



The
University
of Sydney



Sydney Sawyer Seminar

SESSION THREE

Atlantic Justice: Property, Rights and Indigeneity

Friday, 17th July 2009, 1-5pm

Holme & Sutherland Rooms, University of Sydney

Convenors

Duncan Ivison & Andrew Fitzmaurice

Discussant/Chair

Duncan Ivison

Speakers

Sankar Muthu (University of Chicago)

Global Connections in Enlightenment Political Thought

Jennifer Pitts (University of Chicago)

Europe, empire, and the boundaries of international law

Andrew Fitzmaurice (University of Sydney)

Sir Travers Twiss and the doctrine of territorium nullius

The focus of this seminar was on how the experience of the Atlantic empires shaped Europeans' understanding of the legal regimes which they brought to their exploration of the Pacific. Professor Sankar Muthu of the University of Chicago spoke about various aspects of global connections (trade, travel, commerce, conquest, slavery) in the eighteenth century and how they were theorized by Enlightenment thinkers. Jennifer Pitts of the University of Chicago picked up on these themes by examining how a global legal order was built on the foundations of commerce and empire. She showed that while Europeans aspired to universal norms for the regulation of global relations they placed European limits on that legal order. At the same time, some Europeans opposed the notion that European values were normative for all.

It was evident in Andrew Fitzmaurice's presentation that this ambivalence about the law of empire continued into the nineteenth century. Fitzmaurice, from the University of Sydney, explored the debates surrounding the understanding of colonial occupation in the lead-up to the 1884/5 Berlin conference which had been called for the purposes of establishing rules to govern the race for empire. The context to the Berlin conference reveals vociferous debates about the status of non-European peoples in international law with some jurists fiercely opposing the apologists for empire. Both the moral relativism *and* the universal values of the Enlightenment, evident in Muthu and Pitts' analyses, would form the basis for the opposition to empire. The Berlin conference would not only bridge the eighteenth and nineteenth centuries in the imaginations of its participants, it also underlined the mutual forces shaping the destinies of the Atlantic and Pacific worlds. While the Berlin conference is commonly understood to have been called in order to regulate the race for Africa, the carve-up of the Pacific was also on the table. The competition between European powers in the Pacific over the course of the eighteenth and nineteenth centuries was brought to a head in Berlin and the destiny of a number of Pacific territories, such as New Guinea and the Solomon Islands, was determined.

The audience engaged these interconnected presentations with a vigorous interrogation. The salient issue was methodological. Some suggested that empires are won and maintained by force of arms, and that ideas and laws are mere garnish, employed after the event to lend decency to what is a fundamentally indecent enterprise. The speakers responded with equal vigour, arguing that it is not possible to do what we cannot first imagine. Historians of ideas frequently hear the charge that they write books about words, not about reality. But it was maintained that the history of culture is a history of how we make ourselves into the people we are, or how we make our reality. Such was the passion in this debate that it continued over drinks well into the evening.