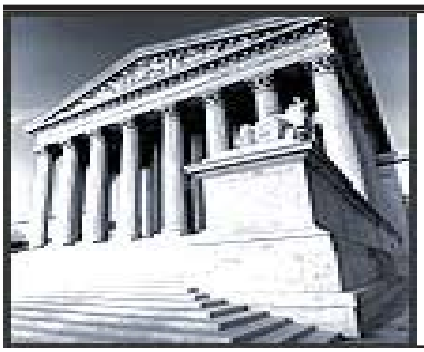


# LAW AND COURTS

*NEWSLETTER OF THE LAW AND COURTS SECTION OF THE AMERICAN POLITICAL SCIENCE ASSOCIATION*

**WINTER 2001**

**VOLUME 12 NO. 1**


## FROM THE SECTION CHAIR: HORROR, TERROR & THE COURTS


**C. Neal Tate**
*University of North Texas*


When I e-mail these words to Cornell Clayton for inclusion in the *Law and Courts Newsletter* it will have been just over two months since the World Trade Center tragedy and the horrible events that accompanied it. Like thousands of others who've had to write columns in that two-month period, I cannot avoid focusing on the events of September 11 and their aftermath. The images persist and, for the sake of all of us, I hope they will continue to persist. Huge airplanes transformed into flame storms as they crashed into mammoth buildings that dwarfed even their giant attackers. Growing incredulity as first one tower, then the other, became hundred story torches; as the third airplane struck the Pentagon; as we learned the story of the crash of a fourth airplane in Pennsylvania; and, most horrific of all, as first one tower and then the other imploded before our eyes, dooming from the beginning what had to be thousands of workers and rescuers and changing the world's most famous skyline forever.

For Americans, the dimensions of the tragedy are hard to grasp. We learned that the death toll from the violent attacks of September 11 doubled that of the defining attack of my parents' generation, Pearl Harbor. In the annals of American catastrophe, it nearly matches the death toll of the greatest natural disaster in United States history, the1908 Galveston, Texas hurricane, which killed an estimated 6,000 to 8,000.[1] In the annals of terrorist attacks, it stands alone.

Accompanying the human loss was (and is) an economic loss of a magnitude that is currently incalculable. The sources of the loss are multiple: infrastructure losses of many billions in New York and millions in Washington; thousands of lost jobs for those who survived the Trade Center tragedy; billions of dollars in lost traffic and related costs for the airlines, of increased security costs in airports and other transportation venues; millions upon millions of hours of lost productivity due to the


continued on page 3

## Instructions to Contributors

### General Information

**Law and Courts** publishes articles, notes, news items, announcements, commentaries, and features of interest to members of the Law and Courts Section of the APSA. **Law and Courts** is published three times a year in Winter, Spring, and Summer. Deadlines for submission of materials are: November 1 (Winter), March 1 (Spring), and July 1 (Summer). Contributions to **Law and Courts** should be sent to:

Cornell W. Clayton, Editor
**Law and Courts**
*Department of Political Science*
*PO Box 644880*
*Pullman, WA 99164-4880*
*509-335-2544*
*FAX 509-335-7990*
*e-mail: cornell@mail.wsu.edu*

### Articles, Notes, and Commentary

We will be glad to consider brief articles and notes concerning matters of interest to readers of **Law and Courts.** Research findings, teaching innovations, or commentary on developments in the field are encouraged.

Footnote and reference style should follow that of the *American Political Science Review.* Please submit two copies of the manuscript; enclose a diskette containing the contents of the submission; provide a description of the disk's format (for example, DOS, MAC) and of the word processing package used (for example, WORD, Wordperfect). For manuscripts submitted via electronic mail, please use ASCII or Rich Text Format (RTF).

### Symposia

Collections of related articles or notes are especially welcome. Please contact the Editor if you have ideas for symposia or if you are interested in editing a collection of common articles. Symposia submissions should follow the guidelines for other manuscripts.

### Announcements

Announcements and section news will be included in **Law and Courts**, as well as information regarding upcoming conferences. Organizers of panels are encouraged to inform the Editor so that papers and participants may be reported. Developments in the field such as fellowships, grants, and awards will be announced when posible. Finally, authors should notify *Helena Silverstein* at silversh@mail.lafayette.edu, of publication of manuscripts.

tragedy and its aftermath and to the security overhead that it has imposed on transportation and many economic activities; the costs of an ongoing war on terrorism whose full magnitude and duration are not known. I am not competent to make an exhaustive list, much less to guess the costs associated with the items that should be on that list.

From the beginning, we all recognized yet another loss that is a legacy of the September 11 tragedy. We all now feel a diminished sense of security, of confidence, of ease. For some of us, this loss has been merely an inconvenience, perhaps an irritation that we must endure more hassles as we travel. For some of us this loss has verged on the crippling, perhaps even the pathological. The advice of our leaders to keep behaving normally, to "keep on truckin," to use a vintage cliché, while maintaining vigilance, may be sound advice. But it does not completely restore our sense of ease.

It is this last loss that brings us, finally, close to the concerns of many of the members of the Law and Courts section. Our members bring different substantive, methodological, and ideological knowledge, skills, and convictions to their study, teaching, and research about law and courts. But one thing that unites a great many of us, though perhaps not all, is a fascination with the roles played by law and law-like rules — and the people who make, interpret, and litigate them — in establishing systems of rights and liberties that protect humans from arbitrary, especially repressive, treatment at the hands of their leaders. I suspect that, again for most of us, our fascination is based on a moral commitment to certain principles that we hope to see embodied in laws that do affect the behavior of leaders. We share a moral commitment to the rule of law.

Law and Courts members also recognize that when people have lost their sense of security, when they feel threatened, their commitment to the rule of law is also threatened. Expressions of concern about what might happen when the commitment to the rule of law is weakened by threats to security emerged very soon after September 11, as commentators reminded citizens of the obligation to protect the rights and security of citizens, residents, and visitors of Muslim faith or Middle Eastern and South Asian ancestry. Commendably, calls for respect for these rights and for protection of these individuals came from President Bush, Mayor Guiliani, and other prominent leaders.

Other threats to the rule of law emerged from the extraordinary efforts of law enforcement agencies to identify the conspirators responsible for carrying out the specific acts of terrorism of September 11 and those individuals and organizations who supported them. The wholesale roundup, detention, and presumed extended interrogation of terrorist suspects may or may not have been justified under the circumstances. But there is no question that it pushed (and pushes?) the boundaries of fair procedure, as we practiced it in our previous state of ease.

As I write this, contributions to the Law and Courts Discussion List focus on yet another governmental response to the events of September 11 and their aftermath that makes those who believe in the rule of law uncomfortable: the plan to set up and use special military courts, instead of the established civilian courts, to try notorious terrorists or suspected terrorists. Though it has historical precedent, those who believe in the efficacy of the rule of law cannot but be bothered by such a plan.

As we continue to reflect, at least on occasion, on September 11 and its aftermath, we Law and Courts members will continue to encounter this conflict between state needs and individual rights, between the laudable desire to protect and enhance our security and the need to restrain government to insure that we retain rights and freedoms that enrich the lives we live in a secure state. Some of us will explore this conflict through moral reflection, activism, teaching, and opinion leadership. Some may search for the precise principles and doctrines that will establish and support the practices that best protect rights and freedoms in these circumstances. Some may engage in investigations that seek to uncover through empirical means influences that explain both government repression and support for rights and freedoms. In so doing, we will, as a group, document the serious commitment to moral, legal, and empirical political analysis that is at the heart of the study of law and courts.

*The Business of the Section*
*Committee Appointments*

The major duty of the Section Chair in the days following the Annual Meeting of the American Political Science Association is to set up and staff the Section's major committees. With a couple of exceptions, I have done that. This year's committee appointments are listed elsewhere in this newsletter. The committees need your assistance. Please examine the committees, their functions, and their memberships carefully and communicate your nominations for Section officers and for section award winners directly to the committees.

*Continuing Exploratory Committee on Relations with the Law and Society Association*

I have asked Malcolm Feely to continue to serve as Chair of the Exploratory Committee on Relations with the Law and Society Association, which last year's Section Chair Shelly Goldman established. The Committee presented a most useful report to the Section at the Annual Meeting in San Francisco. That reported is reproduced elsewhere in this newsletter. Please read it carefully and send your suggestions and commentary directly to Malcolm (mmf@uclink4.berkeley.edu). The issues that this committee is considering are important ones, so please give it the benefit of your carefully considered advice.

***Notes***

1Assessing the magnitude of the human loss from the events of September 11 is not a contest; I have no interest in placing that loss in its proper rank order in the *Guinness Book of Word Records*. It demeans the loss to do so. But I can't help reminding myself and others how relatively fortunate we Americans have been in such matters, compared to the rest of the world. Natural disasters — earthquakes, storms, and floods — have on many occasions caused tens, even hundreds, of thousands of deaths, usually in poor countries. If one expands the concept "disaster" to include events that take place over several months or years, the greatest disaster in American history was the influenza epidemic of 1918, which took 500,000 lives in this country, but over 21 million worldwide. Ethnic and religious conflicts, and "small" wars also have accounted for tens or hundreds of thousands of deaths. Only a relative few of the 52 million killed in the world's greatest catastrophe of the last 500 years, World War II, were Americans. That seems likely also to be the case in the war on terrorism that is one of the consequences of the events of September 11. (These disaster data are drawn from the web site of Emergency Management Australia — see http://www.ema.gov.au/3managementcomminfo/hazards_book/annexa4.html).

# PREDICTION AS THE FOCUS OF A COURSE ON THE SUPREME COURT

**LAWRENCE BAUM,** *OHIO STATE UNIVERSITY*
*baum.4@osu.edu*

Teachers of courses on law and courts have a long tradition of using exercises and simulations to help students gain a better understanding of their subjects, such as the "appellate simulations" described by Charles Knerr and Andrew Sommerman in the Spring 2001 issue of *Law and Courts*. One technique is to have students predict how a court or individual judges will respond to a case before them. I teach a course on Supreme Court decision making in which the course as a whole is centered on an exercise in prediction. In this note I will describe the general approach and structure of the course.

In the course, students' primary responsibility is to write papers in which they predict the positions of three Supreme Court justices, one from each of the current Court's loose ideological groupings, in a case that the Court has accepted for arguments but has not yet decided. In adopting this structure, I borrowed the idea of establishing a central task for a course as a means to give students a concrete focus for their learning. My goals for the course are to help students enhance their analytic and research skills and gain a deeper understanding of judicial behavior.

