

# EQUALIZER

SALT

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## THE UNIVERSITY OF MARYLAND SCHOOL OF LAW: PROGRESSIVE IDEALS IN ACTION

Those who seek to implement progressive ideals in law schools meet difficult institutional, economic, and ideological obstacles. Although a growing number of individual faculty and student efforts exist, and several institution-sponsored pro bono programs and public interest curricula have been initiated, few law schools have committed to deep-cutting enterprises designed to influence the perceptions of students about the public responsibilities of lawyers in the legal system. This piece is an account, from a visiting professor, of the activities at the University of Maryland School of Law, a place where collective work on a variety of fronts — the curriculum, faculty activities, and student programs — has yielded a rich and evolving model of progressive legal education.

The centerpiece of Maryland's agenda is the Cardin Program, an ambitious endeavor that seeks to integrate legal doctrine, clinical work, and theory in courses required of all second and third semester students:

The Cardin Program was born of concern that the majority of poor people in Maryland lack access to the process of law and the substance of justice. The Cardin Commission recommendations to the State's law schools presume a link between students' learning of what it means to be responsible legal professionals and the allocation of legal services in Maryland, where 80% of the poor lack the needed assistance of a lawyer. The Commission, and by implication the legislature and the faculty implementing its

recommendations, thus framed the central goal of law school efforts as professional responsibility. This concept of professional responsibility includes two time frames: (1) during the formative preparation for the professional degree and license; and (2) during professional practice where professional responsibility should become an enduring feature. Accordingly, we have designed courses to accommodate what is in essence a "pedagogy of responsibility."

B. Bezdek, R. Boldt, M. Feldman, T. Glennon and H. LaRue, Report to the Faculty: The First Two Years of Cardin Courses, p.7 (Oct. 1990).

The Cardin Program originated in the energetic efforts of Maryland faculty working in conjunction with the Maryland Legal Services Corporation (MLSC), a state-chartered funding source for legal services for the poor. In the course of a major study on the legal needs of the state's poor, conducted by a blue ribbon commission (chaired by now member of Congress, Benjamin Cardin) under the auspices of the MLSC, Maryland faculty saw an opportunity to develop an innovative pedagogical and public service program, combining the best of the school's extensive clinical program and drawing on the resources of a faculty and administration with strong interests in explicating and realizing the public responsibilities of the legal profession. The final MLSC report recommended, among other initiatives, that the state's two law schools develop programs to ensure that all law students work with poor clients during law school. The united lobbying effort among MLSC, the law schools, and the Bar generated the funding necessary to launch the Cardin Program.



With an additional appropriation of approximately one-half million dollars per year, the faculty at Maryland began the process of conceptualizing the structure and content of this unique program. Rejecting the idea that the law school should simply establish additional clinical courses (the Clinical Program at Maryland has eight full-time teachers), the decision was made to create a new set of courses that would form a bridge between the existing Clinical Program and other, predominantly required, courses in the early semesters of the curriculum. Three key decisions were made by the planning group. First, all students should perform legal work for actual clients. Here, it was recognized that, in some courses, students would be supervised by Cardin faculty members; in others, students would be supervised by lawyers working with organizations in the community or volunteering through various pro bono panels. Second, the offerings should integrate the theoretical and doctrinal underpinnings of the subject of the course, the study of professional skills, advocacy, responsibility, and clinical work. The goal of integrating legal theory, doctrine, and practice is meant by the Cardin faculty members to operate in two directions. All of the courses within the program are designed so that classroom work creates a theoretical framework through which students are encouraged to examine and organize the data derived from the client experience. At the same time, clinical work in a practice area related to the substantive doctrine of the course has been employed to bring an expanded and enriched vision of law and the legal system back into the classroom. Finally, the courses should be required of students in either their second or third semesters, when students' notions of professional role and professional values are still being formed.

