

# SALT NEWSLETTER

Vol. 1978, No. 1

December, 1978

## Society of American Law Teachers

630 FIFTH AVENUE • NEW YORK, NEW YORK 10020 (212) 586-1710

### SALT Begins Exam and Paper Exchange Service

Do you teach any of the following courses?

Civil Procedure	Evidence
Constitutional Law	Legal Profession (or Ethics)
Contracts	Torts
Criminal Law*	Property
Criminal Procedure*	

SALT has over 100 members who teach constitutional law and over 50 teaching each of the other courses above, except torts and property in which we have nearly 50. We'd like to set up a system of distributing exams and other assignments of SALT members to other SALT members.

If you would like to participate, fill in the form included in this newsletter and return it to us. As soon as we have indications that at least 10 teachers of a course wish to share, we will send you a card asking for one or two recent exams. (Persons beginning to teach a course for the first time are, of course, welcome to participate.) We will then distribute the exams we receive to you, charging only enough to recover our costs. We are especially eager to include non-traditional testing materials—take home papers, projects, drafting exercises, whatever. Let us hear from you.

#### Annual Dinner in Chicago, January 4, 1979

*Mark your calendar now.* The SALT Annual Dinner will be held in Chicago on Thursday, January 4, 1979 at the famous Blackhawk Restaurant. The guest speaker will be Sarah Weddington, the President's new adviser on women's affairs. Ms. Weddington led the White House's campaign to secure the extension of time for the ratification of the ERA.

Make plans to join us for the Blackhawk's delicious prime rib. Details will be sent to members in December and will be posted at the AALS convention.

Because of Illinois' refusal to ratify the ERA, many SALT members would have preferred to meet in a different state. We explored at length the possibility of meeting in Gary, Indiana even to the point of

reserving a large block of rooms at a hotel in Gary and tentatively securing Mayor Richard Hatcher as our speaker. In the end, however, we concluded that there was too grave a risk that people would not travel so far for a panel and dinner.

Last year, as you may know, an unsuccessful effort was made at the convention to induce the AALS to reconsider holding the convention in Chicago. Next year's convention is in Arizona, another non-ERA state. An even more concerted effort is being made this year to press the AALS to reconsider the site. We have already made certain that the issue is properly on the agenda for the AALS meeting of Representatives.

#### SALT Finances Shaky as Usual—Ideas Wanted

SALT is now well into its fifth year. Over the years, we have maintained a core of a few hundred members who renew year after year with a cycling group of a few hundred more who join for a year or so and then drop to the wayside. We'd like to enlarge the core of continuing members and attract others. SALT depends entirely on its members. Virtually our only source of revenue is our membership dues and membership has not risen over the last couple of years, while costs of even moderate operations continue to rise. Today, we have only around \$1000 in the bank.

Do you have ideas for helping us serve you and other members better—particularly ideas that can help us attract and hold new members? If so, we'd like to hear from you. Write Ned Swan, our Executive Director, at our New York office. (The New York office is, in fact, Ned's office for his law practice. It's a nice office and a nifty address.)

#### Ned Swan joins as Executive Director, Steve Gillers leaves to join the Faculty at N.Y.U.

Steve Gillers has served as our Executive Director since we formed in 1974. During the period from 1974 to 1978, he oversaw all administration of the Society and served as editor of the Society's book *Looking at Law School*. Steve worked for us on a part-time basis, since we've been too small to have a full-time director. During the same period that he worked for us, he built his own private law practice,

\*The Criminal Law Section of the AALS has pulled together a large compilation of final examinations in criminal law and procedure. It can be obtained from Professor John Burkoff, University of Pittsburgh Law School. Free for section members. \$15.00 for non members.



wrote several books, and served as one of the contributing editors of *Juris Doctor*. This summer, Steve resigned as Executive Director and joined the faculty of New York University Law School, his alma mater. The Board then asked Steve to join the Board to fill a vacancy expiring in 1979.

We have been most fortunate to be able to find a fine successor to Steve. He is Edward J. (Ned) Swan, another private practitioner in New York City and another graduate of New York University Law School. We have moved our "offices" to Ned's. If you have any administrative questions about the Society, give Ned a call or drop him a note at 630 Fifth Avenue.

