

SINGAPORE SYMPOSIUM IN LEGAL THEORY

POTESTAS IRRITANS: REFLECTIONS ON MATTHEW HALE'S CONSTITUTIONAL JURISPRUDENCE

BY Professor Gerald J. Postema

Cary C. Boshamer Professor of Philosophy and Professor of Law

14 MARCH 2015, MONDAY

4.00PM – 6.00PM (TEA RECEPTION STARTS AT 3.30PM)

LEE SHERIDAN CONFERENCE ROOM, LEVEL 1, EU TONG SEN BUILDING

FACULTY OF LAW, NUS (BUKIT TIMAH CAMPUS)

ABSTRACT

Sir Matthew Hale (1609-76), seventeenth-century England's most sophisticated jurist, identified three core "effects of law": directive, coercive, and invalidating. Relying on the model of law as a command, his definition of law gave pride of place to the first two, and with them he sought to explain the uniquely normative nature of natural and positive (i.e., common) law. Law is necessarily binding, he argued, but obligations obtain only between parties linked in an asymmetrical relationship of accountability. Although Hobbes and other legal theorists used the the command model to support an understanding of sovereign authority as above the law, Hale embraced a common law view of ruling authority as defined and bound by law. The third effect of law ("potestas irritans"), a concept derived from Roman Law and medieval scholastic sources, offered Hale resources to articulate a nuanced account of the supremacy of law and legal limits on sovereign power and prerogative. This essay explores the historical roots and philosophical implications of Hale's complex notion of law.

ABOUT THE SPEAKER



Gerald J. Postema, Cary C. Boshamer Professor of Philosophy and Professor of Law, was born in Chicago, 1948 and earned his PhD in philosophy at Cornell University in 1976. He has taught at Johns Hopkins University (1975-80) and the University of North Carolina, Chapel Hill, (1980 – present), visiting at Yale University (1993) and Boalt Hall School of Law, Berkeley (1979). In 2013-14 he was Arthur L. Goodhart Professor of Legal Science, Cambridge, UK. Honors include: Honorary Professor Zhengzhou University Law School; Guggenheim Fellow, Rockefeller Fellow; Fellow of Corpus Christi College (Cambridge), Athens University, European University Institute, Australian National University, Netherlands Institute for Advanced Studies, American Council of Learned Societies. Recent publication: *Legal Philosophy in the Twentieth Century: The Common Law World* (2011). He is completing work on: *Selected Jurisprudential Writings of Sir Matthew Hale* and will publish a second edition of *Bentham and the Common Law Tradition* in (2017).

Participation is By Invitation Only

Registration commences at 3.30pm and light refreshments will be served. For more information, please contact Ms Yvonne Lim at lawylhh@nus.edu.sg