

# The **EQUALIZER** **SALT**

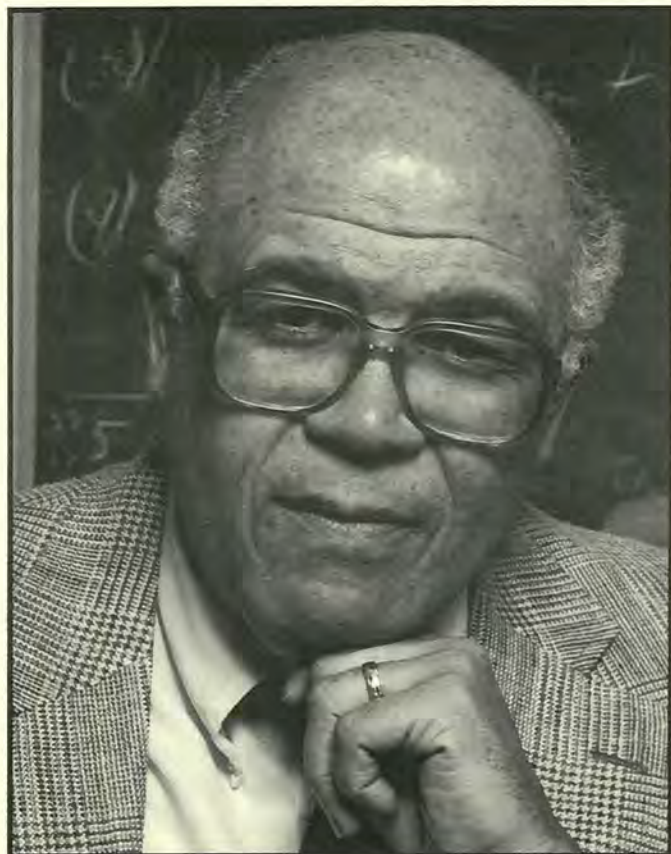
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Society of American Law Teachers

December 1997

## **JIM JONES TO RECEIVE 1998 SALT TEACHING AWARD**

— Joyce Saltalamachia  
New York Law School



SALT's Annual Awards dinner at the AALS meeting is the occasion for SALT members to gather together in the spirit of camaraderie to honor an individual for lifelong service in law teaching. The qualifications for the recipient of the SALT Teaching Award have traditionally included a lifetime of commitment to issues significant and central to SALT's mission. This year, the SALT Teaching Award will be given to Professor Emeritus Jim Jones of the University of Wisconsin Law School. SALT is particularly proud to present its teaching award to Jim Jones who, as a pioneer

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## **SALT ANNOUNCES MARCH AND RALLY IN SUPPORT OF AFFIRMATIVE ACTION**

*January 8, 1998, 10:30 AM - 12 Noon  
In San Francisco*

— Michael Rooke-Ley  
Nova Southeastern University  
Law Center

On the morning of Thursday, January 8, 1998, in San Francisco, the Society of American Law Teachers will march and rally in support of affirmative action. The demonstration, called the Communities Affirming Real Equality (CARE) march, will be held in conjunction with the annual meeting of the Association of American Law Schools. It is believed to be the first direct action demonstration organized by and for law professors in the long history of the American civil rights movement.

The march will leave from the lobby of the Hilton (site of the AALS meeting) at 10:30 am. It will proceed down O'Farrell to Market, down Market to Sansome, across Sansome to California,

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President's Column . . .



## IT'S A GREAT TIME FOR SALT

— Linda S. Greene  
University of Wisconsin  
Law School

This is a great time for the Society of American Law Teachers. And it is a great time even though the *Hopwood* and Proposition 209 galeforce winds are sweeping the country and the opposition to broad-based diversity seems to be gaining both political legitimacy and legal authority. It is a great time even though we await yet another decision from a Supreme Court sharply divided on affirmative action. And it is a great

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*"It is a great time for SALT  
because we are prepared,  
more than ever before, to advocate  
and work toward the goal of a truly  
diverse and effective legal profession."*

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time even if minority enrollment has plummeted at some institutions and even if some of the challenges we face are formidable.

It is a great time for SALT because we are prepared, more than ever before, to advocate and work toward the goal of a truly diverse and effective legal profession. Our Board of Governors, historically excellent and effective, has been enhanced by our own significant diversification efforts and, in this respect, we provide a stellar model. Our membership is approaching 1000 strong. The Board has engaged in long-range planning for SALT activities and publishes our calendar dates well in advance of activities in order to foster greater member participation in our activities. Our Board also has increased its working relationships with non-members and with other organizations, thus broadening our base as well as our effectiveness.

It is a great time because we have had two of the most important and successful conferences

(at CUNY in April and at American in September) in our history. Both conferences focused on diversity, and both devoted significant time to planning concrete action for the future. As a result, we are now engaged in our Action Campaign for Diversity.

It is a great time for SALT because we have planned our January 8th Communities Affirming Real Equality (CARE) March and Union Square

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*"Wear your academic regalia  
to the march and rally...!"*

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Rally which will take place during the AALS meeting in San Francisco. There, we will visibly and proudly assert the importance of diversity in legal education, as well as in the legal profession. We want to leave our hearts and our spirit in San Francisco. Wear your academic regalia to the march and rally . . . and to the AALS Annual Meeting Luncheon, which will take place just after the march! And don't forget to bring your camera for some fabulous photo-ops.

It's a great time for SALT because the CARE March is just a part of our Action Campaign for Diversity. We have already planned to maintain our continuity and momentum with the leadership of our next co-presidents, **Phoebe Haddon** and **Stephanie Wildman**, who have also been in the forefront of SALT's diversity initiatives. In addition, we have re-elected **Cynthia Bowman**, **Carol Chomsky**, **Angela Harris**, **Holly Maguigan** and **Margaret Montoya** to our Board of Governors and have elected as new members **Theresa Glennon**, **Amy Kastely**, **Nell Newton**, **David Oppenheimer** and **Robert Westby** to join us in our work. We are well prepared to work proactively to improve and strengthen legal education and the legal profession.

— And we've only just begun...  
See you in San Francisco! ■

*Gather in the lobby of the  
San Francisco Hilton - 10:15 sharp  
Thursday, January 8, 1998*



## SALT BOARD MEETS IN WASHINGTON D.C.

— Joyce Saltalamachia  
New York Law School

Following our very successful 1997 Teaching Conference, the SALT Board of Governors met for an all-day session at American University on September 28, 1997. Thirty-two Board members and one guest gathered together at 9:00 a.m. to discuss past activities and plans for the future.

President Linda Greene began the meeting with a discussion of the Teaching Conference held the prior two days. [For a full report, see page 4 herein.] Karen Czapanskiy commended the various people who had been instrumental in helping to organize this conference. She particularly thanked the Dean and staff at American University's law school for their tremendous assistance and cooperation. In an effort to continue the discussions started at the conference, Frank Valdes and the Communications Committee will establish a listserve for conference participants. Since the master calendar calls for a teaching conference every year, it was further decided that, given the enormous success of this conference, a similar conference should be held in the fall of 1998 in another part of the country. A coordinating committee of Karen Czapanskiy and Elvia Arriola agreed to convene the planners and bring to the Board in January suggestions for dates, places and a conference committee. Although the basic structure of the next conference will remain the same, the new committee should be able to make changes to satisfy new demands that may arise.

The Public Positions Committee of Lisa Ikemoto and Arthur Leonard reported that revisions in the Solomon Amendments have been enacted to allow the government to withdraw indirect federal funding for law schools who do not permit military recruiters on their campus. [For further details, see articles on pages 15-18 herein.] This indirect federal funding would cover all work-study monies, among other items. The AALS has issued a letter to law school deans stating that the AALS has not changed its rules forbidding discrimination on the basis of sexual orientation, but that it will allow schools to bring military recruiters on campus if certain "ameliorative steps" are taken. The Board discussed what actions SALT should take in light of this development. It was debated whether SALT should protest the AALS decision or should seek to focus on working within the AALS policy. Nadine Taub suggested that we make it

clear that the ameliorative steps listed by the AALS are actions that law schools should be taking anyway. After discussion, the Board agreed to go beyond merely reacting to the AALS position and to adopt a more proactive stance. Arthur Leonard and Lisa Ikemoto were delegated to draft a statement for Board approval. In addition, the Board voted to sign on to an amicus brief in *Able v. U.S.* (2d Circuit), challenging the military's "don't ask, don't tell" policy. [See page 15 herein.]