From this planning process, which was energized by newly hired faculty with wide-ranging experience and interest in the connections between theory and practice, emerged courses under the umbrella of "Legal Theory and Practice (LTP)." The subject matters of these courses encompassed required first-year and second-year courses — Civil Procedure, Constitutional Law, Legal Profession, Property, and Torts — and, for the first time this year, include an elective course

in advanced criminal procedure.

How do these courses work? With a great deal of flexibility and commitment from students and faculty, each Cardin course seeks to build around the particular practice experiences of the students. For example, students in a professional responsibility course represented tenants in Baltimore City Rent Court. To the extent practicable, the professional responsibility materials tracked the sequence of the student's representation: starting with relationships with clients, moving to the ethics of advocacy, and concluding with consideration of the social responsibilities of lawyers. The course materials included substantial readings on mass justice, housing, poverty advocacy, and critical lawyering issues. The final course paper asked the students to analyze these topics from both micro and macro perspectives.

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*"... the program has interjected the Law School more pervasively into parts of the community where few lawyers have been"*

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Cardin students have performed a diverse variety of legal work. In an LTP/Constitutional Law course, the faculty member incorporated students in work on a post-conviction proceeding in a death case. In a LTP/Torts course, students worked with private lawyers on tort cases involving lead paint poisoning of children and with drug abuse treatment programs on issues of patient confidentiality. In a LTP/Civil Procedure course, students represented clients in special education and school discipline cases, and the doctrinal component of the course was organized around the pleadings filed in a sprawling class action under the federal special education laws. Finally, in the Criminal Law course, students assisted in the representation of women who had been victimized by domestic violence and who had used otherwise unlawful force in response.

Now in its second full year, it is still too early to evaluate the full impact of the Cardin Program. Doubtless, the program has interjected the Law School more pervasively into parts of the community where few lawyers have been. With

approximately 190 students each year making their presence felt in the courts, the legislature, administrative agencies, and the neighborhoods, the quantum of legal activity for the area's poor has increased significantly. Because the courses explicitly devote time to developing students' critical perspectives about lawyering for reform, every attempt has been made to link the efforts of student lawyers to existing advocacy organizations in the community. All involved recognize that a one-shot appearance on behalf of a tenant in Rent Court will not generate change in an otherwise intractable system. More permanent changes can occur only through sustained, community-based advocacy, and this is a cross-cutting lesson in the Cardin offerings.

More problematic is whether the ultimate goal of the program — the inculcation of values of public service — will be achieved. Although controversial at first, the mandatory requirement that students perform poverty or public interest lawyering is now recognized as an integral part of the LTP courses. If the values promoted by the program are absorbed by students in their formative years, there is at least the prospect that, upon entering the profession, students will not automatically separate theory and practice, justice and real work, public-valuedness and private pursuit. More directly, experience with these courses has begun to show that an integrated study helps students to develop a more realistic view of legal doctrine than that presented primarily through a study of appellate court opinions.

The Cardin Program does not exist in a vacuum at the University of Maryland Law School. The critical mass of Cardin faculty, other supportive faculty, and an involved administration ensures that issues of law and social reform are not marginalized at the Law School. The Clinical Program, for example, represents tenants (in developing systematic strategies to combat lead paint poisoning in children by requiring landlords to comply with laws intended to abate the hazard), AIDS patients, battered women, children, and environmental causes. As in the Cardin Program, the Clinical faculty and students are keenly aware of the opportunities and need for systemic advocacy that flow from individual case representation, and several members of the clinical program have been instrumental in creating independent advocacy organi-

zations (The Public Justice Law Center and Advocates for Children and Youth) in Baltimore. In addition, the presence of new Cardin faculty members, and the new Legal Theory and Practice courses have encouraged other members of the faculty to begin building more simulations and other experiential teaching methods into their courses.