The class operates simultaneously on two tracks. On one track, students work from scholarship in the field to develop theories of Supreme Court behavior that will provide frameworks for their research and their writing of the prediction papers. In the first two offerings of the course, students have read three books: Segal and Spaeth's *The Supreme Court and the Attitudinal Model*, Epstein and Kobylka's *The Supreme Court and Legal Change*, and Epstein and Knight's *The Choices Justices Make*. For each book I give students handouts that guide them through the book, they write short memos describing and critiquing the book's arguments, and we then discuss the book in class sessions. This track culminates with a session in which we discuss theories of Supreme Court behavior comparatively.

On the other track, students prepare to do research on the cases and justices for the prediction papers. I start with lectures on the Supreme Court's decision-making process and on legal materials. Other lectures and handouts deal with information sources on cases and justices.

As part of this track, we have periodic sessions in a computer lab for students to explore and use relevant sources. Three information sources have been especially useful: On the Docket, the website of the Medill School of Journalism at Northwestern University (www.medill.nwu.edu/docket), which provides information and links on pending cases; the LEXIS Academic Universe, which allows students to find relevant cases along with other legal materials and news articles; and Harold Spaeth's Supreme Court Database, which students use to analyze their justices' decisional records and to locate past decisions dealing with the same issue as their current cases. Because most students are accustomed to using websites, they need only limited help using the various sites (except for LEXIS, because of its complexities). Our students typically have little or no experience with databases, so I spend a fair amount of time working through the Supreme Court Database with them.

After students have had the chance to explore pending cases, each chooses a case and three justices. I like to have each student work on a different case, so I ask students to rank their three most preferred cases and then match students with cases on the basis of their preferences. Sometimes the structure of preferences makes it unavoidable that two students work on the same case. In that situation, the two students analyze different sets of justices. My experience thus far is that when two students have the same case, they sometimes share information and ideas (which I encourage), but they work independently on the papers.

As students work through the alternative explanations of Supreme Court behavior, they identify the kinds of information that they see as most relevant to their predictions. While students' theories of the Court differ a fair amount, there are three kinds of information that all students regard as important: the justices' past records in the relevant area of law and policy, the Court's record of decisions in that area, and the facts of the case. To a considerable degree, then, they are all carrying out the same basic kinds of research.

Over the term we gradually spend less time in the classroom and more time in the computer lab. But once students have begun research for their prediction papers, they need a class session in which I use one case as an example to show students how to integrate their theories and the products of their research into the paper. A few class days are left to be

used for other topics or additional lab sessions, depending on students' preferences and needs.

The prediction paper, due at the end of the term, begins with a student's theory of Supreme Court behavior. Two long sections follow, one that analyzes the pending case (largely in relation to prior cases) and another that analyzes the student's three justices. The papers conclude with predictions of the justices' votes and doctrinal positions that are based on the students' theories and their analyses of the case and justices. My experience so far has been that students generally do a very good job of building their predictions from the data, but they are not always so effective in following through on their theories. I will give greater attention to this linkage in the future.

The course number designates it as an upper-division class, and nearly all the students so far have been juniors and seniors. The course has an honors designation, so the great majority of the students have been in our honors program. But non-honors students have done well, and I think the key requisites for success are high levels of interest and motivation. Students in the class have ranged from those with several prior courses on law and courts to those with none at all. There has been virtually no relationship between students' prior coursework in the judicial field and success in this class. I do think that it is important to have a relatively small number of students; thus far, the class has had 10 to 20 students.

Most students have had some concerns about their ability to complete their prediction papers successfully, because the assignment initially appears to be quite formidable. But their concerns are reduced as they get started with their projects and begin to see how the various pieces of research and analysis fit together. The lab sessions have been a good vehicle for providing students with help on specific and general problems; while students are working on their own, they can call on me for assistance. How much help students need is partly a function of the cases they choose. Some cases are especially challenging because of their complexity or because of a relative dearth of relevant information.

We have a quarter system at Ohio State, but I have found that the ten-week quarter provides sufficient time for students to learn what they need to know and to carry out their research. One necessity is that the course be taught in fall. While full sets of briefs and oral argument transcripts are not yet available for all pending cases in fall, there is the important advantage that students' efforts to predict the justices' positions are unlikely to be pre-empted by early Supreme Court decisions—though this is a bit more likely in a semester system with its later ending date in December. (The few decisions released in fall tend to be in the kinds of uncontroversial cases that students rarely choose.)

I have been pleased with the overall quality of students' work and with what they learn from the course. I think that these good results reflect students' enjoyment of the opportunity to do independent work and of the challenges posed by the job of prediction, especially on an issue that interests them a good deal.

If you would like additional information on the course, you can get the syllabus and some of the handouts at psweb.sbs.ohio-state.edu/faculty/lbaum/classes/supreme.htm. You can also write me at baum.4@osu.edu.

# CONCEPTUAL CHASM OR SEMANTIC IMPRECISION? ARE DISAGREEMENTS BETWEEN ATTITUDINALISTS & INSTITUTIONALISTS DISTINCTIONS WITHOUT A DIFFERENCE?

**HAROLD SPAETH,** *MICHIGAN STATE UNIVERSITY*
*spaeth@msu.edu*

**HOWARD GILLMAN,** *U OF SOUTHERN CALIFORNIA*
*gillman@rcf-fs.usc.edu*

What follows is a transcription of email exchanges between the authors that took place in August 2001. The occasion was the publication in *Law and Social Inquiry* of a review essay by Gillman entitled "What's Law Got to Do with It? Judicial Behavioralists Test the 'Legal Model' of Judicial Decision-making" (26:465-504 [Spring 2001]). The essay used Harold J. Spaeth and Jeffrey A. Segal's award-winning *Majority Rules or Minority Will: Adherence to Precedent on the U.S. Supreme Court* (Cambridge, 1999) as a point of departure to discuss some of the differences in the way that attitudinalists and legalists think about and study legal v. political influences on judicial decision-making.

In their book, Spaeth and Segal attempt to differentiate legal and personal influences on decision-making by examining whether dissenting justices eventually support the precedents with which they initially disagreed; an unwillingness to vote along with the precedent in later "progeny" cases is taken as evidence that legal influences are being ignored in favor of personal preferences. Gillman had many nice things to say about the book, but he made two claims that Spaeth wanted to pursue in his emails: (1) many scholars (particularly law professors) may not agree with the assumption in MRMW that the only legal position available to a justice is to defer to a precedent and (2) institutional norms of acceptable judicial conduct may mitigate the influence of personal political preferences and other political calculations in judicial decision-making.

Given that Spaeth is a leading behavioralist-attitudinalist and Gillman is known as an interpretive-institutionalist, some might assume that we would agree about very little. However, our discussion revealed many points of agreement, especially on the influence of political ideology on Supreme Court decision-making. By sharing these exchanges we hope to show the value in moving beyond divisive methodological differences in order to focus on substantive agreement on the nature of judicial politics.

The exchanges begin with Spaeth's discussion of the *LSI* review essay, and then turn to some questions Gillman had about how Spaeth coded the result in *Bush v. Gore* for inclusion in the Supreme Court Database.

*****

Howard -
I certainly appreciate your devoting the time, space, and effort to a critique of MRMW. You do a fine job, although I do cavil over a few points, adumbrated below. It would be great if your effort produced action by your ilk providing empirical evidence to support their positions. However, I am not optimistic.

If precedent does not mean what we [Spaeth and Segal] say, why do the justices consider themselves bound to adhere to precedents from which they have dissented? [Precedents] have at least five votes and, given the recognition by the justices themselves, that is the sine qua non of what is constitutional and legal. So, unless you are prepared to assert the illegitimacy of this rule, any alternative viewpoint smacks of wishful thinking.

Why cannot your reference to "one's general training and sense of professional obligation" [as shaping judicial decisions] be equivalent to attitudes and values. I certainly believe that the justices' attitudes and values (i.e., their ideological orientation) encompasses general training and professional obligation. You certainly don't allege that an incompatibility exists between the former and the latter?

To your denial that the justices' lack "strong discretion" [Gillman claimed that judges often feel a sense of obligation to follow the law], I simply reply: Bush v. Gore. Or do you maintain that B v G is the exception that proves the rule? [Moreover,] what, pray tell, is "a sense of legal fidelity" that the justices presumably possess? How does one evidence it? Sounds like self-serving rhetoric to me.

With reference to [H.W.] Perry['s *Deciding to Decide*, which Gillman praised for its attention to legal and political influences on judicial decision-making]: I cannot speak to the cert process other than to say that his "evidence" is limited to the utterances of persons in the role of "flacks" who were not witnesses to proceedings to which he refers. I can assure you that the various justices' positions in the conference on the merits as summarized by Powell's docket sheets not unusually are either unvarnished statements of the individual justice's personal preferences or cloaked by reference to a precedent with which the justice agrees. "Legal" arguments, arguably unrelated to policy preferences, often surface among wavering justices, in cases where tactical considerations counsel delay or dismissal, and in cases where an ideological component is either absent or minimal. But in this last sort of case, discussion tends to turn on deference to the lower court, congress, administrative agency, or considerations of federalism.

I get the impression — and it is only that — that one of the major objections of you and your ilk to attitudinal analyses is our failure to specify the source of the justices' attitudes. Specification of attitudes need not extend to their genesis, their etiology. That's a task for shrinks.

In comparison with the general clarity of your essay, the conclusion bothers me. [Gillman was discussing the "difference between thinking of law as behavioral uniformity and thinking of it as good faith deliberation."] It sticks out like a Masai warrior in the midst of a bunch of Pygmies; particularly in the opposition of "behavioral uniformity" and "good faith deliberation," "legal and political decision-making," and "greater panel uniformity" and "a good faith effort to avoid partisan decision-making."

I enjoyed reading your essay. If my comments above lack a diplomatic touch, that's your problem, not mine. While I certainly do not intend to be deliberately callous, among scholars, diplomacy only has a place where a participant lacks the skill, knowledge, and/or intelligence to defend him or herself.
-HS

*****

Harold-

Always great hearing from you, Harold. I'm not sure "my ilk" and "your ilk" are all THAT different. At bottom I'm more of an attitudinalist than you might think.