The main activity that SALT will be undertaking for the next several months is its Action Campaign to reaffirm diversity and reconstruct merit in law schools and throughout the legal profession. [See page 1 herein]. The Action Campaign Committee, led by Sue Bryant, Margaret Montoya, Sumi Cho, Lisa Iglesias, Pheobe Haddon and others, has created three task forces to address: 1) alternative admissions, 2) social justice curriculum and practice and 3) legal and political resistance. The third task force, which has been meeting since last

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*"all-day session ... Teaching Conference ...  
list serves ... Solomon Amendments ...  
Able v. U.S. ... March and Rally ... 'Faces of  
Diversity' ... Jim Jones ... Robert Cover ...  
nominations ... Stuart Filler Scholarship ...  
outside funding ... \$3,000 to CLEO ..."*

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Spring, is focused specifically on planning activities at the AALS annual meeting in San Francisco in January. This task force has been communicating with law students throughout Texas, held a meeting of students and faculty in California in April and has been in contact with dozens of national organizations. The efforts of this task force will culminate in a march in January at the AALS meeting. In addition, there will be exhibits and graphics to illustrate the "Faces of Diversity." Paula Johnson reported that she is enlarging her poster graphic from last year and is looking for visual images, data and narratives from law schools to relate the history of diversity in legal education.

Another important feature of SALT activities at the AALS meeting is the Teaching Award dinner. This year the recipient of the Salt Teaching Award will be Professor Emeritus Jim Jones of the University of Wisconsin. [See story on page 1 herein.] Professor Jones is being honored for his lifelong commitment to and influence upon affirmative action, both within the legal academy and

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## SALT TEACHING CONFERENCE A HUGE SUCCESS

— Karen Czapanskiy  
University of Maryland  
School of Law

More than 160 people attended the SALT Teaching Conference on September 26-27, 1997 at American University, Washington College of Law. Entitled "Reconceiving Legal Pedagogy: Diversity in the Classroom, Clinic, Theory and Practice," the conference invited participants to address diversity in legal education both in and outside the classroom, from the selection of law students and facul-



ty, through classroom and clinical experiences, to the impact of diversity on the practice of law.

After welcoming remarks from Linda Greene, the President of SALT, Bob Dinerstein, Associate Dean of the Washington College of Law, and Ann Shalleck, our host and member of the conference planning committee, the conference launched into the first of many interactive sessions. The opening plenary put participants in the role of students confronting their development and identity as lawyers. Exercises presented by Sue Bryant (CUNY), Margaret Barry (Catholic), Margaret Montoya (New Mexico) and Fran Ansley (Tennessee) challenged participants to reflect on how "acceptable" lawyer behaviors are identified, communicated and reinforced through formal education, informal mechanisms and popular culture. The plenary speakers each modeled interactive teaching while helping us to learn about lawyering. Through their exercises, they encouraged us all to experiment with and examine the benefits that can come from relinquishing control and accepting some level of uncertainty in the classroom. In one exercise, each person in the audience interviewed another participant about

the experience of how to dress when taking on the lawyer role for the first time – and later ceremonially returned to the interviewee the notes taken to symbolize giving the story back to the person from whom it was taken. In another presentation, we laughed together over a scene from "My Cousin Vinny" in which Vinny appears in court in a southern state dressed for the streets of Brooklyn. We were then challenged to explore why it seemed funny and what that humor told us about the way we learn to become lawyers. Participants responded both to the substance of the plenary and to the message from its methodology. As one said, "What I appreciated was . . . the chance to feel like a student again. It is hard to continue to stay in touch with the experiences students have in the classroom. The chance to be back in touch with these feelings was valuable. I also enjoyed watching excellent teachers at work."

After the plenary, participants met in the first of three interrelated small group sessions. Small groups were organized by subject matter, and participants could choose from a wide variety of subjects, including, for example, contracts, torts, racism and the law, and international human rights. Each small group was facilitated by two teachers, one more experienced in classroom teaching and one more regularly engaged in clinical teaching. In the first meetings, members of each group got acquainted and began to talk about the topics within their subject areas that raise issues of diversity. Over the two days of the conference,

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each group worked on developing a part of a class, drawing upon diverse teaching methods and addressing an issue related to diversity. The work of the small groups culminated midday on Saturday when each group met with one or two other small groups and each group demonstrated and/or discussed the class that it had developed.

Steve Wizner (Yale) spoke at lunch on Friday about the meaning of progressive-lawyer



law schools in contemporary legal culture. Steve began by reviewing **Jerome Frank's** half-century old critique of legal education. Frank challenged legal educators to bring into the law schools more practice, more theory and more integration of the two. When examining current legal education, Steve said that he finds more theory *and* more practice, but that the goal of having theory inte-



grated with practice is still far from being met. Indeed, Steve expressed serious concerns that the distance between theoreticians and practitioners, both inside and outside of law schools, is increasing, with heavy costs both to legal education and to progressive lawyering. In addition, Steve noted the limitation of Frank's vision and its failure to address the relationship of justice to the law and the work of lawyers. In Steve's view, legal education has yet to overcome effectively this limitation in Frank's vision, nor to create a new vision that unites theory, practice and social justice.

To help motivate the small groups and provide new ideas for classroom use, participants were offered the opportunity on Friday afternoon to attend any two of a series of one-hour demonstrations of innovative teaching addressing and integrating various styles. A total of nineteen demonstration sessions were offered on a wide range of topics. For example, **Keith Aoki** (Oregon) and **Paris Baldacci** (Yeshiva) taught an administrative law class focused on a case in which notices about a hearing on siting an incinerator were printed only in English, even though the proposed location was a predominantly Latina/o neighborhood. **Marina Hsieh** (Golden Gate) and I conducted a civil procedure class on pleading, in which students in the role of lawyer tried to explain to other students in the role of plaintiff in a fair housing case why the lawyer had drafted a story pleading or a notice pleading. **Amy Kastely** (St Mary's) and **Deborah Post** (Touro) explored the use of short

stories and movies to illuminate the social context in which the law of contracts develops.

After the teaching demonstrations, the small groups reconvened for participants to make progress on planning their class sessions. Friday's hard work ended with a reception hosted by the Washington College of Law, allowing participants a chance to relax, meet new friends and eat wonderful food.

Much refreshed, everyone gathered again on Saturday morning to hear an energizing talk by **Emma Coleman Jordan** (Georgetown). Emma began her remarks on affirmative action by inviting her listeners to think of affirmative action as the mold on the bread that was serendipitously discovered to be penicillin, a drug that cured not only conditions we knew about, but also some which were totally unanticipated. From its origins as a program directed at one problem, affirmative action has had positive results in many other arenas, enriching our schools and our lives in many unplanned and unexpected ways. For instance, because of affirmative action, the number of African-Americans in many educational institutions and employment settings has increased to a point where the diversity of views among African-

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*"... serious concerns that the distance between theoreticians and practitioners, both inside and outside of law schools, is increasing, with heavy costs both to legal education and to progressive lawyering."*

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Americans has become visible. It has also caused everyone to think more seriously about the lack of class diversity at our institutions. Emma exhorted us to struggle for affirmative action and not to give in to attacks that lose sight of all the achievements, both expected and unexpected.

With that inspiration, participants returned to their small groups, put final touches on their lesson plans and, over lunch, gave demonstrations and held discussions with one or two other small groups. For many, the challenge to both present a collectively-developed teaching experience to a supportive audience and to see and discuss another group's work was critical to the experience. Presenting the classes to colleagues unfamiliar with one's own subject matter (but who were pret-

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continued from page 5 - SALT Teaching Conference

ty assertive as students!) was certainly a challenging experience.

After lunch, the conference shifted focus to the law professor as activist and to SALT's action agenda to bring affirmative action out of the classroom and into the streets. The plenary began with **Sylvia Law** (NYU) recalling the history of activism by law professors (which she noted was rather slim) and encouraging us to go further and do more than had been done before. [See page 9 herein for the full text of her remarks.] Her talk was the preface to a discussion of SALT's plans to challenge the current admissions standards, to develop an alternative law school curriculum and to do outreach beyond law school faculty members. A major part of the plenary was devoted to presenting plans for the CARE march and related activities to be held in January in San Francisco in conjunction with the AALS meeting. Presenters included **Sumi Cho** (DePaul), **David Oppenheimer** (Golden Gate), **Nancy Ota** (Syracuse) and **Joy James**, Associate Professor of Ethnic Studies at the University of Colorado, who connected struggles in legal education with those



of students and faculty in other times, schools and programs.

