

SOCIAL FACTS, LEGAL FICTIONS, AND THE ATTRIBUTION OF SLAVE STATUS: The Puzzle of Prescription

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Hall of Graduate Studies
320 York Street, Room 211

LUNCH PROVIDED AT 11:30 AM.

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Nineteenth-century slaveholders sought the protections offered by the construct of “property in persons,” while evading several of the implications that property law might impose. Early civil law in Louisiana, for example, seemed to allow “freedom by prescription.” If a person had lived “as free” for a term of years, in effect possessing himself or herself, then he or she might challenge an effort at re-enslavement by the prior owner—on parallel with the rules for extinction of other forms of property ownership through the lapse of time. Aware of the possible implications in a city in which thousands of refugees from revolutionary Saint-Domingue were claimed as slaves, several of Louisiana’s most distinguished jurists sought to bury the doctrine. In this talk, Rebecca Scott explores the nexus of possession and status, tracing legal claims to liberty that rested on this shard of ancient doctrine.