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*"... the atmosphere is infectious"*

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The Law School also has close ties to progressive lawyers in South Africa and offers students semester-long internships with South African public interest offices. A course in Apartheid, Law, and Lawyering is regularly offered by a South African lawyer or law teacher. This year, a seminar in lead and the environment, which organized a conference on the public policy issues of lead paint poisoning in children, helped inform the Clinic's advocacy efforts and generated independent proposals for needed change. On another front, several faculty members meet with local practitioners (called the Law Practice Quality Discussion Group) to explore issues of professionalism in traditional law practice. With the large number of faculty and students involved in progressive work, it is not surprising that the roster of speakers at the Law School includes many people, locally and nationally, who are involved in struggles for justice. The atmosphere is infectious, and student-initiated activities, including the School's extensive externship programs with government and public interest organizations, and the Maryland Public Interest Law Project, a student public interest grant program, thrive.

This piece concentrates on a dynamic slice of the University of Maryland Law School. It shows how faculty and administration who genuinely care about issues of reform and justice for the poor can construct a sizeable segment of the curriculum and school around those human concerns. Over time, this emphasis should create a storehouse of stories and ideas about law and justice. For those with faith, and those willing to put in the hard work day-to-day, places such as Maryland will help build justice from the bottom up.

- Dean Hill Rivkin



## **PRESIDENT'S COLUMN: How SALT Makes A Difference**

On May 18th the SALT Board of Governors will hold its Spring meeting at the University of San Francisco. The principal item on our agenda will be a review of SALT's current programs, an assessment of their effectiveness, and a discussion of the directions in which we should be heading in the future. This is our first effort since 1985 to assess where we have been and where we should be going. Suggestions and proposals from our members would be most welcome. And so would the presence at our May Board meeting of any member who can attend.

Perhaps I can stimulate some thinking about the future of SALT by summarizing our history, some of the issues with which we have been involved, and some of the programs we have undertaken.

In mid-1974, SALT announced its founding to the law school world. Norman Dorsen, SALT's first president, wrote to law teachers on behalf of 149 initial SALT members representing 69 law schools. Norman's letter announced a six-point program which merits quoting in full:

"1. Encourage developments in legal education that will make curriculum, programs and forms of instruction more responsive to social needs. This will include attention to legal ethics and the public responsibilities of the profession.

2. Make studies and, where appropriate, issue public statements, participate in litigation, and give testimony on matters of professional concern, such as the new federal penal code and proposed amendments to the United States Constitution.

3. Evaluate and, in proper cases, express opinions on judicial appointments and appointments to other governmental positions bearing on the administration of justice.

4. Combat violations of academic freedom directed against law teachers.

5. Encourage fair recruitment of minorities — blacks, Puerto Ricans, Chicanos and women — on law faculties and student bodies.

6. Monitor, to the extent feasible, various institutions of the legal profession."

Two years later, in 1976, SALT's second President, Howard Lesnick, described SALT's goals in

these words: "SALT is seeking to find ways in which law professors concerned with the social responsibility of the legal profession, with the relevance of legal education to the quality of legal representation and to societal needs, and with equality of access to the profession, can work effectively. We want to do more than simply put out press releases on matters of momentary public notoriety."

Since its inception, SALT has sponsored numerous conferences for law teachers and law students. Topics have included innovative developments in law teaching, reform of legal education, public interest employment, and academic freedom.

SALT has sponsored special programs at AALS meetings (some co-sponsored with AALS sections), including: The Role of Law Schools in Public Interest Law; Feminist Theory in Contract Law; Minority Hiring, Recruitment and Tenure; Sexism, Racism, and Homophobia in the Classroom; Sex Discrimination And Retirement Plans; The Robert Cover Memorial Study Group.

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*"We want to do more than simply put out press releases on matters of momentary public notoriety"*

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SALT has been involved in a wide range of public advocacy activities. We have been parties to amici briefs on numerous issues, including independence of legal clinics at the University of Oregon and Rutgers - Newark Law Schools, elimination of Cuban travel restrictions, and vacating of criminal convictions in the Korematsu case. SALT provided testimony in the Robert Bork hearings and before various ABA Committees considering standards or rules affecting minorities and women. SALT has strongly supported the Council on Legal Education Opportunity and opposed federal rule reforms harmful to public interest litigation.

