

Distinguished International Visiting Fellowship 2016

Kathryn Temple

'Terror, Torture and Tenderness: The "Feeling Heart" of English Justice'



As part of its international research collaboration, the ARC Centre of Excellence for the History of Emotions funds outstanding international scholars in the field to visit one or more of the Australian nodes for a period of between four weeks and two months, to work with members of the Centre on a research program of their choice. Visitors are invited to present their work in lectures or symposia, where they will receive feedback from and engage in discussion with members of the Centre, promoting collaborative research.

Kathryn Temple held a Distinguished International Visiting Fellowship in 2016. She spent two months working with the Centre at The University of Adelaide node.

Kathryn is an Associate Professor in English at Georgetown University. She recently completed six years as chair of the Department of English and has taught there since 1994. Her first book, *Scandal Nation: Law and Authorship in Britain, 1750–1832* (Cornell University press, 2003), examined the relationship between legal regulations concerning authorship and national identity. Her second book, *Loving Justice: William Blackstone and the Origins of Anglo-American Law* (forthcoming), examines the ways that affect undergirds our understanding of legal institutions. She has been the recipient of NEH, ACLS, Mellon and ARC fellowships and has published articles in *Eighteenth Century Fiction*, *Eighteenth-Century Theory and Interpretation* and *Law, Culture and the Humanities*. For the past 20 years, she has offered writing workshops for graduate students, grant writers, non-traditional college students and veterans at universities in Washington DC and across the United States.

Kathryn discusses the benefits and highlights of her time with CHE below.

I was honoured to be offered a fellowship opportunity to work with the ARC Centre of Excellence for the History of Emotions in March and April of 2016. I could not have imagined how much the experience would benefit my scholarship on eighteenth-century law and emotion.

Much of my work with the Centre occurred in Adelaide, where a wonderful constellation of scholars in law, the history of emotions and eighteenth-century studies offered perhaps the most intellectually (and socially) congenial atmosphere I've encountered as an academic. Legal cultural historian David Lemmings and his key Administration Officer Jacquie Bennett were seamlessly hospitable, presenting me with a wonderful office (large windows!) and more support than I could have imagined possible. Going beyond my expectations was the welcome I received from both David Lemmings and Claire Walker, who not only arranged invitations to speak and to attend reading group meetings, but also welcomed me into their home where we spent many entertaining hours enjoying good talk and their wonderful children. Attending reading group meetings with the local faculty and fellows, as well as engaging in individual conversations either actual or virtual, offered me the opportunity to discuss recent work in the history of emotions while exposing me to a truly interdisciplinary group of smart, hard-working scholars. Thank you Abaigéal Warfield, Amy Milka, Katie Barclay, Merridee Bailey, Robert Phiddian, Eric Parisot, Claire Walker and Mark Neuendorf. Wilf Prest also deserves special thanks, as he first invited me to speak in Adelaide several years ago, thus leading to this opportunity. He has continued to be unfailingly generous, sharing his time and scholarly expertise.

Although based in Adelaide during the fellowship period, I also was afforded the opportunity to travel to Melbourne where I gave a paper at a 'Day of the Heart' event, titled 'Blackstone's "Heart" and the *Heart of Blackstone: Affect and the Use Value of the Commentaries for Feminism*'. Later that week, I was invited to give a second paper, 'What Do We Do When We Do the Humanities? Shame, Performance and Justice', in the English and Theatre Studies Seminar Series at The University of Melbourne. While in Melbourne, I was interviewed for a podcast on Reason and the Emotions in Politics, now available [online](#). Finally, I had the privilege of working with The University of Melbourne graduate students and their mentors in a writing workshop for thesis and dissertation writers.

My Melbourne visit coincided with the 'Objects of Conversion/Objects of Emotion' event at The University of Melbourne, which was also a richly rewarding intellectual experience. There, I renewed my friendship with Paul Yachnin (McGill University) and met Benjamin Schmidt (University of Washington) for the first time. In both cases, I benefitted greatly from their presentations on our emotional connections to things. (I will never forget Paul passing around a plastic skull in order to bring the 'thing-ness' of the skull in *Hamlet* to life, nor

hearing about a graduate student's project that involved writing on animal skins harvested from road kill in Australia).

Perhaps the greatest benefit of the fellowship was the space and time to write uninterrupted. The Centre made every effort to help me locate wonderful writing spaces, both in the apartments I rented and at the university. I spent much of my time addressing my current book project, *Loving Justice: William Blackstone and the Affective Origins of Anglo-American Law*. Almost every activity contributed to my thinking about both the larger project and the chapter I was developing at that time: 'Gothic Blackstone: Terror, Torture, and Tenderness in *The Commentaries on the Laws of England*'.

This chapter takes up what Blackstone referred to as 'the tenderness of the law' and the English practice of *peine forte et dure* (pressing), in a reading of Blackstone's concept of jurisdictional authority and in the context of gothic fiction from Walpole to Wollstonecraft. By gothicising his discussion of what was a common English – not French – practice, Blackstone attempts but fails to distance ideas of English justice from the European acceptance of torture. Buried beneath the surface of his text are experiences such as that of Nathaniel Hawes, a young rebel robber 'persuaded' to comply with the law through the judicial application of *peine forte et dure*. Blackstone's representation of *peine forte et dure* offers analogies to recent US discussions of torture at Guantanamo Bay, but also provides an opening for what has in recent years become a new understanding of the value of tenderness as a legal standard. The privilege of presenting this work to the Adelaide reading group in the last week of my stay and the wonderful critique and encouragement I received from that group has benefitted the chapter immensely.

Other work resulting from the fellowship period included an essay, titled 'Heart of Agitation: Mary Wollstonecraft, Legal Agency and the Uses of Emotion', which is scheduled for publication in *Eighteenth-Century Theory and Interpretation* in 2016.

The impact of the CHE experience on my work has been long lasting. Returning to Adelaide in the later months of 2016, I gave a paper at Flinders University on the topic of my next book project (the Lisbon earthquake of 1755 and the development of the 'survivor' as the exemplar of the modern personality), while also having the opportunity to attend a symposium on 'Emotions, Media and History: Theory and Practice' sponsored by the Centre. Travelling north to Sydney, I attended the 'Emotions in Legal Practices: Historical and Modern Attitudes Compared' conference, funded again by the Centre, and presented a paper on legal melancholia (part of chapter three of my book project) to a wonderful audience composed of legal history scholars, sociologists and literary critics. Following that event, David Lemmings and I co-moderated a Postgraduate Advanced Training Seminar on Interdisciplinary Approaches to Law, History and the Emotions. This has resulted in an ongoing collaboration with one of the plenary speakers at that conference, Hila Keren,

culminating in a panel organised for the Law and Society conference in Mexico City (June 2017). Going forward, I have happily agreed to write an essay for a forthcoming collection (edited by David Lemmings) on emotional ties to national framing documents such as the Declaration of Independence.

In closing, I want to express my appreciation to the Australian Research Council for the many opportunities it has created both for me and for other scholars in this area. It really isn't possible to overestimate the impact of such support.