As I tried to make clear, I think your treatment will be extremely persuasive to those who believe that justices are bound to support precedents from which they have dissented. For legalists who disagree with proposition the work will be less persuasive.

[You state that it is "wishful thinking" to believe that resisting precedent may be influenced by legal considerations. But] it's not a matter of wishful thinking; it's a matter of understanding what actual practitioners think (that is, it's an empirical question, not a normative one). If you are correct that "the contested precedent is the only lawful position" then any further resistance to that position is (by your lights) based on non-legal considerations. My guess, though, is that most practitioners (law profs and judges) disagree with your assumption -- not all, but most. Moreover, I think your co-author agrees with me that you provide no evidence that resistance to precedent is based on non-legal considerations.

[On whether a justice's general training is equivalent to attitudes:] I believe that most judges attempt to reconcile their attitudes/values/ideological orientations with their sense of professional obligation — they indulge their ideology whenever they believe it is legally acceptable to do so (which is most of the time, to say the least).

[On whether Bush v. Gore is the exception that proves the rule:] I think B v. G "is properly viewed as a rare example of purely partisan decision-making." It is certainly the least "attitudinalist" decision in a long time, if we assume that the attitudinal model is a model of ideological *policymaking* rather than a model whereby judges manipulate policy decisions depending on the litigants. Jeff Segal [stated to me in various correspondences] that the attitudinal model does not assume that judges base their decisions on the partisan affiliation of the parties. It's also pretty clear to most people that the B v. G majority betrayed their own policy preferences on equal protection and federalism to get a political result they wanted. So yes, I think B v. G is an exceptional case.

[On how one knows whether judges have a sense of legal fidelity:] One can't "evidence it" with behavioral methods. And it is very possible that professing legal fidelity is self-serving.

[On my conclusion:] Let me just accept the compliment about the clarity of the previous pages.... Just out of curiosity, though: Do you think that "principles of legality would be better promoted if, somehow, we discouraged dissenting justices from resisting disagreeable precedents"?

I always enjoy our exchanges, Harold. And I hope you will agree that I have never once complained about what others might consider a "lack of a diplomatic touch."
-HG

*****

Howard-
Based on your article, plus your replies to my comments, it appears that the difference between attitudinalists and you and your ilk is a reluctance to call a spade a spade, a reluctance to acknowledge the fact that the emperor appears sans clothing.

[On whether legalists might think that it is lawful to resist bad precedent:] Legalists who disagree with the binding character of precedent arguably aren't legalists, but rather attitudinalists masquerading as dutiful legalists. The law = the court's decision as explicated by the opinion of the court. Disagreement therewith = personal policy preferences, couched of course in legal verbiage and casuistic reasoning. Better to label such an attitude "preferential" than "non-legal."

[On the claim that judges attempt to reconcile their ideologies with their sense of professional obligation:] You don't answer my query. But that's ok. I believe that attitudes/values/ideological orientations include a "sense of professional obligation." The latter locates within the confines of the former.

[On whether partisan decision-making is inconsistent with the attitudinal model:] Nope. The attitudinal model encompasses both ideological policy making and the manipulation of policy decisions. I don't assume that the attitudinal model stipulates that justices base their decision on the partisan affiliation of the parties. But I emphatically do not deny that partisan affiliation may be a component of ideological policy making.

[On whether the Bush v. Gore majority betrayed their policy preferences:] No betrayal. As I documented in my early article on the myth of Frankfurter's judicial restraint, equal protection, considerations of federalism, and other such legal rubrics are instrumental values that serve substantive ends (e.g., freedom, business, affirmative action, capital punishment).

[On whether "legality" would be better promoted if dissenting justices deferred to disagreeable precedents:] Principles of legality would be more meaningful in the absence of such resistance.
-HS

*****

Harold:
[On whether my ilk is reluctant to call a spade a spade:] Well, I don't know. I'm sure this is true of some folks, "my ilk" and otherwise. But I don't know very many of my ilk who are unwilling to acknowledge judicial politics. The scholars I most closely identify with all emphasize the role of ideology in judging. I think the difference is that we occasionally also point out that, sometimes, there is more to SC decision-making than unfettered policy preferences. But we don't make those points because we're squeamish about the truth. We just think there are times when the evidence suggests more complicated motivations.

[On whether judges who disagree with precedent "arguably" aren't committed to legal interpretation:] Well, all the work in this sentence is being done by the word "arguably." And it's not for you or me to decide (ipse dixit) what makes someone a legalist. My own sense is that actual legalists (law profs, judges) believe that precedent is binding from a higher authority onto a lower authority (and there's evidence that judges on courts of appeal defer to SC precedent) but is not binding "horizontally" on SC justices who believe the precedent was wrongly decided.

[On whether resistance to precedent inherently reflects personal preferences rather than law:] Again, this conclusion is a definitional feature of your argument; it is not based on any other evidence of legal or non-legal influences. And for what it's worth, your co-author told me [when he reviewed a draft of the article] that he thought it was a mistake (misleading) to label the non-precedential votes "preferential," because he had no evidence whether those votes represented non-legal policy preferences or some other motivation. (He told me that he meant the word to mean "revealed preferences" not "personal policy preferences.") The only basis for concluding that these votes represent non-legal personal preferences is if one defines, a priori, the precedential position as the only legal position (which is your position). I acknowledge in my essay that if one accepts this definition then your conclusion follows. But let's be clear: you are simply labeling this behavior non-legal by virtue of your personal conception of what legitimately counts as legal; if others have a different jurisprudence then you have no independent evidence of whether resistance to precedent is motivated by legal or non-legal motivations.

[On whether I didn't answer the query about whether judge's attitude might be the same as a sense of professional obligation:] I don't mean to be evasive. It's not entirely clear to me what you mean when you say that the "sense of professional obligation" is located "within the confines of" conventional political attitudes/values, but I suppose you mean that a sense of appropriate judicial role is completely a by-product of general ideological considerations (so that if one is a conventional conservative they articulate a judicial role that allows them to promote conservative policy preferences, and the role has no independent "checking" force on those preferences).

I don't really disagree with that; in fact, if I have time, I want to write a piece on "Constitutional Theory as Conventional

Politics," which shows how the currents of post-New Deal constitutional theory simply reflects efforts of the law professorate to translate their conventional preferences into fancy theory talk. I assume that's a project you might like (even if I don't use behavioral methods to make the point). Then again, when it comes to judicial decision-making, I also think that there are institutional constraints on the sorts of political preferences that judges believe they are allowed to indulge.

[On whether judges use legal rubrics to promote substantive political goals:] We don't disagree that much; we're just so stubborn that we continue to place the emphasis on the thinnest points of disagreement. I agree that lots of legal rubrics are covers for substantive values. But I also think that the typical way in which judges promote their preferences is by articulating relatively consistent policy positions (rather than by articulating insincere policy positions in order to accommodate favored partisans). Don't we agree that, most of the time, these justices write what they believe? If so, then what I think is different about B v. G is that they articulated policy positions they did not believe just to get their guy elected. I don't think that happens that much.

[On the claim that legality would be better served if judges deferred to precedents:] That's what I thought you thought. I just wanted to point out that not everyone agrees with Spaeth's jurisprudence (whether it's more consistent with legality for justices to always abide by the will of the majority). That's why I say at the end of the piece that debates about legal influences "may have as much to do with the quality of our jurisprudence as with the rigor of our empirical methods."
-HG

*****

Howard -

I'm almost persuaded that the difference between us is words, labels. I communicate in plain, unvarnished, operationally relevant language; while you view the world through rose-colored glasses. I suspect that's because I define my terms in an intersubjectively transmissible fashion, and you don't.

The piece you want to write on post-New Deal con theory is definitely something I will want to read. It will undoubtedly document many of my assertions re Frankfurter and other self-righteous reactionaries. (Such a piece should go far to getting us both on the same track.)

Neither do I assume that the justices base their decisions on the partisan affiliation of parties, but the attitudinal model does not preclude such a basis.

I agree that judges promote their preferences "by articulating relatively consistent policy position's." Actually, I would say "highly" consistent.
-HS

*****

Harold:
There may be other ways of capturing the [difference between us than to say that you speak plainly and I see the world through rose colored glasses] (e.g, one of us is in the habit of adopting strict dichotomies while the other prefers nuance), but I won't push it....

[On whether the attitudinal model can accommodate ideological preference and partisan affiliation:] In the case of B v. G, this ability to move between policy preferences and party preferences makes the attitudinal model non-falsifiable — if the conservatives voted their traditional equal protection preferences you could label the decision conservative even though Bush loses; if they sent aside those policy views in favor of a pro-Bush result the decision is conservative for partisan reasons.

[On whether judges articulate "highly" consistent policy positions:] Agreed!
-HS

*****

[Moving on to Bush v. Gore and the Spaeth database.]

Hiya Harold. Another question about coding.

Back in January you told me that you were going to code the B v. G majority as having voted "conservative" because "the effect of the vote effectively denied persons of the right to (a consequential) vote." Now, I'm trying to reconcile this with the statement in the database documentation (p.55) that in "civil rights" cases the liberal code (=1) will be used when the vote is "pro-civil rights claimant." Why doesn't that accurately describe what the B v. G majority did? You offer the same coding on "issues relating to judicial power" when the Court acts in a way that is pro-judicial power (or judicial activism). On federalism you code liberal when the decision is "pro-federal power" or "anti-state" (56).

Am I missing something in the language of the documentation that would help me understand why B v. G would be coded as conservative despite these guidelines?

You might have simply used your discretion to deviate from these guidelines, and that would seem reasonable to me. If

so, can you give some other examples of such deviations over the past few years?
Best, HG

*****

Howard,
You are quite correct. The decision in B v G computed with nothing that had been decided previously. Hence, my coding does not comport with the outcome. But it does comport with the ideological orientation of the justices. All I can say is that one cannot categorize decisions in which a subset of the justices redefines the categories. And that's my view of B v G.

I know of no other instances in the database where this situation prevails. That's not to say there might not be a few others; only that I do not recall any.
-HS

*****

Harold,
But hey, in light of this, why give me such a hard time when I say that B v. G is an exceptional case??
Best, HG

P.S. What do you mean when you say that "a subset of the [justices] redefine[d] the categories"? Isn't it more accurate to say that a conservative coalition atypically supported a liberal legal-policy outcome?
-HG

*****

Howard,
If I denied that B v G is an "exceptional" case I meant it in the sense that the majority behaved as dedicated ideologues. I certainly did not deny that it was exceptional in the sense of adverse criticism (Webster's Dictionary) — that the decision was an unconscionable arrogation of power.