SALT has conducted numerous studies. These have included "Hiring and Retention of Minorities and Women"; "Parental Leave"; "Minority Hiring and Recruitment"; "Annual SALT

Survey of Law School Salaries"; "Faculty Compensation Survey". SALT also has underwritten books such as The Burger Court: The Counter Revolution that Wasn't (Blasi, ed. 1983); Looking at Law School (Gillers, 1977); Looking at Law School. Revised and Expanded (Gillers, 1984).

And, of course, there is the SALT Annual Banquet at which we present our Teaching Award. This event gives us the opportunity to celebrate the achievements of persons whose values and accomplishments we would like to see emulated throughout legal education.

There have been many accomplishments. There are many issues that deserve pondering. For example, have other legal education institutions such as the AALS and the ABA Section on Legal Education become so "progressive" that there is little to distinguish them from SALT? What can SALT do to engage its membership more generally? Does SALT need a more clearly defined image? Do we focus too much on the outside world and not enough on legal education? Should we confine our policy statements and studies to the world of legal education or should our focus be much broader? These are but a few of the issues we might discuss on May 18th. I know many of you who read this can think of others.

I am sure I speak on behalf of the entire SALT Board when I say how much we would welcome comments from our membership assessing SALT's past programs and making recommendations for the future. I think it is the sign of a strong organization that we periodically attempt to redefine ourselves.

*-Howard A. Glickstein*

### **THE PRO BONO REQUIREMENT: Needed Curricular Reform**

During the last decade, the legal profession's dedication to the underprivileged has waned. Today, less than 20 percent of the lawyers in the nation do pro bono work, while 80 percent of the legal needs of the poor go unmet. Lawyers are

not fulfilling their professional responsibility to provide legal services to those who cannot afford to pay handsome hourly fees.

While this phenomenon may be largely attributed to the individualistic Reagan years, one also senses that legal education has failed to teach students the fundamental role pro bono has played and should continue to play in one's legal career. Law schools have not taught students that at several times throughout history lawyers were required to provide pro bono service and that—irrespective of requirements—lawyers have always been expected to contribute more to the common good than the average citizen.

One might suggest that an extra hour of discussion on pro bono in the required Ethics course in law school is enough to teach students their responsibility. But in order to give students a sense of their obligation and why it is needed so desperately, law schools must demonstrate the importance of pro bono through action, not simply discussion.

Four law schools across the country have now implemented a pro bono or community service requirement aimed at achieving this educational goal. Tulane University, University of Pennsylvania, Valparaiso University, and Florida State University now require students to complete a certain number of hours of work with attorneys who provide pro bono legal service. Since this summer, when Law Students for Pro Bono launched its campaign and when the idea received the imprimatur of the Law Student Division of the American Bar Association, several other schools have adopted or are considering adopting a pro bono requirement. Stetson, Touro and Louisville have each adopted a requirement. Others, including American, Harvard, Hawaii, Chicago-Kent, NYU, UCLA, Virginia, Whittier and Seton Hall, are seriously considering the idea. Meanwhile, Law Students for Pro Bono continues to work with student organizers at over 100 law schools across the nation.

Tulane is the only school to have graduated a class subject to the requirement. A survey of that class revealed the following: 65% of the class of 1990 reported that their participation in the community service program increased their willingness to provide pro bono services in the future;



72% gained confidence in their ability to handle cases for indigent clients; and the percentage of students willing to contemplate a career in legal services to indigent clients rose by almost 50%.

As with clinical programs, pro bono students are to be closely supervised by practicing attorneys and/or faculty members. This relationship will provide hundreds of hours of extra legal service for the poor, provide students with some practical experience, and, most importantly, impress upon students the necessity and importance of doing such work when they are lawyers.