Following the plenary, those in attendance joined SALT Action Plan groups to offer support for SALT's agenda. The day ended with reports back from the Action Plan groups and closing remarks from **Okianer Dark** (Richmond), **Lisa Iglesias** (Miami) and SALT's co-presidents-elect, **Stephanie Wildman** (USF) and **Phoebe Haddon** (Temple). Okianer and Lisa had the unenviable task of summing up the first day and a half of the conference, and each reflected on what the teaching discussions, demonstrations and small group

work had achieved. Okianer had visited with small groups during their final planning sessions and with combined groups during their lunchtime demonstrations, so she was able to convey to those assembled the flavor of the cooperative work that went on at the conference and the struggles to deal appropriately and creatively with issues of diversity. Lisa addressed what she had learned from the groups participating in the conference about the possibilities for progressive lawyers to develop new and enlarged opportunities for clinical programs to work with various communities.

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*"... think of affirmative action as the mold on the bread that was serendipitously discovered to be penicillin, a drug that cured not only conditions we knew about, but also some which were totally unanticipated."*

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Stephanie and Phoebe used the occasion to introduce two themes for their co-presidency of SALT, which begins in January. They spoke of the importance of both action and relationship. They invited everyone to introduce themselves to someone they didn't know. As part of the introduction, they asked participants to share what had inspired them about the conference and also what unresolved concerns they had about the experience of the conference.

From comments made at the conference and others left behind on evaluation sheets, participants found both the teaching demonstrations and the small groups to be useful sources of ideas, providing opportunities to see, hear about and do "integrative" teaching. Many participants saw or developed ideas that they intend to put to use as they return to their own classes. Others noted that they especially valued the experience of collaboratively developing a class. Having a definite goal – actually presenting a class – made the small group work more focused and specific, although more difficult, than it otherwise might have been. The opportunity to demonstrate the class to other small groups added some tension to the experience, but people seemed to find it a creative tension. The conference created a feeling of collaboration that allowed participants to experiment and take risks, making it easier to continue the effort back home. As one participant said, "I liked keeping the heat on people to do something where they actually



perform as teachers because performances were the biggest gift given by the conference."

Based on the success of this conference, the SALT Board has decided to hold a similar conference during October of 1998. Elvia Arriola (Texas) and I constitute the "motivating committee," and we welcome your ideas and input.

The members of the planning committee for the conference were Alice Bullock (Howard), Carol Chomsky (Minnesota), Jane Dolkart (SMU), Ann Shalleck (American) and myself. Together, we wish to thank each person who contributed to the program for transmitting a spirit of excitement about and commitment to the project. In addition to the plenary speakers mentioned earlier in this



report, people contributed to the program by conducting teaching demonstrations and facilitating small groups.

The teaching demonstration presenters were Anthony Alfieri (Miami), Alicia Alvarez (DePaul), Keith Aoki (Oregon), Paris Baldacci (Yeshiva), Barbara Bezdek (Maryland), Mary Anne Bobinski (Houston), Cynthia Bowman (Northwestern), Surell Brady (Maryland), Wendy Brown-Scott (Tulane), Angela O. Burton (New York), Charles Calleros (Arizona State), Susan Denise (Maryland), Robert Dinerstein (American), Jane Dolkart (Southern Methodist), Linda Eads (Southern Methodist), Anthony Farley (Boston College), Louise Howells (American), Marina Hsieh (San Francisco), Conrad Johnson (Columbia), Amy Kastely (St. Mary's University of San Antonio), Robert Levy (New York), Paula Lustbader (Seattle), Elliott Milstein (American), Michael Newsom (Howard), David Oppenheimer (Golden Gate), Victoria Palacios (Southern Methodist), Twila Perry (Rutgers), Marc Poirier (Seton Hall), Deborah Post (Touro College), Dean Rivkin (Tennessee), Mildred Robinson (Virginia), Jana Singer (Maryland), Elizabeth Ehrenfest

Steinglass (New York), Robert Suggs (Maryland), Scott Taylor (New Mexico), Kellye Testy (Seattle), Francisco Valdes (California Western), Deborah Weimer (Maryland) and myself.

The small group facilitators were

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*"I liked keeping the heat on people to do something where they actually perform as teachers because performances were the biggest gift given by the conference."*

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Margalynne Armstrong (Santa Clara), Leslie Bender (Syracuse), Susan Bennett (American), Mary Lu Bilek (CUNY), Daan Braveman (Syracuse), Naomi Cahn (George Washington), David Chavkin (American), Nancy Cook (Cornell), Sumi Cho (DePaul), Michael Diamond (Georgetown), Estelle Franklin (Illinois), Katherine Franke (Fordham), Theresa Glennon (Temple), Pamela Goldberg (CUNY), Gilbert Holmes (Texas Wesleyan), Nan Hunter (Brooklyn), Marina Hsieh (San Francisco), Michelle Jacobs (Florida), Steven Jamar (Howard), Minna Kotkin (Brooklyn), Maury Landsman (Minnesota), Rogelio Lasso (Washburn), Sylvia Law (NYU), Jennifer Lyman (George Washington), David Luban (Georgetown), Holly Maguigan (NYU), Frank McClellan (Temple), Joyce McConnell (West Virginia), Binny Miller (American), Nell Newton (American), Michelle Oberman (DePaul), Jennifer Rosato (Brooklyn), Denise Roy (William Mitchell), Sharon Rush (Florida), Marjorie Silver (Touro College), Abbe Smith (Georgetown), Susan Sturm (Pennsylvania), Kathleen Sullivan (Yale), Perry Wallace (American), Susan Waysdorf (District of Columbia), Joan Williams (American), Stephen Wizner (Yale), Frank Wu (Howard) and Nancy Wright (Santa Clara). ■

## Reflections on the Conference:

**Margaret Barry (Catholic)**

From a clinician's perspective, the opening plenary offered useful methods for challenging assumptions about lawyer identity. It is scary for students to abandon the dark-suited, hard-edged shibboleth of the lawyer role, not because they find it attractive, but because it is understood.

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*continued from page 7 - SALT Teaching Conference*

Questioning that image places students squarely within the ambiguity and chaos that Sue Bryant (CUNY) identifies as useful habits of mind for lawyers. The ambiguity comes because the alternative role of lawyer is more expansive and less defined, and chaos is invited because the normative image is undermined.

Many law teachers advocate and model the vision of lawyer as a socially conscious, problem-solver. But, even as I aspire to that image, I know, in fact am reminded by the student enraged by a practice that I take for granted, that I am so mired in the lawyering traditions that it is hard to be critical, to see the breadth of change that may be beneficial. As a clinician, I try to find redemption in nurturing the very skill that is the most essential training we can provide, that is the habit of mind that, in the words of Sue Bryant, "does not necessarily reject socialization but makes it explicit."

#### **Maury Landsman (Minnesota)**

The 1997 SALT Conference was important for me in a number of ways. I am a clinician working with a classroom civil procedure teacher. The small group sessions gave me insight into the complexity of the process of integrating "skills" components into large classes, especially where there are differences in approach to issues of pedagogy. The small group presentations really stimulated my thinking about how best to present the skills, e.g. "modeling" critique of student presentations, and how to raise questions of broader social policy in the context of skills training in the traditional classroom. Finally, I appreciated the chance to get together with a large group of experienced clinicians to discuss issues of clinical pedagogy, an opportunity for which is not always present at other conferences.

#### **Michael Hunter Schwartz (Western State)**

I came to the conference hoping to enhance my efforts to layer diversity issues across my Contracts syllabus and to avoid what I regarded as the easy approach of evoking discussions of only those diversity issues raised (explicitly or implicitly) in the Contracts text I use. Although I often have explored with my students the notion that case opinions are stories, my exposure to storytelling pedagogy throughout the conference encouraged me to introduce alternative, outsider stories to my classroom discussions. This addition

has allowed me both to emphasize the storytelling nature of case opinions (by suggesting the existence of other possible stories) and to explore with my students those stories that are seldom told in the opinions.

My experience of working with Contracts-teaching colleagues to prepare a "mock" Contracts class addressing issues of diversity and then having to teach the class to other conference attendees was even more significant for me. Addressing issues of diversity, particularly race, in my Contracts class is not easy. The prospect of experiencing my normal discomfort while teaching a group of law professors as other Contracts professors watched was truly terrifying. Yet, once I managed to control my breathing enough to avoid hyperventilating myself, I found the experience so helpful and empowering that I felt comfortable integrating what I had learned from the experience into the first class I taught when I returned to my law school.

On the day I returned, my class was scheduled to conclude our discussion of mutual assent. I ended the discussion with a hypothetical based on

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a case involving contract-like discussions between steelworkers and U.S. Steel. The case seems to me to raise obvious issues of class. I used the hypothetical as a springboard to open up a discussion of difference as it relates to the objective mutual assent test. I explicitly raised race and gender (the students themselves had raised class) as topics of discussion and asked students to discuss how considerations of race, gender and class might change the doctrine. I also asked them to consider what kinds of images of race and class we would be constructing if we adopted a race-, gender- and class-conscious approach to mutual assent. We concluded the class by exploring the problems of addressing issues of race, gender and class through doctrinal changes and the larger question about a doctrinal system that forces choices between ignoring and constructing race, class and gender.



