

The **EQUALIZER** **SALT**

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September 1993

LANI GUINIER'S NOMINATION

— Phoebe A. Haddon
*Temple University
School of Law*

During the weeks before President Clinton withdrew Lani Guinier's nomination, there was a flurry of activity supporting her candidacy as many of us realized that he might actually bow to the pressure from right-wing activists and abandon her. In the midst of this mounting activism, on the day after Lani broke the Administration-imposed silence in response to her attackers by appearing on Nightline, President Clinton did forsake his friend, refusing to provide the public and Lani an officially-sanctioned opportunity to speak her mind and respond to her opponents. For many people, particularly women and people of color who were enlisted into action as the controversy mounted over Lani's nomination, this refusal was unconscionable.

Although the immediate response to the Administration's retreat was, for many of us, anger and frustration, our energy should not be dissipated by those emotions. The events of the late Spring should move us to rechannel our efforts towards providing leadership in a society so riddled with deep-seated prejudice as to what equality must mean in a diverse political community and how best to ensure effective participation of those with divergent views.

Many of us have undertaken these considerations as part of our scholarly agenda, for example, in exposing the fundamental contradiction of masking differences in "color-

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PRESIDENT'S COLUMN

— Sylvia A. Law
*New York University
School of Law*

Salt Goes to Washington

SALT members working with the new administration have experienced at least one grievous defeat and a number of successes. SALT, and many of its members, vigorously contested the conservative mischaracterization of Lani Guinier's work and the cowardly refusal of the Administration and the Senate Judiciary Committee to allow her the opportunity to publicly defend herself. Phoebe Haddon's companion column on this page underscores our anger and deep disappointment at the wrong done to Professor Guinier.

Still, we are proud of and pleased about SALT members who have gone to Washington to help the new Administration tackle the problems that challenge the nation. The Senate Judiciary Committee contacted me asking for information on Ruth Bader Ginsburg,

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blindness" requirements while celebrating diversity. Our task takes on added urgency as we reflect upon why we responded so stridently to the denial of a hearing for Lani Guinier.

Another Anita Hill?

Not surprisingly, women and people of color were offended by the racialized and gendered stereotypes that were used to manipulate discussion and distort the public's understanding of the opposition to Lani's

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nomination. When she was labeled "Quota Queen," we recoiled, recalling how disparaging labels have left a legacy of demeaning images of Black women. The cartoon characterizations of Lani similarly shaped the public's attitude, focusing on stereotypical and unflattering depictions of a woman who is very much unlike the image which was being masqueraded. It was easy to connect Lani's treatment with that of Anita Hill, whose credibility had been drawn into question and reputation maligned, not by what she said but by the images and innuendo used effectively by Clarence Thomas and his Senate supporters and against which she was unprepared to defend. Although Lani and her public supporters were willing and able to defend her positions and respond to the distortions in the press, no official opportunity was forthcoming. The treatment of both women seemed at first blush to signify a general unwillingness to treat Black women seriously. But a more critical insight to draw is that in our society such challenges to politically acceptable positions are so threatening that they are intolerable unless encumbered by caricature. In a country which truly values diversity, keeping

silent or risking caricature cannot be the only options for dissident individuals or groups. Yet the White House's decision to withdraw the Guinier nomination without providing an official forum for dialogue suggested that no other alternatives were available.

What's "Good" for the Country?

If Clinton's decision was deeply offensive, so was the ease with which even some colleagues and political liberals argued that the withdrawal of the nomination was "good" for the country. Let's move on, they said, so that the presidency can be salvaged (and the *real* needs of the country can be addressed). Others reasoned that the denial of a hearing avoided playing into the conservative strategy of turning public opinion against the Voting Rights Act. This kind of response, incidentally, echoed that of earlier apologists for Clarence Thomas, who argued that Anita Hill should have remained silent "for the good of the race" or to protect the integrity of the Court. And it has been replayed more recently in the rationale offered for political compromise regarding gays and lesbians in the military: that silence about sexual preference is "just" because it protects the institutional needs of the military.

For many women, people of color and other historical victims of social and political inequality, it is increasingly difficult to accept this kind of response without belittling our interests and devaluing the importance of diversity. Exposing one's views and claiming a stake in the public definition of what is "good" or right are critical to the development of a community which fosters true equality of citizens. As teachers and scholars, we must identify the costs associated with submerging the interests of disfavored groups and question situations where what is good is equated with preferences of the majority by evaluating whether appropriate respect for the perspectives and interests of others has been ac-

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corded.