Requiring students to complete such a program does not suggest that students today are not already volunteering their time to certain charitable causes. Indeed, some students provide even more volunteer time than any pro bono program would ever require. Nevertheless, all law students must appreciate that they, as lawyers, will hold a monopoly on legal service and that they have a responsibility to ensure that all people have access to the justice system.

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*"... those who are disinclined to provide pro bono services are the ones most in need of the requirement."*

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Those who oppose mandatory pro bono object to "forced morality." But if this objection were to prevail, we would not require students to take ethics courses, for example. Students must understand that there are certain standards we follow as lawyers, and included in those standards is the commitment lawyers have to providing pro bono service. Requirements are nothing new to law students. We take required courses because our schools believe these courses to be integral to becoming a good lawyer. Pro bono should be elevated to the same status.

Some suggest that to require those students who do not want to provide care to those who cannot afford it is to jeopardize the quality of legal care which the client receives. But, again, we are not suggesting direct legal services. The student will always be under the tutelage of a supervising attorney. Furthermore, if we are ever to

impress upon all students their responsibility to provide pro bono service, those who are disinclined to provide the service are the ones most in need of the requirement. Legal education has the responsibility to teach those students that, as lawyers, they will hold the key to justice. Finally, if some students are simply not the type to provide service to the poor, then schools should adopt a program broad enough to include work other than poverty law, but limit the work to that which still teaches students this most fundamental part of their professional responsibility.

The pro bono requirement will make legal education more relevant, interesting and meaningful. Students will learn the importance of providing pro bono service, they will learn some basic skills for dealing with clients, and they will gain exposure to the myriad of legal problems faced by those who do not have the resources to hire a lawyer.

The schools which have adopted pro bono or public service requirements have amassed a wealth of information. Contact persons include Howard Lesnick and Judith Bernstein Baker at University of Pennsylvania, John Kramer and Julie Jackson at Tulane, Steven Goldstein and Carol Gregg at Florida State University, and Ivan Bodensteiner and Joan Steffen at Valparaiso. Additional information can be obtained from the NAPIL Clearinghouse at 1118 22nd Street, NW, Third Floor, Washington, DC 20037.

As a student campaign, Law Students for Pro Bono needs as much help as it can get. We have received wonderful guidance and assistance from NAPIL and have benefitted greatly from the two grants we have received from SALT. For our efforts to succeed, however, we need more faculty input on law school campuses across the nation. As the ones who shape the path of legal education and, ultimately, of the profession, you can provide us with invaluable guidance and expertise. Please help.

*-Matt Nicely*

(Third-Year Student, Washington College of Law, American University. Matt is one of the founding members of Law Students for Pro Bono, a project of the National Association for Public Interest Law, and is the Student Bar Association President at his law school.)

## **COUNCIL ON LEGAL EDUCATION OPPORTUNITY**

### ***A Program At Risk***

As many of you may know, in November 1990, the CLEO program was notified by the U.S. Department of Education (DE) of its intent to change the grant allocation process for the CLEO program from non-competitive to competitive. DE cites to a section of the CFR which permits the Secretary of Education to consider a non-competitive bid after making a determination that one eligible organization is exclusively or predominantly qualified to receive the allocation. This language has been interpreted as *mandating* public notice prior to reaching such a determination. As a result, DE plans to issue an RFP (Request for Proposal) in the Federal Register soliciting bids for the Congressional allocation that has been exclusively awarded to the CLEO program since 1970.

The CLEO program is unique in that it is the only federally-funded legal education program nationally that serves minority and economically disadvantaged students. Since 1968, several of the nation's law schools have implemented their own summer programs for minority students, purposefully modeled after the CLEO program because CLEO has a proven record of success in (1) preparing students for law school, (2) assisting students in gaining admission to law school, and (3) providing CLEO Fellows with scholarships to be used during the three years of law school. CLEO serves approximately 250 students every summer who enter ABA-approved law schools all over the country. Therefore, CLEO provides access to legal education as well as academic preparation for high-risk students who, but for CLEO, may not have had an opportunity to enter law school.