Your query and my response further illustrate the nebulosity of English as a language; hence, further evidencing the fatuousness of those who attend to what the justices say rather than their actions.

-HS
*****

Harold,
I also agree that [the decision] was unconscionable. But I just don't know how it could be unconscionable and also typical of normal SC decision-making. I know this is an error of logic (which, you'll agree, has never stopped me), but I feel more comfortable offering a normative critique if I can argue that the decision was empirically out-of-the ordinary. If one can just plug B v. G into SCAM [the attitudinal model] then it seems to me that the decision is natural, normal, routine, predictable.

And for me, the way to distinguish the outcome from ordinary judicial politics is to emphasize the difference between ideological (legal-policy) voting (what SCAM proves) and partisan justice (which SCAM does not predict — thank goodness). I think it's important to emphasize that the B v G conservatives were willing to vote insincerely in favor of a liberal conception of equal protection, just to help their buddy get elected. I guess that's why I think the record would be more accurate if the database labeled their vote liberal. It's just too bad that you can't add an asterisk to the coding — the Spaeth database equivalent of Roger Maris' home-run record.

[On the nebulosity of the English language:] Well, my experience is that you and I can use language in a way where we come to a better understanding of each other. I agree that it is a more open question whether we will better understand the Supremes by reading what they write.
Best, HG

*****

Howard,
C'mon now. Unconscionability is atypical of SCT decision-making? I certainly think Lochner and its protřgřs, on which you have lavished much attention, exemplify the compatibility of the two: unconscionability and typicality.

Yes, I do consider B v G "natural, normal, routine, predictable." Jeff and I did predict it, as you so kindly pointed out. I will agree, however, that "routine" is a stretch, but by no means beyond the pale.

I disagree that the attitudinal model does not predict partisan decision-making. When ideology and partisanship coincide, the attitudinal model handles it. In other words, I see no disjuncture between ideology and partisanship. The latter may be irrelevant to much of the former, but certainly not to its totality. Much conservative voting accords with GOP-ism and liberal voting with Democratic policy.
-HS

*****

Harold,
You're right. Unconscionability is not atypical. (Thankfully, I even say that in my upcoming B v. G book.) And the Court has done much worse than B v. G. But I still think B v. G is bad in a different way. Lochner, Dred Scott, etc. are all examples of people believing in bad ideologies. I don't think there's any doubt that Peckham and Taney believed what they wrote. By contrast, I don't think anyone really believes that the B v. G majority believed what they wrote.

[On how the attitudinal model handles situations when ideology and partisanship coincide:] Agreed. But usually the justices translate their partisan agendas into ideological legal policies. They don't trump their legal-policy preferences in order to help a favored partisan.
Cheers. HG

*****

Howard -
I think you are right: that the B v G majority justices do not believe what they wrote, unlike Taney, Peckham, et al. But it would really be nice to have documentation. Maybe somebody took notes of that conference and will leave them to posterity.

And you are definitely correct that the justices do not trump their legal principles with partisan folderol.

So, after all these exchanges, we are on the same wavelength. Would that that could be said for the generality of squishes (for lack of a better term; I don't know of one more precise; so I'll just tar all your brethren with a single label. Never let it be said that I shy from generalization.).

-HS

*****

Same wavelength. Imagine that. What would people say if they knew?

Best wishes,
A Squish

# REPORT OF THE EXPLORATORY COMMITTEE ON RELATIONS WITH THE LAW AND SOCIETY ASSOCIATION TO THE EXECUTIVE COMMITTEE OF THE LAW & COURTS SECTION

**MALCOLM FEELEY,** *UC BERKELY*
*mmf@iclink4.berkely.edu*

In fall 2000 Sheldon Goldman, Chair of the Executive Committee of the Law and Courts Section of the American Political Science Association, established the Exploratory Committee on Relations with the Law and Society Association (LSA). The Committee was formed in light of the ongoing concerns of a number of Law Courts Section (LCS) members about a possible growing divide between the political scientists who identified with Law and Society Association and others who identified with the Law and Courts Section.

Chair Goldman's charge to the Committee was to "determine whether it is appropriate and feasible to develop institutional links between the Law and Courts Section and the Law and Society Association and if so, what shape those links ought to take." He then went on to expand this charge: "The Committee may also wish to determine whether those members of our section with law and society interests are being adequately served by the Section and if not what steps ought to be taken within the context of the diverse section of political scientists whose common denominator is a specialization in the politics of law (broadly defined)."

The Committee was unable to meet as a group, but over several months shared ideas through round-robin e-mail exchanges and occasional telephone calls. We initiated a conversation with officials in the LSA, which has taken off only in recent weeks. For this reason this report is only an interim report. Part I summarizes our conversations with the LSA and identifies some possible links that the Committee hopes to explore further with LSA; Part II identifies a number of benefits that LCS members gain, or can gain, through association with LSA; Part III examines some things the Section might do to better serve its diverse membership; and Parts IV and V briefly summarize our major conclusions and offer a set of recommendations for further action.

**I. Response of L&SA to the Charge of the Exploratory Committee: A Conversation Initiated**

The first order of business for the Committee was to contact Ron Pipkin, Executive Director of LSA, and Lynn Mather, President-Elect (now President) of the LSA, to explain the Committee's charge and to request some figures on the numbers of political scientists who have been active in the LSA (as officers, trustees, editorial advisory board members, *Law & Society Review* authors, etc.).

Pipkin was concerned that the LSA not become involved in controversies within any of the disciplines (an issue that has arisen from time to time in the LSA), and pointed out that historically LSA has tried not to emphasize or even identify people by discipline (other than to provide affiliations and addresses). As a consequence, he was unable to provide figures on the participation rates of political scientists in the various activities of the LSA. Lynn Mather, President-Elect of the LSA (now President), a political scientist and a long-time active member of the LCS, was also cautious. She too emphasized that the LSA made a concerted effort to avoid disciplinary boundaries and sought to avoid involvement in intra-and inter-disciplinary controversies. More generally, she felt that LSA has roughly the same sorts of intellectual divisions as does the LCS, and recommended that the central task of the Committee should be to identify steps the Section might take to better introduce younger members of the profession to the discipline and to identify the array of organizations they might join and journals in which they might publish (including the LSA and its *Review*) which would be helpful in their careers.

In conversations, both Pipkin and Mather have expressed interest in exploring the possibility of joint LCS-LSA activities, such as co-sponsoring international and regional meetings in the U.S., and joining in a consortium with still other organizations to sponsor other events, and to collate and disseminate information about research and conference opportunities in the law and social science community. This discussion has only just begun. Each possible link raises a host of questions about the benefits and the costs to both organizations. Thus any serious proposal to establish formal links will emerge only after a slow and deliberate process. Still, we are encouraged by this beginning.

If the discussion above reveals some degree of reluctance or at least caution on the part of LSA officials, we want to state emphatically that this does not indicate any lack of interest on LSA's part in attracting and welcoming political scientists

into the various activities of the LSA. Historically the LSA has been an open organization. And, both Pipkin and Mather pointed out that large number of political scientists, representing all sorts of perspectives, have long been active in LSA and regularly publish in the *Review*. These judgments are certainly borne out in the discussion immediately below.

**II. The Importance of the LSA for Political Scientists**

In the absence of figures supplied by the LSA, this Committee surveyed every issue of the *Law and Society Review* from Vol. 1, No.1 through the most recent issue to record information about the disciplines of those who have played a major role in the life of this organization. (The LSA was established in 1964, the *Review* began publication in 1966.) Our figures reinforce Pipkin's and Mathers' claims that political scientists have been very active in the Association and its various activities. During this period, political scientists have constituted roughly:

- -one fifth (four of 21, with a fifth law professor having a joint appointment with political science) of those of who have served as the LSA's president
- -one third of those who have served on the LSA's Board of Trustees
- -one third of those who have served on the LSA's *Review's* editorial advisory board
- -one third of all those who have published in the *Review*

Many of these political scientists have also been active in the LCS.

What holds overall and historically, also holds for the very recent past. By way of example: -Lynn Mather ( Dartmouth) is President; Michael McCann (Washington) is a nominee for President-elect; Kim Scheppele (U. Penn) is Treasurer; John Brigham (Umass-Amherst), and Stuart Scheingold (Washington) are in the just-retiring class of the Board of Trustees; Lee Epstein (Washington of St. Louis) is Associate Editor of the *Review*; Helena Silverstein (Lafayette) is the *Review's* Essays Editor; Joel Grossman (Johns Hopkins), Karen Orren (UCLA), and Gerald Rosenberg (Chicago) are on the *Review's* Editorial Advisory Board; Stuart Scheingold received the 2001 Harry Kalven Award for distinguished scholarship.

-LCS members continue to actively participate in the annual meeting of the Law and Society Association, and political science, along with law, and sociology, continues to be one of the three largest disciplinary groups represented in the LSA.

-Political Scientists (most if not all of whom are LCS Section members as well) continue to actively publish in the *Review*. In the last four issues (Vol. 33, No.4; and Vols. 34, Nos. 1,2,and 3), twenty-two of a total of fifty-two authors or co-authors of articles, research notes, or review essays have been trained as political scientists and/or hold positions in political science departments. Their topics and methods vary widely: appellate court judicial behavior; historical studies of law in the US, and cross-national studies of courts and criminal justice.

In short, several indicators reveal that political scientists have occupied and continue to figure prominently in the LSA and its *Review*. Furthermore, these political scientists cannot easily be characterized. Their interests, approaches, methods, and the like range far and wide. We cannot assert that all areas of interest among LCS members also flourish in the LSA, but the vast majority do.

**III. LSA membership and participation benefit LCS members and are likely to benefit still more LCS members**

The figures above reveal an important reality: political scientists are active in the LSA, frequently publish in its *Review***,** and can and do enhance their scholarly careers through their connections with LSA. LSA is an obvious organization for empirically-oriented public law scholars, whatever methods and techniques they employ, to develop their scholarship and careers. This should be evident from the list of benefits enumerated above. But apart from these obvious benefits, LSA provides a number of important if less-obvious attractions to many LCS members. We identify some of them below:

1) **Innovative research and interdisciplinary research and communication**. By now it is commonplace to observe that cutting-edge research is often the result of cross-disciplinary fertilization. Because it is interdisciplinary, LSA—like the Public Choice Society and the Law and Economics Association, Legal History, and other associations—offers a wonderful opportunity for the incubation of new ideas. Ample evidence of this is found in the pages of the Review, LSA's special programs at annual meeting, and its special programs for young scholars and graduate students.