What Is the Value of Diversity?

The incidents of the late Spring demonstrated to Lani's supporters that for many Americans the acceptance of diversity, if it exists at all, is merely "skin" or "gender" deep. The Administration's abandonment of Lani Guinier's nomination challenges the proposition that diversity is valued, that significant variations in views are tolerated, even encouraged, particularly views about political participation. For many women and people of color who supported Lani Guinier's nomination, it was troubling to confirm the suspicion that, even for vocal supporters of diversity, a condition for acceptance of our political participation is a willingness to accede to a narrowly defined notion of public good or to be

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silent when we have perspectives which challenge the majority's conception of right.

Lani Guinier's denial of a hearing could cabin a discussion of the meaning of equality in our diverse society and blunt an exploration of alternatives for fostering more meaningful participation of dissident or disfavored groups. Our support of her reflected that we share with Lani a deeper sense of the creative potential for exchange of ideas which can be effectuated by the political participation of diverse individuals and groups than was acceptable to her opponents, and ultimately, to the President. We cannot permit that conclusion of the events. We can relocate the discussion and continue the dialogue in our teaching and our scholarship. ■

who served on the founding Board of SALT from 1975 to 1977, and as Vice-President from 1976-1980. Thanks to the wonderful work of SALT Historian, Joyce Saltalamachia of New York Law School, we found a series of 1974 letters from then-Professor Ginsburg alerting SALT to a number of grossly sexist and homophobic questions on state bar exams. SALT prepared a critique that was distributed to bar examiners throughout the country. She thus played a central role in launching SALT in work that continues to command our attention today.

*"... we are proud of and pleased
about SALT members who have
gone to Washington ...
Ruth Bader Ginsburg ... on the
founding board of SALT"*

Other SALT members who have joined the new administration include: **Drew Days**, Yale, Solicitor General; **Walter Dellinger**, Duke, Justice Department, Head of the Office of Legal Counsel; **Peter Edelman**, Georgetown, Health and Human Services, Counsel to the Secretary; **Christopher Edley**, Harvard, Office of Management and Budget, Program Associate Director; **Nan Hunter**, Brooklyn, Department of Health and Human Services, Deputy General Counsel; **Gerald Torres**, Minnesota, Justice Department, nominated as Assistant Attorney General for Environment; and **Cruz Reynoso**, UCLA, appointed to the Commission on Civil Rights.

We congratulate all these colleagues and wish them well.

Help Wanted

SALT works primarily through its membership and committees. Members are invited to volunteer for committee work.

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Committees generally meet through conference calls and in conjunction with Board meetings or AALS events. The committees formulate policies, make recommendations to the Board, undertake studies, organize programs and conferences, and produce reports. SALT committee work provides opportunities to develop friendships and professional relations with marvelous colleagues from other schools. If you would like to join a SALT committee, let me know.

At its May meeting, the SALT Board launched a new project for our Committee on Faculty Diversity, chaired by **Richard Chused** of Georgetown. We are working jointly with a committee of the Bar Association of the City of New York to do an in-depth survey of faculty diversity in law schools in the greater New York area. SALT members at these schools will compile data that goes beyond the superficial - and often misleading - statistics published by the ABA or by individual schools.

When the preliminary report is prepared, we will share it with deans at individual schools so that they can clarify or correct our findings. We hope that this in-depth study will enable us to develop more effective approaches to improving faculty diversity and that the methodology will provide a model for similar investigations in other areas.

*"... compile [faculty diversity]
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At the May meeting, the Board also resolved to undertake a special effort to reach out to adjunct professors. Adjunct Professor **Lawrence J. Brannan** of the Touro Law School suggested that we take on this project and has volunteered to work with us. The Board rejected the possibility of creating a special committee on adjunct faculty and instead resolved

to integrate the concerns of adjuncts into our current committee structure. For starters, the Membership Committee plans to do a special solicitation to adjunct faculty members this fall. Any SALT member with access to a list of the adjunct faculty at your school should send a copy to me or to **Martha Chamallas**, as chair of the committee. In addition, we welcome suggestions for ways in which we can work to address the special concerns of adjunct faculty through AALS programs, our teaching conferences, diversity studies and reports, or articles in *The Equalizer*.