### ***Cleo's Accomplishments***

The success of CLEO lies not only in its catalytic effect of increasing the representation of minority group members in law school, but also in the demonstration that students from disadvantaged backgrounds can succeed in law school despite significantly lower LSAT scores. While the

graduation and bar passage survey data is not a complete accounting of all CLEO Fellows, there is a remarkable consistency of results from a range of summer institutes and law schools attended. Particularly remarkable is the fact that low predictor scores are a prerequisite for participation in the CLEO program; these students would not have been actively recruited, admitted and subsidized by a law school in the absence of CLEO support.

In a survey carried out by CLEO to examine the first ten years of CLEO Fellows' performance, 87% of the Fellows were reported in good academic standing at the conclusion of the first year of study. At the conclusion of the second year of law study, the number of students in good standing rose to 94.1%; and in the third year the number rose to 99.6%.

The results of the survey of CLEO Fellows' bar passage performance established that 55.8% passed their respective state bar examination on the first sitting. A total of 73.9% of the Fellows who responded to the survey passed the bar examination by their second attempt. A 1983 update of this survey showed an overall bar passage rate of 87%.

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Moreover, since the fundamental purpose of CLEO is to increase access to the decision-making process of both the private and governmental sectors by members of traditionally disadvantaged groups, the career patterns of its graduates may be the most significant measure of the success of the program. The career activities of CLEO Fellows have extended well beyond the exclusive interest of minority communities and reflect a job dispersal and diversity of interests of considerable breadth. Former CLEO Fellows are now involved in a broad spectrum of legal and law-related activities as lawyers (public interest, private, corporate), judges, elected officials, law school deans and professors, executive adminis-



trators in various fields, and congressional staff members. The net result of the program has been increased access to the legal system and to the decision-making machinery of the country by those who have been historically disenfranchised for reasons of race and/or economic status. When one considers that the program consciously serves students who the objective predictors show to be high risk candidates, the CLEO Fellows' academic and career successes assume even greater significance.

In the final analysis, CLEO Fellows have attained an impressive record of achievements by any measure. The CLEO model of academic and financial support is one that works!

The proposed action will effect funding for the current year. While the CLEO national office has gone forward with planning for the 1991 Summer Institutes, final commitments are delayed by the uncertainty of funding. In addition, as if the current crisis were not enough, the Bush administration recommended zero funding for the CLEO program for the 1991-1992 fiscal year.

SALT has gone on record in opposing this action by the Department of Education and has adopted a resolution setting forth its objections and voicing its support for CLEO. A competitive bid process for CLEO at this time would only serve to undermine the congressional intent of the allocation that has parenthetically borne the name CLEO for twenty years. The insistence by the Department of Education to pursue this course of conduct for FY 1991 in the face of overwhelming evidence of this program's success, coupled with its budget recommendation of zero funding for the FY 1992, can only be viewed as another effort by the current administration to impede and limit educational opportunities for disadvantaged and minority students.

[Ed.: An RFP was issued on March 12, 1991, due date April 10, 1991. It can still be withdrawn by the Secretary of Education. SALT members are asked to encourage Congress to incorporate language designating CLEO as the assistants for training in the legal profession.]

## **SALT BOARD MEETING: How Should We Spend Our Money?**

The SALT Board of Governors held its winter meeting on January 4, 1991 at 7 A.M., in conjunction with the AALS Annual Meeting in Washington, D.C. In spite of the early hour, the Board meeting was attended by 20 Board members and other guests.