### Louise Howells (American):

We economic development and corporation lawyers/teachers sometimes have difficulty defining what we do. Maybe this is why we did not complete our model exercise like the Legal Writing group did so well. But, for this same reason, the SALT conference was very beneficial. We do need to talk to each other to better define our work, and that is what we did.

**Robert Suggs** (University of Maryland) and I were teamed up for the teaching presentation in our area. In preparing for our demonstration, we found that we have very similar teaching goals in spite of very different teaching styles. It is one thing to teach what the law is, and you can do that in a number of different ways, but quite another to help students understand what the consequences and impact of a legal act will be. Consequences and impact are somewhat more obscure in transactional matters than in criminal or civil trial cases where the potential outcomes are fairly apparent. Our presentation drew in large part on Robert's experience teaching corporate law and his desire to devise ways to help students see the problem behind the legal problem and the importance of market concerns and personal relationships.

Somewhat the same theme resounded in our small group sessions. We discussed race and gender issues that confront law teachers personally. We discussed techniques for responding to students bent on "challenging authority" and for modeling appropriate behavior. We explored different approaches to lawyering (primarily the take-charge-lawyer model versus teaching-the-client-to-do-it model).

Once on task, we began to develop (but, alas, did not finish) a simulation exercise in which students examine the impact and consequences of two different models of community development. The simulation was to involve intake interviews of two potential client organizations, both with "community development" aspirations, but with very different agendas. One group would be more concerned with "community" and improving the physical and social environment for low-income residents. The other would be more concerned with "the individual", with assisting people to acquire job and business skills that would enable people to leave the community.

Thank you to the conference planners for providing a teacher-interactive format in which to talk and work and learn from one another. ■

## LAW PROFESSORS AS POLITICAL ACTIVISTS

– Sylvia A. Law  
New York University  
School of Law

[The following comments were offered at SALT's Teaching Conference in Washington, DC on September 25, 1997 – MR-L.]

The dominant view in American legal education is that academics should not be activists, either in political work or legal practice. Mainstream conservatives assert that commitment to a cause or a client will undermine our ability to be objective. More recently, some people on the left have criticized activism, asserting that nega-

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*... In becoming lawyers and law professors,  
we do not stop being moral agents ...*

*Finally, as teachers, we are role models."*

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tive, critical activity is the only path that might lead to a liberated future. These claims are powerful. The vision of the independent academic, free of financial masters and particular loyalties, and thus able to speak truth to power, is attractive. And even if we consciously reject the view that academics should not be activists, we nonetheless remain influenced by the culture of which we are a part.

I disagree with the dominant view that academics should not be activists. First, as Professor **Elizabeth Schneider** and others eloquently remind us, wise legal theory must be informed by immersion in practice and struggle. Second, many of us came to law school to acquire the knowledge and skills to fight for justice. In becoming lawyers and law professors, we do not stop being moral agents. We owe activism to the visions that motivated us to enter the law. Finally, as teachers, we are role models. Most of our students will not be academics; more likely, they will be lawyers and actors in a political world.

Rather than advance abstract arguments in support of law professor activism, I want to offer precedents – law professors who have done impor-

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tant work for justice. These examples are just a few of many that we could consider. And they are, without apology, all drawn from my friends.

In the civil rights movement of the 1960s, many of our predecessors left their offices and went South to use their legal skills to enable people to register to vote, to demonstrate, to speak and to get out of jail. **Tony Amsterdam** went south from Penn, **Arthur Kinoy** from Rutgers, **Father Robert Drinan** came from Boston College. **Mark DeWolfe Howe** of Harvard entered a courtroom for the first time when in Mississippi. Howe died, but the others have never stopped being wise advisors to lawyers fighting for civil rights.

My personal mentor, **Edward V. Sparer**, served as General Counsel to the National Welfare Rights Organization while he taught at the University of Pennsylvania. I could tell many stories of Ed's activism. Some actions were small. For example, he organized a boycott of a local supermarket that refused to take food stamps. Others were quite monumental. In the early 1970s,

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*"Current anti-affirmative action measures pose a profound threat to equality, democracy, diversity and any sensible concept of merit."*

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Nevada used their new computer to match up welfare recipients with people who had some work history and summarily terminated half the people in the state receiving AFDC. Ed worked with others to organize a massive campaign that brought hundreds of law students, lawyers and civil rights activists to Nevada. We filed federal lawsuits and demonstrated at the casinos. My personal job in this campaign was to train law students to represent individual poor people challenging their terminations. In most cases, careful study of the law and the facts revealed that people were not only wrongfully terminated, but were, in fact, entitled to more money than they had been getting. That campaign did some real good, and everyone who participated learned more than one does in most law school courses.

My colleague, **Norman Dorsen**, founder of SALT, offers us another example of law professor activism. Often when Norman notices something he regards as particularly outrageous or alarming,

he writes a declaration, gets on the phone, recruits a politically diverse group of influential people and persuades them to join together to place an ad in the *Times* or to offer testimony in Congress.

**Holly Maguigan** provides another example of activism. After years of criminal defense work representing battered women who kill, Holly decided to try academic work and has created a clinic that trains a new generation of lawyers to do this work. She provides an invaluable resource to the movement of people working on behalf of battered women.

**Derrick Bell** put his career and his tenure on the line to protest Harvard's failure – as yet uncorrected – to hire a single woman of color to its law school faculty.

**Chuck Lawrence** writes of demonstrations in the wonderful new book he wrote with **Mari Matsuda**. [See a review of their book on page 17 herein]. He describes the pride and pleasure he felt in 1995 when thousands of University of California students marched and demonstrated against the Regents' decision to end affirmative action. He recalls earlier demonstrations protesting the state decision in the *Bakke* case rejecting affirmative action. He was then a young professor at USF, and students looked to him for help. He told them, "Of course I'll come to the demonstration." But he also told them that ultimately it would be the students' voices, not the professors' legal arguments, that would make a difference. He became a regular speaker at these demonstrations, offering a message of encouragement, reassurance and support. "Keep organizing. Trust yourselves. You're right to be in the streets, speaking for your communities and answering the lies that call you unqualified or inferior. Be proud that you're on the front lines of the struggle. We cannot thank you enough for that."

All these lawyers have thrown themselves into action. But most had the luxury of being able to play a supportive role in actions organized by others. Obviously, different people have different skills, styles and priorities. Because we are lawyers, our appropriate role is usually to advance the needs of our clients. The lawyers who went to Mississippi and to Nevada had a keen appreciation of the fact that they were not the leaders of the people, but were there to help organizers accomplish the objectives they had defined for themselves. I have not mentioned a single example of law professors organizing demonstrations.

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## **SALT EVENTS AT THE ANNUAL AALS MEETING SAN FRANCISCO**



*Tuesday, January 6, 1998 • 3:00-8:00 p.m.*

**SALT Board of Governors Meeting**  
Hilton Hotel, Continental Parlor #1, Ballroom Level



*Wednesday, January 7, 1998 • 8:00-10:00 p.m.*

**Robert Cover Study Group**  
**"Violence and the Word: Law Professors and Political Activism"**  
Hilton Hotel, Taylor Room, 6th Floor



*Thursday, January 8, 1998 • 10:30 a.m. - 12:00 noon*

**March and Rally**  
**Communities Affirming Real Equality (CARE)**  
Convene in the Hilton Hotel lobby at 10:15 a.m.



*Friday, January 9, 1998 • 6:30-9:30 p.m.*

**SALT Awards Dinner**  
**Honoring Professor Emeritus Jim Jones of the**  
**University of Wisconsin Law School**  
Hotel Nikko, Grand Ballroom I

*Please make your reservations immediately by calling  
Christine Corbett at 212-431-2350. The cost of dinner is \$50.*



*Throughout the AALS Annual Meeting*  
**"Faces of Diversity"**  
**Illustrated through Exhibits and Graphics**  
AALS Exhibition Hall



## **RESOLUTION IN SUPPORT OF SALT C.A.R.E. MARCH**

### **Thursday, January 8, 1998 ■ San Francisco, CA**

#### **PREAMBLE**

The Society of American Law Teachers (SALT) is an organization of over 700 law professors committed to ensuring that legal education and the legal profession engage the task of promoting social justice. Diversifying law school student bodies and faculties, transforming law school curricula and promoting legal services for underserved groups have always been central components of that mission. SALT's Board of Governors has responded to the most recent wave of assaults on affirmative action by launching a multi-year ACTION CAMPAIGN to reframe the public debate and reaffirm the legitimacy of race- and gender-conscious criteria to increase access and opportunity in law school admissions and throughout the legal profession.