2) **The LSA's inclusive program structure**. An individual can almost be assured of being able to present a paper and being placed on a more-or-less connected panel at the annual meeting of the LSA. Although this "open-admissions" policy has drawbacks, it also has benefits. Scholars can be assured of a forum in which to present their work. In addition, it is relatively easy for groups of scholars to organize a panel or series of panels on topics of their choice. Indeed, one of the great strengths of the LSA's annual meeting is the coherence of such pre-planned panels, often consisting of members of loosely associated clusters of scholars who are engaged in an ongoing analysis of topics of mutual interest, and at times

engaged in collaborative research. Thus the open-admissions program policy provides convenient fora for both individual scholars and organized clusters of like-minded scholars.

3) **Working Groups**. In recent years, the LSA has facilitated the formation of working groups, clusters of like-minded scholars who participate in ongoing collaborative discussions and research projects. These groups regularly schedule special panels at the annual LSA meeting as well as elsewhere at other times. This European-inspired form of scholarly organization has been immensely successful within the LSA. It helps break up large anonymous meetings. It brings coherence and continuity to individual panels and groups of coordinated panels. It provides a convenient forum for facilitating continuing scholarly interaction. It facilitates scholarly collaboration. At times it results in innovative products. By facilitating these working groups (largely by coordinating the formation of working groups and permitting them to operate under the auspices of the LSA), the LSA is making an immense contribution to scholarly development.

Although working groups are relatively new to the LSA, they have already precipitated an impressive body of research. One such group has focused on "cause lawyering." Organized by Stuart Scheingold and Austin Sarat, to date this project has resulted in the publication of two edited volumes and plans for a third. This group has involved dozens of scholars from a number of different countries. Another working group, organized by Terrance Halliday (US) and Lucien Kirpik (France), focused on the role of lawyers in fostering liberal political regimes. (A dozen members of this group, again from several different countries, have produced a masterly edited volume, *Lawyers and the Rise of Western Political Liberalism*.) Still other such working groups are under way. Most involve some political scientists, and several should be of interest to LCS members. For instance, a working group on judicial independence is currently being formed.

Indeed, we would like to be able to recommend that the LCS emulate this development, but because of the severe limits on the numbers of panels assigned to the LCS at the annual meeting of the APSA, as well as the limited resources of the Section's Executive Committee, and still other factors, this is not likely. (Although in Part IV, below, we urge the LCS to press for still more decentralization in the APSA's governance and organizational structure in ways that would strengthen the capacities of its organized sections). However, what can exist as only a dream for the LCS and the APSA, is in fact a reality for the LSA. There are any number of interests shared by members of LCS which could profitably be pursued through this umbrella program of the LSA. (We hasten to add that the LSA is not alone in fostering creative research and conference formats. The accomplishments of the Comparative Judicial Politics [CJP] Section of the International Political Science Association [IPSA] has also been active and innovative. In many respects it has functioned as an international working group for public law scholars interested in comparative studies of legal institutions, and has facilitated the publication of a number of important scholarly works.)

4) **Comparative Research**. In recent years, there has been an explosion of interest in comparative law, courts, and politics among LCS members. One measure of this is seen in the success of the Comparative Judicial Politics Section of the International Political Science Association, mentioned above. Another is the recent increase in papers and panels on comparative law and judicial politics at the LCS panels at the annual meeting of the APSA. But perhaps the most dramatic show of increased interest in the study of comparative law and courts is found in developments in the annual meeting of the LSA and in the articles in the ***Law and Society Review.***

This is not by accident. In recent years the LSA has made a concerted effort to "internationalize." It now holds every fourth or fifth annual meeting abroad, and in so doing has successfully attracted large numbers of empirically-oriented scholars interested in socio-legal studies from around the world. It consciously recruits non-American scholars to serve on its Board of Trustees, the advisory board of the *Review***,** and to participate in panels at its annual meetings (both those held in the US and abroad). And increasingly, despite quite different scholarly publishing traditions, non-American scholars are publishing in the *Review*. Much of this scholarly activity taking place under the auspices of the LSA is or should be of great interest to LCS members, since topics include comparative studies of judicial behavior, judicial independence, the legitimacy of law, legal institutions and judiciaries in newly-emerging democracies, the expansion of judicial review, the nature and function of trial courts—indeed nearly the whole array of research interests employing a range of methodologies is found among members of the LCS.

There is still another important reason why LCS members would be well-advised to take advantage of these developments within LSA. Scholarly division of labor varies widely from country to country. In many places, it is sociologists, lawyers, and historians—and *not* political scientists—who are most likely to be engaged in empirical work on law, politics and courts. Where so, American political scientists interested in comparative studies are more likely to find compatible research reports, colleagues, and collaborators outside the discipline than within it. The LSA provides an important location for such connections, one far better than other political science meetings.

5) **Significance of the Law and Society Review for political scientists**. The **Law and Society Review** is a highly

competitive, peer-reviewed journal in which fewer than one in ten submissions is eventually published. Several of its editors have been distinguished political scientists who have been active in the LCS, and several others have been social scientists who are held in great esteem by political scientists. Surveys on journal reputations among political scientists reveal that the ***Review*** is well regarded among political scientists generally. And as we noted above, political scientists publish in it with great regularity, and it enjoys a reputation for both rigor and quality. In short, the ***Law and Society Review*** is a prestigious outlet for reporting the scholarly work of many members of the LCS.

6) **The divisions and arguments with LCS are paralleled by divisions and arguments within the LSA**. Unlike economics, political science does not have a dominant theoretical perspective. But like economics, it embraces both positive and normative interests. It is thus fated to be an especially eclectic field of scholarship. This is likely to generate continuous tensions within the discipline, tensions that appear to us to be unavoidable, especially during periods when dominant paradigms are under challenge and new ones are emerging. In light of this, we think that it would be a mistake to think that political scientists should "move" to the LCS from the LSA or from the LCS to the LSA in order to find a more "compatible" group of scholars. Although LSA is much larger and more inclusive, both organizations have the same divisions and rifts and same sorts of challenges. Many debates about "too much of" or "too little of" this or that are heard in the halls at the annual meetings of both associations.

As an eclectic discipline, the organizational challenge for political science is to find ways to allow its diverse strands of scholarship to thrive. One way to facilitate this is to encourage multiple memberships in scholarly associations and to foster joint institutional activities where possible. It is likely that some political science public law scholars would be well-served to connect with any of a number of inter-disciplinary associations, e.g. public choice, law and economics, criminology, social theory, public policy, legal history, and various international organizations such as the Comparative Judicial Politics Section of IPSA. But because it is designed to be an inclusive organization, the LSA is a particularly attractive place for all scholars who share a common interest in studying law as an important form of social and political ordering, and seek to examine its institutions empirically. Whatever their interests, most political science public law scholars could profitably benefit from a connection with the LSA and its *Review*. In emphasizing its many benefits, we do not claim that LSA would be of great value to all LCS members. Those scholars with primarily philosophical interests might be better served by establishing connections with other inter-disciplinary organizations focusing on legal philosophy. Still, LSA is likely to provide a useful institution for those public law scholars with an interest in the empirical analysis of law, legal institutions, and legal mobilization.

**IV. Ways the LCS might be more responsive to the needs of its diverse membership**

A substantial challenge facing the LCS is how to deal with the interests of its diverse membership. It must serve the needs of scholars interested in game-theoretic models of judicial choices, attitudinal explanations of judicial behavior, historical studies of judicial development, comparative judicial behavior, constitutional doctrine, the impact of law, legal mobilization, law and culture, and still other areas of scholarship, whether they employ historical, interpretivist, post modern, or positivist methodologies. This challenge is all the greater in light of the limited numbers of panels allotted to the LCS (and public law more generally), and the limited space in the *APSR*. Still, as "the" section for public law scholars broadly conceived, LCS has no choice; it has an institutional obligation to balance these concerns and to press for balance within the APSA's governing bodies and in the *APSR*.

We think that over the years, the Section leadership (and APSA Program Committee) has done an admirable job in this balancing act. To the extent there are divisions that occasionally lead to divisiveness within the Section, we believe that this is indicative of the discipline as a whole. Indeed, we suspect that the LCS has probably experienced less bitterness than other groups within the APSA.

Still, there are problems. As a committee, we have no recipe as to how to respond to them directly. However, we do have some observations and a few modest suggestions. The divisions and disputes are probably inevitable and even healthy. But they are probably exacerbated by two problems that can be addressed: the by-products of success of the APSA as an organization, and the shifting (and growing) paradigms in the social sciences.

The success of APSA has led it to grow into a mammoth organization whose membership has a vast array of different interests and orientations, and whose traditional structures may have outgrown their usefulness. Like some other discipline-based associations in the United States, the APSA has grown so large that it must, we believe, actively and aggressively seek new ways to function more effectively. In our view this should involve greater decentralization, establishment of semi-autonomous sections, experimentation with new forms of publishing ventures, exploring the possibility of section-based meetings, and the consideration of still other

innovations. In our view, the Law and Courts Section leadership should continue to press the Association to be more innovative and to seek ways to strengthen its section-based activities. Below we offer several specific suggestions. The Section should:

1) press the APSA leadership to reduce the numbers of panels offered solely by affiliated groups so that the Section and the Program Committee can organize more panels. (And at least in the case of the LCS, the Section should assume responsibility for organizing all APSA convention panels.)

2) press the APSA leadership to explore still more ways to decentralize its functions. The recent decision to divide the current APSR into two publications—an articles journal and a journal of reviews—is a good move, but one that is long overdue. (We note that the American Sociological Association did this years ago, and with great success.)

3) expand efforts to provide support for graduate students and young scholars in our sub-field, perhaps by offering more "day-before" short courses and workshops in conjunction with the annual meeting of the APSA, summer institutes and the like. The Section should also consider ways to develop and strengthen mentoring programs for young scholars, particularly those at smaller schools.

