments will provide a vehicle for discussing and comparing the procedures used to amend the United States Constitution and the various state constitutions. The program will also discuss how easy or difficult amending the constitution should be, as well as the pros and cons of constitutional conventions and legislatively adopted amendments.

**November 18, 2014**

### ***Dispute Resolution Involving the Self-Represented Litigant***

The number of litigants without representation or some form of limited representation is increasing. Many of these litigants cannot afford counsel; others cannot find a lawyer who will take their case; and still others desire to represent themselves. Proceedings involving one or more self-represented litigants can become procedurally and ethically complicated for lawyers and judges alike. The purpose of this program is to identify the difficulties and ethical dilemmas resulting from the presence of self-represented litigants and to discuss the ethically appropriate responses available to both the bench and the bar.

**January 20, 2015**  
***Voting Rights: One Step Forward, Two Steps Back***

Following the Civil War and the ratification of the Thirteenth, Fourteenth, and Fifteenth Amendments, Congress passed the Enforcement Act to ensure the enforcement of these amendments, particularly the right to vote. In 1964, almost one century later, Congress enacted the Voting Rights Act in a continuing effort to protect the right to vote. Included in this legislation was a “preclearance” requirement that required states with a history of racial discrimination in voting to obtain the Department of Justice’s approval before making changes in their voting laws. The law also identified the states subject to the preclearance requirement. In *Shelby County v. Holder*, \_\_\_ U.S. \_\_\_, 133 S. Ct. 2612 (2014), the United States Supreme Court invalidated the statutory description of the states subject to preclearance because it was based on historical data that did not necessary reflect the states’ current history of compliance with voting rights laws. This program will provide the vehicle for reviewing (1) the enforcement of the Fifteenth Amendment, (2) the history of the states (particularly Tennessee’s) compliance with the Fifteenth Amendment and the Voting Rights Act, and (3) the effect of recent and proposed legislation regarding ballot integrity on the exercise of the right to vote.

**February 17, 2015**  
***Magna Carta: The Palladium of English and American Liberties***

Magna Carta will celebrate its 800th birthday in 2015. Like many other states, Tennessee has recognized Magna Carta as “the foundation of our fervid liberty.” *Wilson v. State*, 50 Tenn. (3 Heisk.) 232, 235 (1871). The purpose of this program is (1) to reacquaint the participants with the history of Magna Carta and the rights it recognized, (2) to identify the provisions in the United States Constitution and the Constitution of Tennessee that can be traced to Magna Carta, and (3) to discuss the evolution of these rights from 1215 to the present day. If time permits, the program will also discuss the pros and cons of the unwritten English constitution and the written constitution of the United States.

**March 17, 2015**  
***Blacklisting in America 1947-1968: Where Was the Legal System?***

Beginning before World War II and through the McCarthy Era and the hearings conducted by the House Committee on Un-American Activities, Americans linked to organizations believed to be subversive were banned from public and private employment. They included Leonard Bernstein, W. E. B. DuBois, Albert Einstein, and Edward G. Robinson. The purpose of this program is to recount the history of the Attorney General’s List of Subversive Organizations, the requirement of taking loyalty oaths, and how blacklisting of individuals during the McCarthy Era arose and was enforced. The program will also discuss the legal profession’s limited response to these events.

**April 21, 2015**  
***Juvenile Justice: Is Reform Needed in Tennessee?***

In April 2012, the United States Department of Justice released a report detailing the mistreatment of children – particularly minority children – in the juvenile justice system in Shelby County. This program will review the findings and recommendations of the DOJ report, as well as the settlement agreement DOJ entered into with the juvenile court in Shelby County. The program will also compare the conditions existing in Shelby County with the conditions in Davidson County's juvenile justice system and will discuss the state-wide reforms that could improve the state-wide juvenile justice system's response to the needs of children in trouble.

**May 19, 2015**  
***The 1893 Trial of Lizzie Borden: Lizzie Borden Got an Axe . . .***

In August 1892, Lizzie and Emma Borden found their father and step-mother bludgeoned to death in their parlor. Their father was one of the richest men in Fall River, Massachusetts with an estimated net worth of \$10 million. Even though there was no forensic evidence linking anyone to the murders, Lizzie Borden was charged with the crimes. The prosecution's circumstantial evidence case was weak, and Lizzie Borden was acquitted. However, she lived under the shadow of suspicion for the rest of her life. This program will explore and discuss: (1) whether the prosecution's case would have been strengthened had modern forensic techniques been utilized; (2) whether the prosecution overlooked opportunities to present evidence that would have buttressed its case; (3) whether the outcome should be characterized as a "win" for the defense or a "loss" by the prosecution; and (4) the reasons why the case garnered so much attention at the time and still attracts attention today.