The ACTION CAMPAIGN has its origin in a collective judgment that the ongoing backlash against the relatively modest advances in providing equal opportunity warrants an immediate response. The rhetoric of backlash characterizes affirmative action as a radical policy of unwarranted preferences only by intentionally ignoring the broader social justice claims made by movements fighting racial and other forms of structural, institutional and social discrimination. In this context, affirmative action was always only one strategy offered as part of a broader struggle against profound and continuing injustice. Indeed, we must never forget the way some conservatives sought opportunistically to embrace limited forms of affirmative action precisely because they understood the depth, breadth and compelling nature of the claims for justice these movements were advancing and believed that token forms of affirmative action could be used to limit and divert these more fundamental challenges. By launching this campaign, SALT refuses to ignore the fact that the United States is still a racist society. By taking action, we pay tribute to the long history of struggles against racism in this country.

While we commit ourselves to the long-term, formidable task of combating racism, we also acknowledge the connections among all forms of oppression that exclude us from equal citizenship. Moreover, attacks on affirmative action, immigration, welfare, and gay and lesbian equality must be understood as interrelated, mean-spirited policies of exclusion. Therefore, each struggle against Prop 209, Prop 187, the Welfare-to-Work law, or the Defense of Marriage Act must be seen as part of a larger movement for social transformation and justice.

The ACTION CAMPAIGN targets retrenchment in the legislatures, courts, universities and society at large. SALT is uniquely situated to play a significant role in promoting effective responses by working with our constituencies in legal education, as well as with legal, political and community advocacy groups engaged in this struggle.

#### **RESOLUTION TEXT**

- 1) WHEREAS, affirmative action fights America's seemingly intractable legacy of racism and white privilege and moves toward the fuller inclusion of people of color and women;
- 2) WHEREAS, affirmative action has been pivotal in moving us from an era of virtual white, male monopoly of law school admissions twenty-five years ago (1971-72), when enrolled law students were 93.9% white and 90.61% male; and
- 3) WHEREAS, affirmative action remains, as yet, one of the only social programs to address the historic gender and ongoing racial imbalance in law school admissions, where even as late as 1996-97, whites comprise 80.35% of all U.S. law students; and
- 4) WHEREAS, while white women as a group have been the main beneficiaries of affirmative action, they still face discrimination in the legal profession as evidenced by the fact that in 1995 women constituted 43.3% of law students but only 26.4% of all lawyers, 13% of law firm partners, and 9% of all judges. Furthermore, gender is a significant determinant in earning potential in law as shown by the example of women graduates of University of Michigan Law School, who, after 15 years of practice, earned just 61% as much as male graduates; and
- 5) WHEREAS, California's Proposition 209; the Fifth Circuit's decision in *Hopwood v. University of Texas*, the University of California (UC) Regents resolutions SP-1 and 2 and proposed federal anti-affirmative action legislation constitute policies that result in the exclusion of peoples of color from meaningful participation in American society; and
- 6) WHEREAS, under the new anti-affirmative action policies, for example, UC Berkeley's School of Law will enroll not one African American student this year, down from 20 last year; UC San Diego's Medical School will enroll 5 Latina/os down from 16 the previous year, and did not admit even one of the 27 Native Americans who applied; the University of Texas School of Law will enroll 4 African Americans and 21 Latina/os, down from last year's class of 31 African Americans and 42 Latina/os; and
- 7) WHEREAS, divide and conquer racial politics of affirmative action opponents notwithstanding, all groups of color have benefitted significantly from affirmative action; appeals to the partial, episodic and short-term interests of groups such as Asian Americans in an effort to swell the ranks of the opposition and to mask the institutionalized racism at the heart of the campaign against affirmative action will never serve the long-term interests of Asian Americans as a group; and
- 8) WHEREAS, studies confirm that there is little or no significance between LSAT scores and law school graduation rates, bar passage, and/or success in the practice of law such that the Law School Admissions Council (LSAC), which develops and oversees the LSAT test, consistently cautions law schools against over-reliance upon exam scores in admissions decisions; and
- 9) WHEREAS, allegedly color-blind admissions policies that over-rely on standardized tests impose a self-serving conception of merit that penalizes the poor, people of color and women to the benefit of those who are wealthy, white and male; and
- 10) WHEREAS, such socially regressive policies threaten the integrity of American legal education by creating stale, racially-exclusionary educational environments; and
- 11) WHEREAS, the immediate, symbolic resegregation of public law schools in California and Texas due to anti-affirmative action policies poses a particular challenge and responsibility for justice-minded teachers of law;

THEREFORE BE IT RESOLVED, that (your organization) endorses the collective reaffirmation of diversity and commitment to reconstruct merit and thereby urges all its members to participate in the Communities Affirming Real Equality (CARE) March, on Thursday, January 8, 1998 in San Francisco.

BE IT FINALLY RESOLVED, that in order to communicate the endorsement, the (appointed representative) of (your organization) will forward a copy of this resolution to Professor Margaret Montoya, University of New Mexico School of Law, 1117 Stanford Dr. N.E., Albuquerque, NM, 87131-1431.

**Join the March – We Won't Go Back!**



continued from page 10 - Law Professors as Political Activists

While SALT has a consistent tradition of activism in the form of amicus briefs, studies and Congressional testimony, today SALT dares to take on an activist role that is somewhat new for law professors – organizing, not simply encouraging. It is an unusual action, but these are unusual times. Current anti-affirmative action measures pose a profound threat to equality, democracy, diversity and any sensible concept of merit.

The importance of affirmative action is a direct consequence of the myopic concept of discrimination that has been adopted by the Supreme Court. Until the civil rights movement of the

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*"The end of affirmative action threatens to return American legal education to the bastion on elite white men that it was just 30 years ago."*

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1960s, discrimination was blatant and explicit. With the adoption of the Civil Rights Act of 1965, that became unacceptable. The Duke Power Company provided an early and vivid example of how discrimination and segregation can be perpetuated. Until 1965, the company maintained two categories of laborers, white and Black. The whites were paid more. When that was prohibited, the company created two new categories. The favored group included incumbents and new applicants with a high school degree. Few new applicants had high school diplomas, and there was no evidence that the work required a high school education. The Supreme Court rejected this effort to utilize job "requirements" that discriminate in effect. The Court recognized that the newly-minted academic requirement preserved a segregated workforce and perpetuated the second-class treatment of Black workers; consequently, the classification was struck down.

However, the Court's commitment to a concept of equality that seeks integration was short-lived. In 1976, in *Washington v. Davis*, the Court held that the constitution prohibits discrimination only when it can be proven to be deliberate and intentional. Yet it has become abundantly clear that a concept of equality that pays no attention to results and looks solely for conscious, intentional racism or sexism is extremely limited.

Because our legal concept of discrimination is so myopic, and because standards of merit that are discriminatory in effect are so common, affirmative action must carry all the weight of promoting integration and diversity. In the *Bakke* case in 1978, the Court sharply limited the ability of public institutions to implement affirmative action programs. However, the Court approved the consideration of race as one of many factors in selecting a diverse student body. Following *Bakke*, SALT issued a special report advising law schools how they could comply with the decision and still seek to achieve integrated classrooms. Schools that have resources to devote to a complex and intensive admissions process are able to live with *Bakke* and still achieve diversity and integration. This task is far more difficult for large schools with few resources, where there is great pressure to rely on standardized numbers, even though we know that the numbers predict race and class, rather than merit.

Today, affirmative action, and hence integration and diversity, are in jeopardy. Proposition 209 prohibits any effort to achieve integration or diversity in California, the Fifth Circuit has prohibited affirmative action within its jurisdiction and other repressive measures are in the pipeline.

The end of affirmative action threatens to return American legal education to the bastion of elite white men that it was just 30 years ago. The assault on affirmative action hits us where we live. We are all the direct beneficiaries of affirmative action. For those of us who are people of color,

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*"Our personal stake in this battle requires that we act, not just as representatives of the claims and interests of others, but to preserve our own visions of legal education for a diverse and democratic society."*

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women or gay, it has opened doors of opportunity for us. And we all benefit from being able to study law in classrooms that are not entirely segregated. The need for transformation of consciousness and understanding around these issues is massive. The urgency of the situation demands a dramatic response. Our personal stake in this battle requires that we act, not just as representatives of the claims and interests of others, but to preserve our own visions of legal education for a diverse and democratic society. ■



## **"DON'T ASK, DON'T TELL" AND THE SOLOMON AMENDMENTS**

— Lisa Ikemoto  
*Loyola Law School*

At its September 1997 meeting, the SALT Board discussed two developments that threaten the rights of lesbians and gay men. One arises from the continuing controversy over the military's "don't ask, don't tell" policy. The other arises from the new Solomon Amendments which threaten law schools with the loss of federal funding if they don't allow military recruiters on campus.