4) foster wider communications among socio-legal scholars of all stripes, legal philosophers, and law and history scholars. We offer a couple of suggestions by way of illustration: LCS might facilitate access to a host of different ListServe bulletin boards and the like, linking it with other socio-legal and related organizations (e.g. LSA, ASA, Law and Economics, Constitutional Law, etc.). (Indeed, this might be a service facilitated by an institutionalized link with LSA.) The Newsletter, an important communications link in facilitating some of the ideas discussed immediately above, might expand coverage of announcements of forth-coming socio-legal conferences, funding opportunities, and related activities, and provide this information earlier so that it can be of greater value to members. (This service too might best be undertaken by a consortium of groups, which could disseminate information in each of their several separate newsletters.)

5) consider establishing and sponsoring a Law, Politics and Courts Journal. Committee members differ in their assessments of the need for such a journal, but all are in agreement that the idea should be explored.

And to, (6) cover the costs of the sorts of activities suggested above, the LCS officers, in conjunction with officers in other APSA organized sections, should explore the possibility of "revenue-sharing" with the APSA, i.e. transferring some portion of APSA dues to the sections for their use, or alternatively consider increasing its own dues.

Not all Committee members feel equally strongly about all the observations above. But these suggestions are not intended as a blueprint for any comprehensive plan for action. Rather, they reflect our belief that many of the problems perceived to be Section-based are in fact better understood as consequences of the unwieldy structure of the APSA more generally and the value of greater communications. If we are correct in this, our comments may offer insights in to ways to restructure the APSA and renegotiate the relationship between the sections and the central APSA structure. In our collective view achieving greater decentralization within the APSA and correspondingly granting greater autonomy and more responsibility for the sections is perhaps the single most important way that the Law and Courts Section can better serve the needs of its diverse membership.

**V. Conclusions and Recommendations**

This committee was charged with two basic tasks: to explore the possibility of institutional links with the Law and Society Association, and to determine whether the members of our section are being adequately served by the Section. We are not certain whether we have adequately addressed either of these issues. But we think that we have made a good start on them. It is appropriate to note some of the things that we did not do. The scope of the Committee's report was affected by its first charge, to explore whether "it is possible or feasible to develop institutional links" with the LSA. In considering the spirit of this charge in light of the second charge—to explore what else the Section might do to better serve its members—we might reasonably have explored possible ties to still other organizations. We did not do this, in part because the task might quickly have mushroomed beyond our abilities. However, we do note the value of exploring the development of consortia with other socio-legal organizations. Nor did we delve deeply into the several divisions within our sub-field, other than to suggest that within our Section at least, they might be amelioraed somewhat by greater decentralization within the APSA. More generally, we think examination of this issue is important, but might best take place within the APSA as a whole rather than within the sections.

1) The Committee has established, clearly in our view, that the Law and Society Association can and has provided an important scholarly connection and outlet for large numbers of highly successful political scientists, and that it has much to offer LCS members as individuals. In addition, it has begun an important conversation with LSA officials exploring possible institutional links that might further enhance these connections. But this conversation has only just begun, and needs to continue.

2) The Committee has reviewed some of the problems within the Section and found that they are reflections of problems within the APSA more generally. Under the circumstances, we believe that the Law and Courts Section manages to deal with these problems fairly effectively. However we do suggest that the Section meet this challenge by continuing to press for even more decentralization within the APSA and more autonomy for the Section. If successful in this endeavor, the Section is likely to have the capacity to sponsor an even greater number and variety of panels at the annual meeting of the APSA, and provide still more services for its members (some of which are suggested in the text above).

The report above makes a number of suggestions. But most of them are intended to stimulate discussion and debate within the Executive Committee and the Section more generally. They do not, in our view, require any specific action at this time. However, two of the issues we discussed above do merit action in the near future. Thus we conclude with two recommendations for action by the Executive Committee:

1) That the Executive Committee extend the charge of this Committee for an additional year so that it can continue to explore the development of institutional links with the Law and Society Association, and that this committee report to the Section at its next annual meeting, fall 2002;

and that, (2) The Executive Committee establish a separate committee to explore the desirability and feasibility of establishing a section-sponsored journal, and that this committee report to the Section at its next annual meeting, fall 2002.

# BOOKS TO WATCH FOR

**HELENA SILVERSTEIN**
*LAFAYETTE COLLEGE*

In *A Strike Like No Other Strike: Law and Resistance During the Pittston Coal Strike of 1989-1990*, **Richard A. Brisbin, Jr.** (West Virginia University) offers a compelling study of the exercise of political power. The miners' strike against Pittston Coal in 1989-1990, which spread throughout southwestern Virginia, southern West Virginia, and eastern Kentucky, was one of the most important strikes in the history of American labor, and, as Brisbin observes, "one of the longest and largest incidents of civil disorder and civil disobedience in the United States in the second half of the twentieth century." The company aggressively sought to break the strike, and workers and their families used a variety of tactics—lawful and unlawful—to resist Pittston's efforts as the situation quickly turned ugly. In considering the legal significance of the strike, Brisbin asks the larger question of whether even extreme transgression or resistance can fracture the "imagined coherence of the law." He shows how each party in the strike invoked the law to justify its actions while attacking those of the other side as unlawful. In the end, both sides lost; although the U.S. Supreme Court ultimately ruled in favor of the union, most of the strikers faced elimination of their jobs and an ongoing struggle for pensions and health benefits. *A Strike Like No Other Strike* will be available in early 2002 from The Johns Hopkins University Press.

Worldwide, hundreds of thousands of private firms have adopted or are considering adopting Environmental Management Systems (EMSs)—internally managed systems for improving environmental performance. In *Regulating From The Inside: Can Environmental Management Systems Achieve Policy Goals?* (The John Hopkins Press, 2001) the works of leading scholars are assembled to provide a comprehensive analysis of EMSs. Edited by **Cary Coglianese** (Harvard University) and **Jennifer Nash** (Harvard University), this volume is organized around two critical questions: How have EMSs worked in firms that have already adopted them? What potential and limitations do they have as policy tools in the future? Addressing the arguments of both advocates and the skeptics, the chapters examine why firms adopt EMSs; how firms implement EMSs; how EMSs answer concerns about fairness, corporate social responsibility, and sustainability; and what kind of impact EMSs may have on the global economy.

**Del Dickson** (University of San Diego) offers a behind the scenes perspective on secretive decision-making processes in *The Supreme Court in Conference 1940-1985: An Unprecedented Look at the Private Discussions of Nearly 300 Supreme Court Decisions* (Oxford University Press, 2001). This book brings together, for the first time, the private discussions that shaped the court's decisions in landmark cases, including *Brown v. Board of Education*, *Roe v. Wade*, and many more. This work provides entrance into the Court's inner sanctum, the highly secretive conference room, where the justices argued, changed their minds, cast their votes, and laid out the legal—and political—reasoning behind their decisions. Far more candid than the polished public opinions of the Court, these conference notes provide unique insight into how Justices decide cases.

In *Decisions on the US Courts of Appeals*, **Ashlyn Kuersten** (Western Michigan University) and **Donald Songer** (University of South Carolina) present both institutional information on these lower federal courts, as well as practical usage information on utilizing the databases currently available to explore these courts. The authors provide detailed information on the Courts of Appeals, the characteristics of cases decided by them, the judges (both past and present) presiding, the litigants, and the Appeals Court database. Both SAS and SPSS statistical program files are also included to enable users to merge the Appeals Court database with the Supreme Court database and the Attributes database. *Decisions on the US Courts of Appeals* is now available from Taylor and Francis Press.

*Women in the Barracks: the VMI Case and Gender Equality*, by **Philippa Strum** (CUNY - Brooklyn College and Woodrow Wilson International Center for Scholars) will soon be available from the University Press of Kansas. The book examines the legal and socio-cultural origins of the U.S. Supreme Court ruling ordering the Virginia Military Institute to open its doors to women. While it discusses such aspects of the case as women and the military and women and higher education in the South, the book draws heavily on the Virginia media, transcripts of the legal proceedings at various stages, and interviews. Those interviewed include Supreme Court justices Ruth Bader Ginsburg and Antonin Scalia, VMI's attorneys, lawyers for the Civil Rights Division of the Justice Department (which brought the case), attorneys from various pro bono organizations that involved themselves in the litigation, and VMI administrators, faculty, and students. The book puts the case in historical perspective, beginning with two chapters

on the history of VMI and military education in the South. At the other end of both the volume and the story, there are two chapters on life at VMI after the Court handed down its decision, examining the way VMI has and has not adjusted itself to the presence of women cadets and raising the question of whether "assimilating" women into all-male institutions constitutes meaningful equal protection.

*Great American Lawyers: An Encyclopedia*, edited by **John R. Vile** (Middle Tennessee State University) was published by ABC-CLIO in June 2001. This two-volume work features 100 essays about American lawyers from the Seventeenth Century to the present. Written by political scientists, historians, and lawyers, the essays range from 2500 to 5000 words and are followed by short bibliographies. Each lawyer is pictured in the book. The two-volume work is introduced by an essay describing the role of lawyers in America and explaining how lawyers were chosen for inclusion in the volumes. In addition to serving as a useful reference, these volumes help to demonstrate the important role that lawyers have played in influencing the development of American law.

The second edition of *Historic U.S. Court Cases: An Encyclopedia* was released by Routledge in September 2001. Edited by **John W. Johnson** (University of Northern Iowa) this reference book examines major cases affecting American society. Johnson's revised second edition, which follows the first edition by a decade, reflects scholarly analysis of American legal history to demonstrate how the legal system and its outcomes have affected our lives. The 201 essays of varying lengths, based upon the case significance, consider a wide variety of legal and social issues. Approximately one-fifth of the essays are new to the revised edition, and include such recent topics as the Microsoft antitrust case, the Clinton impeachment, and the O.J. Simpson trials. The five main categories, which include both state and national cases, are: Crime and Criminal Law; Governmental Organization, Power and Procedure; Economics and Economic Regulation; Race, Gender, Sexual Orientation, and Disability; and Civil Liberties. The selections for this volume mainly use historical analysis to examine twentieth-century political and legal change as a by-product of social and economic matters.

**David Schultz** (Hamline University) is the editor of *The Encyclopedia Of American Law*, forthcoming in Spring 2002 from by Facts of File, Inc. This volume will include over 400 entries on a variety of topics, written by over 130 political scientists and lawyers, including many members of the Law and Courts section of the APSA. The book is primarily intended for high school and college students, but many of the essays will also be of interest to political scientists and the volume will serve as a good reference for teachers and scholars.