### **Rennard Strickland Receives SALT Teaching Award**

Each year, SALT presents an award to a person in law teaching who has been a "successful innovator" in law teaching or who "has otherwise made a significant contribution in the development and reform of legal, governmental or social institutions, whether through teaching, writing or public service related to their academic career."

The first three Awards went to persons at the end of the distinguished careers as teachers: David Cavers of Harvard, Charles Miller of Tennessee and Thomas Emerson of Yale. This year's award goes to someone in mid-career, Rennard Strickland of the University of Tulsa Law School. Professor Strickland is the author of three volumes of history about the American West and the American Indian in the West. Most recently, he has served as General Editor of the revisions of Felix Cohen's *Treatise on Federal Indian Law*.

An Award Committee composed of board and nonboard members of SALT developed the recommendation for the full board. The committee members were Clinton Bamberger, former dean of Catholic Law School, now Vice President of the Legal Services Corporation, Robert Bennett of Northwestern; David Cavers of Harvard; Carole Goldberg of U.C.L.A. and Jacob Hyman of Buffalo.

The Award will be presented at SALT's Annual Dinner in Chicago on January 4. (See story above..) Join us to honor Professor Strickland.

### **Committee to Provide Confidential Advice on Tenure**

Facing tenure and want someone to talk to? SALT has formed a committee to provide confidential advice to SALT members. Neither seeking to advance a particular set of policies nor to set itself forth as a bargaining agent, the Committee has rather the goal of providing a sympathetic ear and counsel as persons approach a process that is often difficult to discuss with colleagues. SALT has received word from

several sources that, as finances worsen, schools are more frequently denying tenure to young faculty members. We have indeed received especially worrisome reports of problems faced by members of minority groups, women, and persons teaching in clinical programs, all groups hired in greater numbers in recent years than in the past.

The SALT Committee includes Derrick Bell of Harvard University; Stuart Filler of Bridgeport; Carole Goldberg of U.C.L.A.; Michael Meltsner of Columbia, and Robert Sedler of Wayne. If you would like some counsel, call or write our Executive Director, Edward J. Swan at 212-586-1710 and he will have a committee member write to you. All communications will be kept completely confidential.

### **SALT Position Paper on Minority Admissions Programs after Bakke**

Is your school considering revisions in its admissions system that may lead to a reduction in the number of minority students? A committee of SALT's board that included Howard Lesnick of Pennsylvania, Robert Sedler of Wayne State and Derrick Bell of Harvard is completing a position paper on admissions programs that outlines the range of admissions programs we believe are wise and permissible after *Bakke*. We'd be glad to send you a copy. Write us at the New York address. We would be glad indeed to go further. If you would like some more particular advice on the problem at your school, let Ned Swan, our executive director know, and he will have one of our board members write to you.

Be sure also to take a look at the new pamphlet prepared by the American Council on Education and the Association of American Law Schools. It is available from the AALS office in Washington and takes an appropriately optimistic view of the range of admissions programs.

### **Lists of SALT Members by Course**

Do you have a project in which you'd like to enlist other SALT members teaching in the same area? Is Congress considering some particularly pernicious piece of legislation you'd like to marshal forces to oppose? Would you like to organize others teaching your subject into a more permanent group that could follow and respond to developments in your area?

We have matched our membership as of this last summer with the courses listed for each member in the most recent AALS directory.

Write us if you have a plan and would like the names of members in your subject area. We are providing these lists only to SALT members and only for purposes consistent with SALT's purposes of serving the public, improving the quality or availability of legal services and improving legal education.



Below are listed the courses taught by 15 or more SALT members. We also have lists for all other AALS headings.