The plaintiffs in *Able v. U.S.* (2d Circuit) are self-identified lesbian and gay members of the armed forces and coast guard. They have challenged 10 U.S.C. §654, popularly known as the "don't ask, don't tell" policy, that authorizes the "separation" or exclusion of persons from the military based on sexual orientation. The challenges include free speech, expressive association, intimate association and equal protection arguments. On July 2, 1997, the District Court (E.D.N.Y) held that the Act's provision for discharge of members of the armed services "who through statement or conduct indicated affectional preference for same sex, involved imposition of unequal conditions on gay men and lesbians as a prerequisite to serving their country in the armed forces and was invalid under the equal protection component of the Fifth Amendment." The United States has appealed this decision. After discussion, the SALT Board passed a resolution approving SALT to sign an amicus brief in support of the plaintiffs. SALT Board member **Art Leonard** is leading this effort.

The second development is the recent passage by Congress of the Solomon Amendments, which expand the list of federal agencies that can deny funding to schools that do not allow on-campus military recruiting. Schools that prohibit discrimination on the basis of sexual orientation and that, therefore, ban the military from recruiting on campus, are put in a very difficult position. They must choose between providing a non-discriminatory educational environment and receiving financial aid monies. The list of agencies now includes not only the Department of Defense, but also the Departments of Education, Labor, Health and Human Services and "related agencies." The Department of Education has determined that the legislation does not affect grants

made directly to students, but it does include grants for students that are made through the school. Hence, Perkins Loan funds and work-study funds will be affected. The Pentagon listed in the Federal Register (July 15, 1997) seven schools deemed to be out of compliance with the law: American University Washington College of Law, Hamline University School of Law, Ohio Northern University College of Law, St. Mary's University School of Law, University of Oregon School of Law, Willamette University College of Law and William Mitchell College of Law.

In response to the recent Solomon Amendments, the AALS Executive Committee decided to excuse schools that permit military recruitment if those schools take "ameliorative" action to create an hospitable environment for all students. For an excellent report on how one law school has chosen to respond to this situation, read Dom Vetri's article, which follows.

The SALT Board has decided to adopt a pro-active position that will include recommendations about appropriate efforts at "amelioration" and that may also include signing on to a constitutional challenge to the Solomon Amendments. If you have suggestions or questions, please contact me. ■



### **ONE SCHOOL'S RESPONSE TO THE SOLOMON AMENDMENTS**

— Dom Vetri  
*University of Oregon  
School of Law*

Law schools around the country are facing a crisis this fall because they may lose federal work study and Perkins Loan funds if they continue to exclude military recruiters at their schools. Military recruitment at law schools has been prohibited by American Association of Law Schools (AALS) regulations because the military discriminates on the basis of sexual orientation. Most law schools have been honoring the AALS policy, while some schools have not. There is no formal enforcement mechanism. For those schools that have banned military recruiters, the recent Solomon Amendments pose a serious dilemma: allow an agency that discriminates against gay men and lesbians to recruit at the law school or lose eligibility for federal student assistance funds.



This brief article describes the approach taken by the University of Oregon School of Law in dealing with this military recruiting crisis. This fall, the law school was notified by the Pentagon that our school was in violation of the Solomon Amendments because we did not provide access to military recruiters. We were on the Pentagon's short list of seven law schools, even though we were following the same AALS policy governing all other law schools.

Shortly thereafter, we received notice from the Department of Education (DOE) that, because we were in violation of the Solomon Amendments, the University was ordered not to disburse federal

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*"... a serious dilemma: allow an agency that discriminates against gay men and lesbians to recruit at the law school or lose eligibility for student federal assistance funds."*

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work study monies to law students. (Perkins Loan funds were not affected because the University has not received new funds for this purpose in recent years and has been recycling old funds.) The total work study monies for law students for 1997-98 amounts to over \$100,000. The loss of these funds would be a devastating blow to our students who need the financial assistance to keep up with rising tuition and fee costs. What to do?

To give us some breathing time to negotiate with the Pentagon, we arranged for the University to use other state and private funds to continue paying wages to law students formerly on federal work study. The federal work study monies were then used to replace the state and private funds switched by the University. This worked because the state and private monies were used in a state-funded work study program which had the same eligibility requirements as federal work study. So while we maneuvered, no repercussions were felt by our students.

This rearrangement of funds could only work once, however, because in early 1998 the DOE will decide, as it does annually, the number of students eligible for work study at each institution and the amount to be allocated for the following academic year. In the 1998 calculations, DOE will reduce the UO's number of eligible students by the size of the law school's current enrollment, and the UO will receive approximately \$100,000 less next year.

For years, the University of Oregon has allowed the military to recruit on the University campus, notwithstanding University and State Board of Higher Education regulations prohibiting discrimination on the basis of sexual orientation in the provision of placement services. They caved in, as did most colleges and universities, because they would have lost Defense research contracts and grants and Defense loans and grants to students under the earlier versions of the Solomon Amendments. Because law schools did not receive any such defense grants or loans, it did not matter that we were in violation of these earlier Solomon Amendments, and law schools continued to prohibit military recruitment in the law schools. The latest Solomon Amendment changed the picture for law schools because it implicated Department of Education grants and loans, as well as those from the Department of Defense.

Our school wanted an approach that would allow the law school and its administrators to be as free as possible from complicity in the military's discriminatory practices. Providing interviewing space at the law school and providing career office services to the military would make us complicit. The dean, placement director, last year's chair of the gay-lesbian-bisexual (GLB) law student group, and I began strategizing; eventually, we settled on an alternative, about which we are optimistic, although it, too, has its costs and compromises. In short, we decided on the following actions in order

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*"Our school wanted an approach that would allow the law school and its administrators to be as free as possible from complicity in the military's discriminatory practices."*

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to maintain our non-discrimination principles and to regain eligibility to the work study monies:

- 1) Move all of our law placement interviews out of the law school to the University's placement facilities. (Because of space limitations, most of our on-campus interviews were already being held outside the law school building at another location approximately two blocks away.)
- 2) Have the University's Career Services office handle all arrangements, information and notices regarding military recruiting.
- 3) Charge the law school's career services

*continued on page 16*



*continued from page 15 - The Solomon Amendments*

office with developing and maintaining a program of placement assistance for openly GLB law students.

The university sent a letter to the Assistant Secretary of Defense asking that our school be removed from the list of schools ineligible for funding under the Solomon Amendments by stating that "all employment recruitment of law students at the University of Oregon will now take place in the University's Career Center or the [student union], without exception."

An open meeting with all law students was called by the Dean to explain the dilemma and our plans for dealing with it. We received a letter back from the Pentagon three weeks later stating that the

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*"There are news reports of many law schools allowing access to military recruiters in the face of the potential loss of funds. There are no reports of wide-scale hiring of GLB faculty by these schools."*

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UO was no longer considered to have restrictive policies and that we were eligible to resume participation in the financial assistance programs.

We have been working on our program of career services assistance for lesbian, gay and bisexual law students and have come up with the following proposals for immediate implementation:

1) Establish a mentoring program for interested students with gay and lesbian lawyers in Eugene, Portland, Seattle, San Francisco and other areas where our students are interested in practicing. The King County Bar Association in Seattle and several other GLB lawyer groups already have such programs in place, and we will model their programs.

2) Bring GLB lawyers to campus at least twice a year for discussions with GLB students on issues related to job searching and employment. On occasion, we have hosted such sessions in the past, including a recent session with an out partner of a major Seattle law firm. Now we have decided to regularize the events.

3) Develop a list of GLB-friendly law firms and employers, i.e. those with non-discrimination policies, with partner benefit policies, who identify the number of GLB partners and associates, and

who indicate their gay-friendly attitude in the literature that they provide to our placement office.

4) Hold meetings for our students with GLB judges, government officials and administrators.

5) Include openly GLB individuals on career discussion panels whenever possible, just as we do with female and minority lawyers. Thus, if we bring together a panel of lawyers to discuss business law practice, we will be sure to include a GLB business lawyer.

6) Develop a bibliography of articles and books that discuss issues of concern to GLB students in gaining employment and practicing law.

7) Develop a program to reach out to mid-size firms to encourage them to adopt non-discrimination policies and gay-friendly attitudes. Substantial progress has been made with the big urban firms and public employers, but not with the medium-size firms, where so many of our students ultimately find employment.