**Scott Gerber's** (Pettit College of Law, Ohio Northern University) first novel, *The Ivory Tower*, will be published in mid-November by The University Press of the South. The main character of this "academic thriller" is a young lawyer who returns to graduate school to get his Ph.D. in political science. When his brother-in-law, a member of the faculty, is accused of murder of a female graduate student, the main character turns to his legal training to try to clear his brother in law's name. *The Ivory Tower* examines the conflict between the image of higher education as a serene oasis of teaching and research and the reality of power and politics that lies just beneath its composed exterior.

Send Information About Your Forthcoming Work to Helena Silverstein at: silversh@lafayette.edu

# Section News and Awards

## Nominations For Lifetime Achievement Award

A Committee has been formed and nominations are being accepted for the Lifetime Achievement Award given by the Law and Courts Section.

The Lifetime Achievement Award is given every year to honor a distinguished career of scholarly achievement and service in the field of law and courts. Any political scientist who has been active in the field for at least 25 years or has reached the age of 65 years is eligible. Nominations may be made by any member of the Section and should consist of a statement outlining the contributions of the nominee and, if possible, the nominee's vitae.

THE DEADLINE FOR NOMINATIONS FOR THE 2002 AWARD IS JANUARY 1, 2002. This early deadline is necessary in order to enable the formation of a panel honoring the individual receiving the award and the listing of the panel in the APSA Preliminary Program.

Nomination materials should be sent to the Chair of the Committee who will forward them to other members. This year's committee is:

Beverly Blair Cook
Chair LIfetime Achievement Award
9040 Junipero Ave.
Atascadero CA 93422-5210
Work: 805-466-5085
E-Mail: bevbcook@calinet.com

Judith Baer
Department of Political Science
Texas A&M University
College Station TX 77843-4348
Work: 979-845-2246
Fax: 979-847-8924
E-mail: j-baer@tamu.edu

Don Jackson
Department of Political Science
Texas Christian University
PO Box 297021
Fort Worth TX 76129
Work: 817-257-7468
Fax: 817-257-7397
E-mail: d.w.jackson@tcu.edu

Tom Walker
Department of Political Science
Emory University
Atlanta GA 30322
Work: 404-727-6572
Fax: 404-727-4586
E-Mail: polstw@emory.edu

Melinda Gann Hall
Department of Political Science
Michigan State University
303 S. Kedzie Hall
East Lansing MI 48824-1032
Work: 517-432-2380
Fax: 517-432-1091
E-mail: hallme@msu.edu

## Call for Law and Courts Book Review Editor

The Law and Politics Book Review is vital to the Section and this is an excellent opportunity to make an interesting and important contribution to intellectual life. If you are interested or think someone else might be interested, please contact Mark Graber, Chair of the Search Committee, at mgraber@gvpt.umd.edu. Feel free to also contact the other members of earch committee, Richard Brisbin at rbrisbin@wvu.edu or Sally Kenney at skenney@hhh.umn.edu .

## The C. Herman Pritchett Award (book award)

The C. Herman Pritchett award is given annually for the best book on law and courts written by a political scientist and published the previous calendar year (i.e. copyright 2000 for the current competition). Case books and edited books are not eligible. Books may be nominated by publishers or by members of the Section. The award carries a cash prize of $250.

Authors of books that meet the criteria may wish to contact their publishers to alert them of the competition.

The deadline for nominations is February 1, 2002.

To be considered for the competition, a copy of the nominated book should be submitted to each member of the award committee along with a cover letter indicating that it is a nominee for the Law and Courts Section's C. Herman Pritchett Award.

The members of the committee are:

Bert Kritzer
Chair Herman C. Pritchett Award
Department of Political Science
University of Wisconsin-Madison
1050 Bascom Hall – Room 110
Madison WI 53706-1389
Work: 608-263-2414
Fax: 608-265-2663
E-mail: kritzer@polisci.wisc.edu

Saul Brenner
(Department of Political Science
University of North Carolina-Charlotte)
Address: 329 Ridgewood Ave.
Charlotte NS 28209-1633
Work: 704-547-4526
Fax: 704-375-2903 and 704-547-3497
E-mail: sbrenner@email.uncc.edu

Barbara Graham
(Department of Political Science
University of Missouri at St. Louis)
Address: 348 Pebble Acres Dr.
St. Louis MO 63141-8036
Work: 314-516-5854
Fax: 314-516-7236
E-mail: barbara.graham@umsl.edu

## The CQ Press Award

The CQ Press Award is given annually for the best paper on law and courts written by a graduate student. To be eligible the nominated paper must have been written by a full-time graduate student. Single- and co authored papers are eligible. In the case of co-authored papers, each author must have been a full-time graduate student at the time the paper was written. Papers may have been written for any purpose (e.g., seminars, scholarly meetings, potential publication in scholarly journals). This is not a thesis or dissertation competition. Papers may be nominated by faculty members or by the students themselves. The papers must have been written during the twelve months previous to the nomination deadline. The award carries a cash prize of $200.

Next year's nomination deadline is June 1, 2002. To be considered for the competition, a copy of the nominated paper should be submitted to each member of the award committee:

John Scheb
Chair CQ Press Award
Department of Political Science
University of Tennessee-Knoxville
1001 McClung Tower
Knoxville TN 37966-0410
Work: 423-974-7047
Fax: 423-974-7037
E-mail: scheb@utk.edu

Diane Wall
Department of Political Science
Mississippi State University
PO Box PC
Mississippi State ms 39762-6003
Work: 662-325-7864
Fax: 601-323-8379
E-mail: dew1@DeanAS.MsState.Edu

Joe Kobylka
Political Science Department
Southern Methodist University
P.O. Box 750117
Dallas, TX 75275-0117
Work: 214-768-2525
Fax: 214-768-3469
E-mail: jkobylka@mail.smu.edu

## The Harcourt College Publishers Award

The Harcourt College Publishers Award is given annually for a book or journal article, 10 years or older, that has made a lasting impression on the field of law and courts. Only books and articles written by political scientists are eligible; a single-authored work produced by a winner of the Lifetime Achievement Award is not. Nominations may be made by any member of the Section and should consist of a statement outlining the nature of the contribution of the nominated work. The award carries a cash prize of $250.

Next year's deadline for nominations is February 1, 2002. To be considered for the competition, the name of the nominated book or article should be submitted to each member of the award committee:

Burt Atkins
Chair, Harcourt Publishers Award
Department of Political Science
Florida State University
570 Bellamy Building
Tallahassee, FL 32306-2230
Work: 850-644-7327
Fax: 850-644-1367
E-Mail: batkins@garnet.fsu.edu

Vanessa Baird
Department of Political Science
University of Colorado-Boulder
Campus Box 333
Boulder CO 80309
Work: 303-492-4317
Fax: 303-492-0978
E-Mail: vanessa.baird@colorado.edu

David O'Brien
Dept. of Government and Foreign Affairs
P.O.Box 400787
University of Virginia
Charlottesville, VA 22904-4787
Work: 804-924-3474
Fax: 804-979-6318
E-mail: dmo2@virginia.edu

## The McGraw-Hill Award

The McGraw-Hill is to be given annually for the best journal article on law and courts written by a political scientist and published the previous year. Articles published in all refereed journals and in law reviews are eligible but book reviews, review essays, and chapters published in edited volumes are not. Articles may be nominated by journal editors or by any member of the Section. The award carries a cash prize of $250.

The deadline for nominations is February 1, 2002. This is the first time that the Award is being made. To be considered for the competition, a copy of the nominated article should be submitted to each member of the award committee:

Jim Spriggs
Chair, McGraw Hill Award
Department of Political Science
University of California-Davis
One Shields Avenue
Davis CA 95616
Work: 530-752-8128
Fax: 530-752-8666
E-mail: jfspriggs@ucdavis.edu

Isaac Unah
Department of Political Science
University of North Carolina-Chapel Hill
CB No. 3265
Chapel Hill NC 27599-3265
Work: 919-962-6383
Fax: 919-962-0432
E-mail: unah@unc.edu

Jilda Aliotta
Department of Political Science
University of Hartford
200 Bloomfield Ave
West Hartford CT 06117
Work: 860-768-4234
Fax: 860-768-4251
E-mail: aliotta@mail.hartford.edu

## The American Judicature Society Award

The American Judicature Society Award is given annually for the best paper on law and courts presented at the previous year's annual meetings of the American, Midwest, Northeastern, Southern, Southwestern, or Western Political Science Associations. Single- and co-authored papers, written by political scientists, are eligible. Papers may be nominated by any member of the Section. The award carries a cash prize of $100.

Next year's nomination deadline is February 1, 2002. To be considered or the competition, a copy of the nominated paper should be submitted to each member of the award committee:

Susan Mezey
Chair AJS Award
Department of Political Science
Loyola University of Chicago
6525 N. Sheridan Road
Chicago IL 60625
Work: 773-508-3055
Fax: 773-508-3131
E-Mail: smezey@luc.edu

Roger Handberg
Department of Political Science
University of Central Florida
HFA 415
Orlando FL 32816-1354
Work: 407-752-2608
Fax: 407-823-0051
E-Mail: handberg@mail.ucf.edu

Laura Langer
Department of Political Science
University of Arizona
315 Social Sciences
Tucson AZ 85721
Work: 520-621-8983
Fax: 520-621-5051
E-mail: llanger@u.arizona.edu

## Call for Nominations

At its 2002 business meeting in Boston the Law and Courts Section will elect three officers: a Chair-Elect and two members of the Executive Committee. The following Nominating Committee has been appointed to present a slate of candidates at that meeting:

The Nominating Committee solicits suggestions from the membership for individuals to fill these positions. If there are particular Section members you would like to have considered for these offices, please e-mail or phone Nominating Committee Chair, Stacia Haynie.