#### 15-25 members

Antitrust	Law & Poverty
Civil Rights	Law & Psychiatry
Commercial Law	Legal History
Conflicts of Law	Legal Method
Corporate Finance	Legal Research & Writing
Environmental Law	Legislation
International Law	Remedies
Land Use Planning	Social Legislation
Law & Medicine	Women and the Law

#### 25-50 members

Administrative Law	Labor Law
Corporations	Property
Domestic Relations	Taxation, Federal
Trusts & Estates	Torts
Federal Jurisdiction	Trial/Appellate Advocacy
Jurisprudence	

#### 51-100 members

Civil Procedure	Criminal Procedure
Clinical Law	Evidence
Contracts	Legal Profession
Criminal Law	

#### Over 100 members

Constitutional Law

#### Publications

##### New Book on Supreme Court

The Society is sponsoring the preparation of a book on the first ten years of the "Burger Court." Edited by Vince Blasi of the University of Michigan, the book will explain and analyze the Court's work in about a dozen areas. Among many subjects will be pieces on access to the federal courts, free speech, sex discrimination, and family privacy. Nearly a dozen members of the Society have agreed to contribute. Our intended audience is lawyers not immersed daily in constitutional litigation, law students, and nonlawyers with an interest in the work of the Court. We hope for a publication date of early 1980. Watch this space.

#### SALT—Watched Legislation in the 95th Congress

During the last Congress, members of SALT appeared at hearings or filed statements on our behalf of several matters. Here are a couple of issues we've been watching closely.

#### Access to the Federal Courts

Hearings were held in the Senate Judiciary Committee this year on two bills to undo the effects of decisions of the United States Supreme Court making access to the federal courts more difficult. S.35 sought to overturn or limit decisions such as *Younger v. Harris* that made it burdensome or impossible to sue state and local governments and their officers to redress violations of federal civil rights. The other bill, S.3005, addressed problems of standing. It would have provided that a litigant could establish standing to sue whether or not he was asserting the rights of another and whether or not he suffered his harm in common with a large group of people, so long as he could show that the injury he alleges to have suffered may be remedied "in significant part" by a determination on the merits. Neither S.35 nor S.3005 was reported out of the Judiciary Committee but both, or bills rather like them, will probably be introduced in the next congress. Since Senator Kennedy will be replacing Senator Eastland as Chairman, there may be hope for success in 1979. SALT is supporting both bills.

Another important bill would have affected access to the federal courts in a very different way. H.R. 9622, the bill to abolish diversity jurisdiction, passed the House, on February 28, 1978, was incorporated in S.1613 and passed the Senate on October 4, 1978, but a bill was never reported out of conference and sent to the President. Whether such a bill will ever get even this far again is doubted by sources in Washington. SALT has taken no position on the diversity legislation.

#### Criminal Code Revision

S.1437, the proposed new federal criminal code, was introduced by Senators Kennedy and McClellan to replace the previously defeated S.1. S.1437 was an improvement over S.1, from the previous Congress, a bill many parts of which SALT vigorously opposed. S.1437 nonetheless retained many objectionable features of S.1, including broad definitions of inchoate crimes, substantive offenses that unduly restrict free speech and association, government appeal of sentences, abandonment of *Miranda*, and vast expansion of federal jurisdiction over various forms of conduct. In addition, S.1437 contained a new sentencing system that gave such broad and uncontrolled discretion to a U.S. Sentencing Commission that the average time served by federal prisoners might well be substantially increased. S.1437 passed the Senate. However, its companion bill in the House, H.R.6869, was rejected by the Subcommittee on Criminal Law of the House Judiciary Committee after hearings and lengthy consideration. The Subcommittee found that criminal



code revision was too large a task to be done at one time. The Subcommittee concluded that there were too many important issues of policy and constitutional law to deal with them thoroughly and deliberately and recommended a more "incremental" approach to criminal code reform. Senator Kennedy is nonetheless expected to reintroduce S.1437 next term.

### **SALT Members Involved in Litigation**

Lots of SALT members involve themselves in constitutional litigation, a higher proportion, we'd guess, than is the case among law teachers generally. We'd like to hear from members involved in litigation who would be willing to share with others of us what they are doing. These are not cases in which members are appearing on behalf of SALT. They are appearing on behalf of other individuals and groups.