This Career Services assistance program is open-ended, and we continue to seek suggestions to make the program more effective. It is a positive outgrowth of the military's oppressive handling of the recruitment issue and, if implemented nationally, will be a real help to GLB students everywhere. It can be one way of turning a loss into a partial gain.

The AALS, meanwhile, formally amended its nondiscrimination regulations to excuse schools from compliance in the case of military recruiters. Although we understand its dilemma, we were disappointed by the AALS's quick turn-around on its non-discrimination policy regarding placement facilities. Non-complying schools will be excused so long as they "engage in appropriate activities to ameliorate the negative effects that granting access to the military has on the quality of the learning environment for its students, particularly its gay and lesbian students." Ameliorative steps will be examined "in the context of the totality of the schools' efforts to support an hospitable environment for its students," including "the presence of an active lesbian and gay student organization and the presence of openly lesbian and gay faculty and staff." These conditions add little to what already exists at most law schools, and, in any event, we doubt that they will be enforced. There are news reports of many law schools allowing access to military recruiters in the face of the potential loss of funds. There are no reports of wide-scale hiring of GLB faculty by these schools.

We must provide more input to the AALS



Executive Committee to help make it more responsive and understanding. With this in mind, the University of Oregon School of Law urged the AALS Executive Committee at its November meeting to require that law schools have a career services program for GLB students much like the one we are developing at Oregon.

We are equally disappointed with what Oregon was forced to do. I recognize the compromise that is implicit in the Oregon approach, and I wish that we could have simply told the Pentagon to "go to hell." But I understand the realities of the

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*"I believe that we model for our students much more by our conduct than by our words. We have found a means to demonstrate how important the principle of non-discrimination is to us by creating an alternative to on-site recruitment and by developing a placement assistance program."*

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situation, and I respect the limits of even my incredibly supportive dean, placement director, faculty and students. If the choice had come down to allowing the interviews at the law school or the loss of the \$100,000 in work study money, I know we would have lost that battle. Nor would the university have been willing to accept the public relations problems that would ensue. I'm a pragmatist at heart, and I worked for a solution that allowed us to stand for the principle of non-discrimination. For me, the career services assistance program is a huge step forward that will help GLB law students enormously in their job searches. We have made progress out of the dilemma, albeit not against the military. But we will eventually!

I believe that we model for our students much more by our conduct than by our words. We have found a means to demonstrate how important the principle of non-discrimination is to us by creating an alternative to on-site recruitment and by developing a placement assistance program. The fact that our students are inconvenienced somewhat and the law school loses the value of having law firm recruiters inside the law school to mingle with faculty and students is a price that we have to pay to stand on principle. It was good to find out that our faculty and students decided to accept the inconvenience as our way of saying "no" to sexual orientation discrimination in the military. ■

## NOW THIS IS WORTH READING

– Michael Rooke-Ley  
Nova Southeastern University  
Law Center

At a time when so many among us seem to have forgotten about, if not rejected, the moral underpinnings of an inclusive society, and when SALT has established as its first priority the reaffirmation of the principles supporting diversity, an extraordinary book has rolled off the presses. Our colleagues, **Mari Matsuda** and **Chuck Lawrence**, have written a beautifully crafted, intellectually persuasive, deeply personal, often spiritual and immensely readable book entitled "We Won't Go Back: Making The Case For Affirmative Action."

Blending historical discussion, legal analysis and personal stories, the authors convincingly "state the case" to skeptics of affirmative action and provide inspiration for those of us who may lose sight of the bigger picture in the midst of our daily work. Reading with pen in hand as is my wont, I noted many anecdotes and personal stories that brought a smile or a tear and a whisper to myself, "Yes, yes, that is why our work is so important." This book is one that I want to share with my students ... and with my family.

Chuck and Mari are teachers, to be sure, for they understand well the questions and doubts that today's law students have – and don't always articulate – about affirmative action. The entire question of merit is, of course, central to those concerns. "Standards used to measure merit," the authors explain, "are both imprecise and narrow in ways that fail to identify the full range of talents we might justly consider meritorious ... We purport to follow standards of merit when in fact we rely on practices of privilege."

"Qualified" must mean, at least in part, the ability (and the willingness) to meet society's needs. With this in mind, say the authors, let us add "economic disadvantage" to our admissions criteria and include "those who can best deepen the understanding within our divided family and who will work to pull up those in danger of being left behind." And if we are truly able to see self-interest as tied to the collective, what more important work could there be?

We are blessed to have this wise and wonderful book available to us. Take heed. ■



## FIRST MONDAY'S FOCUS ON IMMIGRATION GENERATES CHANGE

— Ann C. Shalleck  
*American University  
College of Law*

*First Monday* was tremendously successful this year in raising awareness about new immigration laws that limit access to the courts for immigrants, refugees and others. The ideas and participation of SALT members across the country were enormously helpful. In addition to events at over 170 law school campuses, regional events were held in several cities that brought together law students, the legal community and immigration activists. The American Immigration Lawyers' Association hosted a city-wide program in Chicago. Hundreds of students, lawyers and treasurers turned out to hear federal judge Ruben Castillo, AILA National President Margaret McCormick and Archbishop of Chicago Francis E. George. Attorneys from the area contributed \$5,000 to the event.

The Philadelphia event featuring Mayor Edward Rendell and leading immigration lawyers drew 300 people. The Washington, DC program featured *New York Times* columnist Anthony Lewis and Dean Claudio Grossman of American University College of Law and attracted 400 people. Rutgers Law School speakers Congressman Frank Menendez (D-N.J.) and Cecilia Munoz from National Council of La Raza brought together 250 people from the local area. We are told that attendance at law school events across the country was the highest ever.

The Alliance film, "With Liberty and Justice for All," produced by Academy-Award winning filmmaker Barbara Kopple, brought home the harshness of the new immigration laws, as well as their arbitrary enforcement by the Immigration and Naturalization Service (INS). The video first examines the case of Jesus Collado, a lawful resident of the United States for twenty-three years, imprisoned under the threat of deportation for a misdemeanor he committed two decades ago. Next, the film tells the story of Paul Ahua, an asylum seeker fleeing persecution and violence in Cote d'Ivoire, and how he was assisted by a pro bono corporate attorney.

Partly as a result of the public outcry and media attention generated by the film, Jesus Collado was released from INS detention on October 23, 1997. We were truly inspired by Mr.

Collado's family, who waged a tireless campaign for his release. Mr. Collado, however, is not out of the woods yet. He still faces a deportation hearing later this year. To keep up with this rapidly changing story and to maintain pressure on Congress, the Alliance is updating its video and will release a revised and equally compelling one soon. SALT members may wish to have a follow-up program using the updated video. If you are interested, let me know. ■



## SALT's LITIGATION AND LEGISLATION SUPPORT GROUP SEEKS YOUR HELP

— Stephen Wizner  
*Yale Law School*  
— Bacardi Jackson  
*Yale Law School, '98*

The SALT Litigation/Legislation Support Group is seeking your assistance in contacting the lawyers, legislators and political action groups that are or will be working to revive, maintain or implement affirmative action programs around the country, particularly in law schools. This support group will be compiling a list of research, evidence and publication needs in order to establish an accessible database for these individuals and organizations. In addition, the group will encourage faculty and student research and writing projects to provide the needed resources that do not currently exist.

If you know of any organizations or individuals, or are yourself involved in projects that would benefit from the efforts of the Litigation/Legislation Support Group, please forward the pertinent name(s) and address(es) to Bacardi Jackson, Yale Law School, P.O. Box 209090, New Haven, CT 06520-9090. Also, if you have relevant evidence, research or publications that would be helpful to others in their legal or legislative work, please send either a copy of the materials or information about how to access such materials. Finally, if you are aware of any recent legislative proposals, ballot initiatives or policy statements that ban or restrict affirmative action in your state or locale, please forward that information, as well.

Thank you in advance for your prompt response and assistance. Together we can make a difference. ■



*continued from page 1 - March and Rally*

and up California to the headquarters of the Bar Association of San Francisco. There a delegation of San Francisco lawyers, many from large corporate firms, will join their former professors in support of affirmative action. The marchers will then continue to march up California to Montgomery, across Montgomery to Post, and up Post to Union Square.

A rally will begin in Union Square at 11:30 am. The invited speakers include the president and president-elect of the AALS, the president of the ABA, the president of SALT, the Mayor of San Francisco, and noted law professors **Lani Guinier**, **Mari Matsuda** and **Frank Valdes**. The rally will end in time for those attending the annual AALS luncheon at 12:30 to return to the Hilton.