Stacy Haynie
Department of Political Science
240 Stubbs
Louisiana State University
Baton Rouge, LA 70803
Work: 225-578-2553
Fax: 225-578-2540
E-mail: pohayn@lsu.edu

Chris Manfredi
Department of Political Science – Leacock 414
McGill University
855 Sherbrooke St. W
Montreal PQ H3A 2T7
Work: 514-398-4968
Fax: 514-398-1770
E-mail: Manfredi@Leacock.Lan.McGill.CA

Tinsley Yarbrough
Department of Political Science
East Carolina University
Greenville NC 27858
Work: 252-328-6189
Fax: 252-328-4134
E-mail: yarbrought@ecu.edu

Stephen Daniels
American Bar Foundation
750 N. Lakeshore Drive
Chicago IL 60611
Work: 312-988-6587
Fax: 312-988-8579
E-mail: s-daniels@nwu.edu

Malia Reddick
Director of Research
American Judicature Society
180 N. Michigan Avenue, Suite 600
Chicago, IL 60601-7401
Work: 312-357-8822
Fax:: 312-558-9175
E-mail:mreddick@ajs.org

All suggestions must be received by April 1, 2002. The Nominating Committee's recommended slate of candidates will be published in the Summer issue of Law and Courts.

# Announcements and Calls for Papers

## Joint AALS and APSA Conference on Constitutional Law to be held in June

The AALS and the American Political Science Association Conference on Constitutional Law will be held Wednesday, June 5 through Saturday, June 8, 2002, in Washington, D.C.

Where has the Rehnquist Court taken constitutional law? Where will globalization take constitutional law in the future? How will the internet affect First Amendment doctrine? Are we all originalists now? Is it time to re-think *Lochner*? Is there constitutional law after *Bush v. Gore*? There is much to talk about since the last AALS constitutional law conference held nearly a decade ago.

The Conference, jointly sponsored by AALS and the American Political Science Association, will seek to foster interdisciplinary approaches to constitutional law. Members of both professions will participate on the plenary panels and in small group discussions.

The first day of the Conference will focus on the work of the Rehnquist Court, examining federalism, congressional power under the Reconstruction Amendments, and protection groups. Small group discussion will consider other doctrinal areas, such as the Second Amendment, the death penalty, gender, and religion. The second day will look to the future of constitutional law. Plenary sessions will discuss protection afforded new forms of speech, comparative constitutional law, and globalization and constitutional law. A session will also be devoted to recent revisionist scholarship on the *Lochner* era. The final day will pursue new directions in constitutional theory regarding "law outside the courts" and the "new originalism."

The Conference has ambitious goals-broad, deep, and interdisciplinary. Come, bring your ideas, and be a part of a collaborative community. Conference topics include: Regime; Rehnquist Court; Federalism (Violence Against Women's Act); Second Reconstruction; Media and the Court; Protection of Groups; Small Group Discussions (Criminal Procedure and Race; The Current State of the Second Amendment Debate; Religion; Separation of Powers; Sovereignty; Gays & Lesbians; Death Penalty; Gender; Litigating Cases; Clerktalk; Legal Ideas & Realism); The Constitution and New Forms of Speech; The Function of Constitutional Courts; Concurrent Sessions (Globalization; Lochner Revisionism); Law Outside the Courts: Judicial Supremacy Implementation, Citizenship Interpretation; New Originalism; and Is There Constitutional Law After Bush vs. Gore.

Confirmed Conference speakers include Jack M. Balkin (Yale); David E. Bernstein (George Mason); Curtis A. Bradley (Virginia); Paul Butler (George Washington); Kimberle Williams Crenshaw (Columbia and UCLA); Barry Cushman (Virginia); Angela J. Davis (American); Walter E. Dellinger, III (Duke); John Dinan (Department of Political Science, Wake Forest); Norman Dorsen (NYU); Lee Epstein (Department of Political Science, Washington, St. Louis); William Nichol Eskridge (Yale); James E. Fleming (Fordham); Barry Friedman (NYU); Howard Gillman (Department of Political Science, Southern California); Stephen M. Griffin (Tulane); Luis Lopez Guerra (Constitutional Law, Universidad Carlos III de Madrid); Marci A. Hamilton (Yeshiva); Cheryl Harris (UCLA); J. Morgan Kousser (Department of History and Social Sciences, California Institute of Technology); Larry D. Kramer (NYU); Robert C. Post (UC Berkeley); Michel Rosenfeld (Yeshiva); Kim Lane Scheppele (Department of Sociology, University of Pennsylvania); Reva B. Siegel (Yale); Alex Tallchief Skibine (Utah); Rogers Smith (Department of Political Science, University of Pennsylvania); Mark V. Tushnet (Georgetown); Eugene Volokh (UCLA); Keith E. Whittington (Department of Politics, Princeton University); Christopher Wolfe (Department of Political Science, Marquette); David Yassky (Brooklyn).

The Planning Committee for the Joint AALS and ASPA Conference on Constitutional Law includes T. Alexander Aleinikoff (Georgetown), Chair; Judith Baer (Department of Political Science, Texas A & M University); Randy E. Barnett (Boston University); Mark Graber (Department of Government and Politics, University of Maryland); Linda S. Greene (Wisconsin); and Douglas Laycock (Texas).

Updated Conference information and registration forms are available at: www.aals.org/profdev/constitutional/.

## Visiting Scholars
## Center for the Study of Law and Society
## University of California, Berkeley

The Center for the Study of Law and Society, founded in 1961, fosters empirical research and philosophical analysis concerning legal institutions, legal processes, legal change, and the social consequences of law. The Center invites applications from scholars with interests in all aspects of law and social ordering/social change. Visiting scholars will be part of a scholarly community that includes fellow visitors and a faculty of distinguished socio-legal scholars in law and economics, legal history, sociology of law, political science, criminal justice studies and legal and social philosophy. Core faculty members of the Center include Robert Cooter, Lauren B. Edelman, Malcolm M. Feeley, Robert A. Kagan, Christopher Kutz, David Lieberman, Kristin Luker, Robert MacCoun, Daniel L. Rubinfeld, and Harry N. Scheiber. Among the Law School's faculty members who have conducted research projects in the Center or are otherwise closely affiliated with it are Howard Shelanski, Linda Krieger, Richard Buxbaum, Frank Zimring, and Herma Hill Kay.

**Application Requirements**

1. Applicants must possess a Ph.D. or J.D. (or foreign equivalent).

2. Applicants must submit a full curriculum vitae.

3. Applicants must submit a cover letter which specifies the time period in which they wish to be in residence at the Center and which describes their proposed program of research or study. Applicants must pursue a program of research or study which is of mutual interest to faculty members at the Center for the Study of Law and Society.

4. Applicants must indicate the source of funding while visiting Berkeley, e.g. sabbatical pay, scholarship, government funding, personal funds, etc. Monthly minimum requirements for foreign exchange scholars are: $1600 per month for the J-1 scholar, $500 per month for the J-2 spouse, $200 per month for each J-2 child.

Among privileges and opportunities of Center visiting scholars are: library privileges at the Law School and at all campus libraries; access to a weekly luncheon-speaker series and other scholarly exchanges; other campus privileges, including athletic facilities; and, when possible, assignment to shared or other office accommodations.

The Center will consider applications for varying time periods, from two weeks duration to the full academic year. Applicants should submit the information listed above by post or e-mail to: Visiting Scholars Program, Center for the Study of Law and Society, University of California, Berkeley, CA 94720-2150, **csls@uclink.berkeley.edu**. Inquiries to the Acting Director, Professor Harry N. Scheiber, **scheiber@uclink.berkeley.edu** are also welcome. The Center's Web site is: **www.law.berkeley.edu/institutes/csls/**

## News From the Law and Courts Section of the NSF

The Program on Law and Social Science at the National Science Foundation funds empirical research on law, legal institutions, and law-like systems, rules, and behavior. In addition to our support of research projects, the Program supports conferences and workshops designed to push collaboration in new directions. We are also interested in receiving proposals to enhance dissertation research. Given the program's multidisciplinary character, the perspectives, methodologies, and contexts for study are diverse and wide-ranging. Proposals from any social-science discipline are welcome, as are inter-disciplinary proposals.

The next target date for submissions is January 15, 2002. If you are thinking about a proposal, please consult our web site, http://www.nsf.gov/sbe/ses/law, and if you have questions, please do not hesitate to contact me (pwahlbec@nsf.gov). Those who decide to submit for the upcoming January and future rounds should be aware that NSF has implemented an electronic system for handling proposals and reviews. The system, called Fastlane, has replaced paper submissions and reviews. Information concerning this system is located at http://www.fastlane.nsf.gov. Anyone with problems can consult Fastlane experts at fastlane@nsf.gov or sesfl@nsf.gov.

# CONFERENCES AND EVENTS

## UPCOMING CONFERENCES

| CONFERENCE | DATE | LOCATION | CHAIR |
|---|---|---|---|
| SOUTHWESTERN POLITICAL SCIENCE ASSOC. | MAR 27-30 | NEW ORLEANS, LA | VANESSA BAIRD<br>U OF COLORADO<br>VANESSABAIRD@COLORADO.EDU |
| WESTERN POLITICAL SCIENCE ASSOC. | MAR 22-24 | LONG BEACH, CA | MARK GRABER<br>U OF MARYLAND<br>MGRABER@GVPT.UMD.EDU |
| MIDWEST POLITITCAL SCIENCE ASSOC. | APRIL 25-28 | CHICAGO, IL | STACIA HAYNIE<br>LOUISIANA STATE U<br>POHAYN@LSU.EDU |
| NEW ENGLAND POLITICAL SCIENCE ASSOC. | MAY 3-4 | PORTLAND,ME | DAVID YALOF<br>U OF CONNECTICUT<br>YALOF@UCONNVM.UCONN.EDU |
| LAW AND SOCIETY ASSOCIATION | MAY 30-JUNE1 | VANCOUVER BC | SEE WWW.LAWANDSOCIETY.ORG |
| APSA | AUG 29-SEPT 1 | BOSTON, MA | LAW & COURTS<br>SUSAN HAIRE<br>U OF GEORGIA<br><br>CON LAW & JURISPRUDENCE<br>ROGERS M. SMITH<br>U OF PENNSYLVANIA |

**Law and Courts** is the newsletter of the Law and Courts Section of the American Political Science Association. 

Subscriptions to **Law and Courts** are free to members of the APSA's Law and Courts Section. Please contact the APSA to join the Section.

The deadline for submissions for the next issue of **Law and Courts** is March 1, 2001.

**Law and Courts**

Cornell Clayton, Editor
Department of Political Science
PO Box 644880
Washington State University
Pullman, WA 99164-4880

U. S. POSTAGE PAID
PRSRT STD
PULLMAN, WA
PERMIT NO. 1