Continuing the practice started at recent Board meetings, this meeting was attended by representatives from several legal and law-related groups who gave presentations soliciting SALT support and financial assistance. At the September SALT Board meeting, the Board voted to make a grant of \$1,200 to Law Students for Pro Bono, a group working with the National Association for Public Interest Law, to fund a mailing to every law school encouraging students to advocate the adoption of a mandatory pro bono program at each school. At the January meeting, Law Students for Pro Bono requested additional funding from SALT to produce pro bono manuals, create a newsletter and pay for other expenses. To date the group has worked with NAPIL and distributed a pro bono manual to student organizations at approximately 100 law schools. While some Board members expressed reservations about the types of groups that might be classified as "public interest organizations" under the definitions provided by Law Students for Pro Bono, the majority of the Board felt that the notion of mandatory pro bono in law schools was an important one and should receive SALT financial encouragement. To that end, the Board voted to grant the group \$2,000 to be used to publish and distribute additional copies of the manual and newsletter. [See related article herein.]

A representative from the Harvard Law School Coalition for Civil Rights, a student organization at Harvard Law School, attended the meeting to report on a suit filed by this group against Harvard Law School. The Coalition for Civil Rights, which represents six minority student organizations and the Women's Law Association, filed this law suit in November of 1990, charging that Harvard Law School's faculty hiring practices discriminate



against people of color, women, persons with disabilities, and gay or lesbian people in violation of Massachusetts law. The suit was filed in Massachusetts Superior Court under the State Civil Rights Act (similar to Section 1981). The suit seeks the implementation of more objective standards of hiring, elimination of procedures that impede hiring of minority professors (for example, candidacy does not always get to a full faculty vote, and visitors who are on site are apparently not considered for permanent lines), and the adoption of an affirmative action plan. The case is being handled pro se, and a preliminary hurdle to the suit is the question of the student group's standing. SALT was asked to join in an amicus brief to be filed by several organizations and to contribute money for the students' expenses. Board members expressed support for the efforts of the student group but also raised concerns that there did not seem to be any attorney in charge of writing the brief or involved in the case at all. One of the Coalition's requests was that SALT assist in suggestions for writing the brief. While the Board was unwilling to be involved in the preparation of the brief, it did vote to grant up to \$1,000 for the students' expenses. In addition, SALT president Howard Glickstein was authorized to form a committee to read any amicus brief to determine if SALT wished to become a signatory. [Ed.: SALT subsequently signed on to the amicus curiae brief filed by Lawyers Committee for Civil Rights Under Law. On February 25, 1991, Superior Court Justice Patrick F. Brody dismissed the suit, ruling that the students had no standing to sue. The students, who believe that their education is adversely affected by the lack of faculty diversity, are contemplating an appeal.]

At the September SALT Board meeting, Nan Aron, the Executive Director of Alliance for Justice, had given a presentation concerning Alliance's activities and had noted several areas where the Alliance would be interested in having SALT support. The Alliance has subsequently requested SALT's endorsement of a report they are issuing opposing the nomination of Kenneth Ryskamp to the 11th Circuit Court of Appeals. The Alliance is opposing the nomination of Ryskamp, who currently sits in the Southern District of Florida, because of his disturbing record on civil rights

and job discrimination cases and because of his membership in a discriminatory club. Because the report had not been given to Board members prior to the meeting, it was decided that SALT would not endorse it until after a reading and recommendation by Sylvia Law, Judith Resnik and Haywood Burns. [Ed.: SALT has since provided its endorsements. In addition, I, as a legal academic here in the Southern District of Florida, have submitted an exhaustive report to the Senate Judiciary Committee on the Ryskamp nomination.]

SALT received a request from the NAACP to join in an amicus brief in connection with the petition for rehearing on a denial of certiorari to the U.S. Supreme Court. The case involves the layoffs of Black police officers in Detroit which significantly reduced the representation of Blacks on the force (of the 1100 layoffs, 800 were Black officers). The question before the Court is whether

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*"SALT has a proud track record  
of joining in lost causes"*

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the constitutional protection against discriminatory layoffs is broader than that afforded under Title VII. Board members questioned SALT's involvement in cases with no direct connection to legal education. In addition, several members suggested that a petition for rehearing on a denial of cert is generally assumed to be a lost cause. On the other hand, it was suggested that SALT has a proud track record of joining in lost causes. Haywood Burns volunteered to read the amicus brief and will consult with Howard Glickstein on possible SALT involvement. [Ed.: SALT has signed on to the amicus brief.]