We encourage you to march in full academic regalia! Caps and gowns may be purchased in advance (and picked up at the SALT booth in the exhibition hall at the AALS meeting) at a cost of \$20. The deadline for ordering in advance is December 15, 1997. Caps and gowns will also be available on the day before the march and the morning of the march at the SALT booth in the AALS exhibition hall at a cost of \$25.

SALT hopes that hundreds of law professors, law students, legal workers and lawyers will march through the streets of San Francisco to send a message throughout America: We Won't Go Back! Please join us in San Francisco on January 8th.

For further information about the march and rally, contact Professor **David Oppenheimer**, Golden Gate University School of Law, 536 Mission Street, San Francisco, CA 94105. Phone



### **COVER STUDY GROUP "Violence and the Word": Law Professors' (Re)Action to Proposition 209**

— Eric K. Yamamoto  
University of Hawaii  
School of Law

Each year at the AALS Annual Meeting, SALT sponsors a study session at which we honor Professor **Robert Cover** by meeting in his memory to explore current issues of social justice. Bob

Cover was only 42 when he died in 1986, but he deeply touched the lives of his colleagues and students with his intellectual power and personal commitment to justice. As an undergraduate student in the early 1960s, he went to Albany, Georgia, for nine months as a volunteer for the Student Nonviolent Coordinating Committee, where he worked on voter registration and served as a local liaison with the National Sharecropper's Fund. While a faculty member, he picketed on behalf of university workers seeking better wages and working conditions, led teach-ins on divestment of university funds from South Africa, protested the prosecution of black radicals on conspiracy charges and worked with law students trying to help the homeless in New Haven. As a scholar, he published works that examined the moral dilemma facing antislavery federal judges charged with enforcement of the fugitive slave laws (*Justice Accused: AntiSlavery and the Judicial Process*); discussed the connection between law and violence based in the coercive nature of state authority (*Violence and the Word*, Yale Law Journal, 1986); and explored the relationships among law, culture and the judiciary (*Nomos and Narrative*, Harvard Law Review foreword, 1983). In the 1992 reprinting of the collected essays of Robert Cover, **Avi Soifer** called Bob Cover "a funny, challenging, marvelously irreverent and deeply serious dreamer, who believed that 'the very process of argument and irreverent imaginings with others past and present' could help us to make 'new, better worlds together.'" We meet in Bob Cover's memory to continue to walk that path with him.

This year's discussion will focus on law professors and political activism. More particularly, it will address the linkage of theory and practice – "violence and the word" – in the context of political and legal responses to California's Proposition 209 anti-affirmative action initiative. How can our scholarship and teaching contribute to political struggles? Need they do so? In what ways can law professors aid community political-legal action? How does this play out in the concrete struggles against *Hopwood* and Proposition 209?

The discussion will be facilitated by scholar-activists **Pedro Noguera** (U.C. Berkeley) and **Juli Su** (Asian Pacific American Legal Center). **Eric Yamamoto** (University of Hawaii School of Law) will moderate. A packet of readings will be distributed by **Sylvia Law** (NYU Law School). All SALT members and friends are welcome. ■



*continued from page 1 - SALT Teaching Award*

black law professor, has combined a successful teaching career with government service. He is someone who, for several decades, has labored in the field of affirmative action and legal education and employment opportunity in general. By honoring him this year, we are recognizing a lifelong commitment to minorities in the workplace and in legal education.

Jim Jones began his legal career in 1956 as a legislative attorney with the U.S. Department of Labor, eventually becoming Associate Solicitor of Labor for the Division of Labor Relations and Civil Rights from 1967 to 1969. While he was at the Department of Labor, Jones was instrumental in developing a very early notion and model of affirmative action. He was also instrumental in formulating the "Philadelphia Plan", which mandated goals and timetables for hiring minority workers. He continues to be active in state and federal affirmative action programs and is a frequent speaker

**Make your Dinner Reservations  
NOW . . . before it's too late!**

**SALT Awards Dinner honoring  
Professor Emeritus Jim Jones**

**Friday, January 9, 1998**

**Call Christine Corbett at  
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on the topic of affirmative action in the labor market. At Wisconsin, he founded the William H. Hastie Fellowship program which was designed to bring minority law professors into the profession. Graduates of this program have since gone on to prominence as legal educators at many institutions around the country. Professor Jones is featured in the current Hastie Fellowship brochure.

His extensive writings include many articles on employment discrimination law, civil rights and employment, and affirmative action. Several articles are particular classics in the area of affirmative action and have been reprinted in congressional reports. Jim Jones's work and dedication to the principles of affirmative action have touched the lives of countless individuals. In this time when affirmative action is under pressure and diversity in legal education and in the academy is being threatened, SALT is very pleased to be honoring someone whose life's work reflects the central mission of our organization. ■

*continued from page 3 - SALT Board Meets in Washington*

within the workforce. SALT will also sponsor its annual Robert Cover Study Group at the AALS meeting. Eric Yamamoto will be convening a group of participants to lead a session organized around Robert Cover's "Violence and the Word" law review article. [For further details, see page 19 herein.]

Phoebe Haddon reported that the Nominations Committee would be sending out ballots for Board of Governors election by October 10th and that the Committee would like to suspend temporarily the deadline rules regarding the election of a President- or Co-President-Elect so that the committee can continue working on a consensus basis to come up with one or more appropriate nominees. The Board agreed that the rules should be suspended for this purpose.

Scott Taylor reported that the SALT treasury is not in financial "dire straits" but that we must always be aware to alert him to contingent expenses that have not been budgeted. When formulating new programs, the Board should be as specific as possible so that we can monitor carefully our budgetary needs for the future. It was suggested that we continue to solicit funds from Board members for our Stuart Filler Scholarship and that ultimately SALT should top off the scholarship to \$3,000 out of the treasury. This motion was approved. Linda Greene reported that she, Phoebe Haddon, Howard Glickstein, Scott Taylor and Stephanie Wildman had met with various development officers from some of the law schools in New York last Spring in an effort to get suggestions for outside funding sources for our activities. While these development specialists felt that many of our activities would merit outside funding, they also suggested that we be much more concrete in our proposals to funding groups. Linda stated that we would continue to look to outside funding sources for our activities.

For our Communications Committee, Frank Valdes reported that our listserve and Web page have been transferred to Santa Clara and that there are special listserves for the SALT membership, for the SALT Board and for each of the Board committees.

Finally, the Board approved a \$3,000 grant to CLEO for an informational tear-off poster designed to encourage minorities to attend law school.

The next Board meeting will be held on January 6th in San Francisco in conjunction with the AALS annual meeting. ■



## FROM THE TREASURER

— Scott Taylor  
University of New Mexico School of Law

### Am I current with my dues?

Because we have an annual dues cycle that runs from September 1 of each year, it is easy to lose track of where you are with your dues. To check your own dues status, look at the mailing label of this *Equalizer*. If the number after your name is [96], then I do not yet have a record of you having paid your dues. These records are current as of November 5, 1997. So, if you paid recently, not to worry. If the number is [97], then you are current. If the number is [98] or higher, then you have prepaid your dues for one or more years in advance. Some members inadvertently pay their dues more than once each year. In those cases, I give the member credit for additional years.

### Thanks to our contributing members!

As treasurer of SALT, I extend a heart-felt thanks to those SALT members who are contributing members. A contributing member is one who pays \$100 each year instead of the normal dues amount of \$50. These members are:

- Howard Glickstein (Touro)
- Richard Chused (Georgetown)
- Robert Sedler (Wayne State)
- Scott Taylor (New Mexico)
- Walter Kendall (John Marshall)

### Stuart Filler Fund

The long-time members of SALT know and remember Stuart Filler, the SALT treasurer who served SALT so well and so tirelessly from its inception until January 1996. SALT is sponsoring a Stuart Filler Fellowship in Public Interest Law at Quinnipiac Law School to be awarded to a student who works during the summer on a public interest project. The SALT Board has asked me to solicit additional donations from our membership, especially from those long-time members who remember Stuart with such great respect and affection. Please send your donations to:

Professor Scott Taylor/SALT  
UNM Law School  
1117 Stanford Dr NE  
Albuquerque, NM 87131

## SOCIETY OF AMERICAN LAW TEACHERS MEMBERSHIP APPLICATION (OR RENEWAL)

- ☐ Enroll/renew me as a Regular Member. I enclose \$50.00 (\$35.00 for those earning less than \$30,000 per year).
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- ☐ Enroll me as a Lifetime Member. I enclose \$750.00.

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### Mail to:

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University of New Mexico School of Law  
1117 Stanford Drive N.E.  
Albuquerque, New Mexico 87131-1431

Make check payable to: Society of American Law Teachers



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Professor Michael M. Rooke-Ley, Editor

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