Here are a couple of examples of litigation currently going on. Bob Sedler of Wayne State has, for example, been trying a school desegregation case involving the Akron, Ohio school system, *Bell v. Board of Education, Akron Public Schools*, in the United States District Court of the Northern District of Ohio. The suit charges the school board with practicing intentional racial segregation and also contends that governmental responsibility for residential racial segregation renders the resulting school segregation unconstitutional. Bob also filed an amicus curiae brief on behalf of New Detroit, Inc., an urban coalition in the Detroit metropolitan area, supporting the constitutionality of the City of Detroit's affirmative action program with respect to police promotions. That case, *Detroit Police Officers Association v. Young*, now pending before the Sixth Circuit Court of Appeals, is a major post-Bakke case.

There are also a number of law suits around the country testing the extent to which states and the federal government may refuse to fund abortion procedures in their medical assistance programs. SALT members are involved in at least two of these cases. Robert W. Bennett, is one of several attorneys representing doctors and welfare recipients as plaintiffs in *Abaraz v. Quern* now pending before the Seventh Circuit Court of Appeals; and Sylvia Law is a member of a team of attorneys representing the plaintiff in a similar case, *McRae v. Califano*, in the Eastern District of New York.

### **Catholic University School of Law Deanship.**

We have been asked by Catholic University to run the following announcement.

The Catholic University of America invites nominations and applications for the position of

Dean of the School of Law. The School of Law, established in 1898, has 23 fulltime faculty members, 494 fulltime and 255 parttime students. Consideration will be given to scholarly accomplishments and experience in teaching, administration, and/or the practice of law. Salary negotiable. Nominations and applications should be sent by December 31, 1978, to the Reverend Frederick R. McManus, Vice Provost and Dean of Graduate Studies, Chairman, Search Committee, the Catholic University of America, Washington, D.C. 20064.

### **Positions Available in Albany**

**Senior Staff Attorney**

**Junior Staff Attorney**

Prisoners' Legal Services of New York is a statewide program providing a wide range of legal services to indigent inmates of New York State prisons. Staff attorneys represent clients in such areas as institutional problems, parole, sentence computation, matrimonials and immigration. The work includes client contact, investigation, negotiation and litigation. The Albany office of Prisoners' Legal Services operates a clinical legal education program affiliated with Albany Law School. The salary is generous for legal services and depends upon the year of graduation from law school. Please send resume and a short writing sample to Lanny E. Walter, Managing Attorney, Prisoners' Legal Services, 84 Holland Avenue, Albany, New York 12208. Prisoners' Legal Services is an equal opportunity employer; women and members of minority groups are encouraged to apply.

### **SALT Establishes Committee to Work with ABA Commission Drafting New Ethics Code**

An offer from us having been enthusiastically accepted, SALT has established a liaison committee to work with the ABA commission on professional standards, the body that is developing an entirely new code of professional conduct for lawyers. The Commission is well along in its work and our committee has provided them several memoranda for their consideration. The Commission will probably have a draft for general public comment at some point in 1980. Law teachers apparently played no organized role in commenting on the current Code of Professional Responsibility, when it was drafted. Through SALT, we may have a larger voice this time.

The SALT committee is chaired by Elizabeth Bartholet of Harvard and includes David Chambers of the University of Michigan, Howard Lesnick of the University of Pennsylvania, Thomas Morgan of the University of Illinois and William Popkin of Indiana University.



### EXAM EXCHANGE SERVICE

I would like to participate in the SALT exam (and paper) exchange service.

Course(s) \_\_\_\_\_  
\_\_\_\_\_

☐ I will send exams 1 2

☐ I have not recently (or have never) taught the course.

Name and Address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

---

Enclosed is my check for \$ \_\_\_\_\_ for  
(renewal) (new) membership in the Society of  
American Law Teachers.\*

NAME \_\_\_\_\_

SCHOOL \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY, STATE, ZIP \_\_\_\_\_

\*Dues are \$25 per year if annual salary is \$15,000 or more; otherwise, dues are \$15 per year.

PLEASE RETURN WITH YOUR CHECK TO:

EDWARD J. SWAN

SOCIETY OF AMERICAN LAW TEACHERS

630 Fifth Avenue

New York, N.Y. 10020