The variety and scope of requests for SALT support prompted many Board members to suggest that the focus of the May retreat (planned for May 18 at the University of San Francisco School of Law) be directed to a discussion of the question of SALT's policy on endorsement of amicus briefs and other requests for support from outside organizations. While SALT is primarily concerned with issues of legal education, it has also always



been concerned with matters of civil rights and other serious constitutional questions. Throughout SALT's history there has been a continuing discussion about whether SALT should limit itself to issues of legal education or include broader social and political concerns. The original SALT position paper, drafted in 1974, expressed our mission as a membership organization concerned with legal education and the societal needs raised by the legal order. During the 16 years of SALT's existence, it has issued statements on such diverse topics as the Watergate Tapes, the Voting Rights Act, the Omnibus Criminal Code, and Edwin Meese. While SALT's conferences, panels and projects have generally concentrated on specific issues of legal education, its statements and support of briefs have been much more far-ranging. Only recently has the organization been financially stable enough to consider making grants or providing support to other groups. The fact that SALT is now able to show its support in more tangible ways has prompted the Board to be concerned about establishing a policy for such support that is in keeping with SALT's goals and its mission. The last SALT Board retreat was held in 1985, and it enabled the Board to address diversity in the legal profession and in legal education as a priority of the organization. The retreat this Spring will give Board members a chance to identify goals and directions for the future. Suggestions and proposals from the membership would be particularly welcome.

- Joyce Saltalamachia

## NEWS FLASH

As reported in *The Equalizer* last fall, SALT signed on to an amicus brief in the Johnson Controls case, asking the U.S. Supreme Court to reverse the Seventh Circuit's opinion upholding the employer's gender-based fetal protection policy. On March 20, 1991, the Supreme Court, in a strongly-worded opinion by Justice Blackmun, reversed and remanded. Hallelujah!

## Albany Law School to hold conference on **COMPELLING GOVERNMENT INTERESTS: The Mystery Of Constitutional Analysis**

Sept. 26-28, 1991 in honor of Justice Robert H. Jackson, an Albany alumnus.

Compelling government interests have been an explicit part of constitutional law since 1961. Their presence became a barrier to the application of the most protected constitutional rights and liberties, and the search for compelling government interests became a part of the structure of analysis in a wide area of constitutional law. Recently, several Justices of the U.S. Supreme Court have expressed reservations about the concept.

This conference is designed to provide a critical examination of the concept and substance of compelling government interests.

Speakers include Justice Sandra Day O'Connor and Chief Judge James L. Oakes of the Second Circuit.

Papers will be delivered by Dean Peter Edelman (Georgetown), Professors Owen M. Fiss (Yale), Stephen E. Gottlieb (Albany), Thomas C. Grey (Stanford), Dennis Hutchinson (Chicago), Robert F. Nagel (Colorado), Michael J. Perry (Northwestern), Margaret Jane Radin (Stanford), Kate Stith (Yale), Kathleen M. Sullivan (Harvard), Carl E. Schneider (Michigan), Patricia J. Williams (Wisconsin) and Judge Hans Linde of the Supreme Court of Oregon.

Commentators include Professors Akhil Reed Amar (Yale), Mary Ann Glendon (Harvard), Stanley Ingber (Drake), Frank I. Michelman (Harvard) and Sanford Levinson (Texas).

Inquiries should be directed to Professor Stephen E. Gottlieb, Organizer, or Barbara Mabel, Coordinator, Albany Law School.

## DATES TO REMEMBER:

SALT Board of Governors Retreat  
May 18, 1991  
at University of San Francisco  
School of Law

SALT's West Coast Teaching Conference  
October 4 and 5, 1991  
at Stanford University  
Law School



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Michael M. Burns, Editor  
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