Members interested in public interest law might wish to join the **Robert Cover** Committee, chaired by **Judith Resnik** of USC and **Avi Soifer**, the new dean of Boston College Law School. This committee plans the annual Robert Cover Public Interest Law Retreat, where practitioners, students and teachers gather in New Hampshire each March, and also plans a study group discussion for each AALS conference. SALT, in conjunction with the AALS Section on Law and Community, presents a program - generally focused on problems of particular communities - at each AALS convention. **Steve Wizner** of Yale and **Pat Cain** of Iowa chair the committee for this program. **Phoebe A. Haddon** of Temple chairs the Committee on Public Positions; she needs people with good judgment who can guide the SALT Board to make wise decisions on public positions, as well as strong communicators to write briefs and public positions. **Judith Resnik** also does great work as chair of our Committee on Bias in the Courts. **Eric Wright** of Santa Clara seeks volunteers to help with the Fall Teaching Conference to be held on October 29 - 30. While the May conference at NYU seems unsurpassable, with your help, Santa Clara may be even more stimulating.

Two committees are traditionally composed of people with a long history of SALT work: Nominations, chaired by **Linda Greene** of Wisconsin, and Awards, chaired by **Clare Dalton**, now visiting at American. Both of these groups welcome your suggestions and ideas. ■

SALT's **TEACHING CONFERENCE AN EXTRAORDINARY SUCCESS**

– Holly Maguigan
New York University
School of Law

More than 240 academic, clinical and legal writing teachers from ninety law schools gathered at NYU May 22-23, 1993, to "Reimagine Traditional Law School Courses." The participants in the SALT Teaching Conference met to design ways to integrate specific and intersectional analyses of class, disability, gender, race, and sexual orientation into teaching methodology and course materials.

Attendance was the highest in the history of SALT teaching conferences, and participation was enthusiastic. Conference planners attribute its enormous success to three factors: (1) the eagerness of law teachers to discuss the issues in the context of traditional courses; (2) the energy that Conference Co-Chairs **Zipporah Wiseman** and **Anne Goldstein** devoted to publicizing the opportunity for such a discussion; and (3) Wiseman and Goldstein's innovative use of subject matter working groups.

The bulk of the weekend was devoted to rigorous analysis, discussion and planning in the specific areas of Civil Procedure, Clinics, Contracts, Criminal Law, Evidence, Legal Research and Writing, Property, Tax and Torts. The conference workshops were real working groups, and where presentations were used, they were short and served as catalysts for discussion.

The plenary sessions, too, were designed as catalysts for discussion. Dean **Barbara Bader Aldave** described her efforts to create at St. Mary's Law School an environment in which teachers and students, especially those who are members of minority groups, will want to deal openly and supportively with difficult issues of discrimination and difference. **Isabelle Gunning** used a videotape to illustrate methods of addressing diversity in a classroom setting and of helping students recognize the ways in which gen-

der, race, age, class, and sexual orientation affect the work of a lawyer. **Zipporah Wiseman**, **Charles Ogletree**, the area group coordinators and I demonstrated a class session in which a teacher was confronted with an unexpected explosion of distrust and bias among students and had to choose among a variety of possible responses. The conference planners acted out a faculty tenure discussion which demonstrated the hostility which may face teachers who attempt to address issues of diversity in their teaching and scholarship.

Those themes -- the significance of the institutional environment, the design of innovative teaching methods and materials, and the development of the ability to react to unexpected instances of bias and stereotyping -- were then analyzed in the context of specific subject matters. The energy produced by those discussions could not be contained by the eight hours devoted to the workshops. Animated descriptions and comparisons of experiences in different subject working groups spilled over into lunch and dinner. Conferees lingered after Sunday's final plenary, reluctant to end the conversations of the weekend.

*"More than 240 . . . teachers from
ninety law schools . . . the
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The conference offered a rare opportunity to meet with and learn from others who are engaged in the process of teaching issues of class, disability, gender, race and sexual orientation. Participants spoke of being both inspired and comforted by the sense of a large group working together in a national network of colleagues. The experience was described by **David Yamada**, a first-time teaching conference participant, who wrote to SALT presi-

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dent Sylvia Law:

Perhaps the best thing about the conference for me was the way in which younger/newer teachers were welcomed into the fold ... [A]t no time did I ever feel like anyone was trying to "put me in my place" ... At the final plenary session, some folks expressed gratitude about feeling "safe" in a political sense at this conference, [and] I realized that I had completely taken for granted that I also felt safe from *hierarchy* ... That was the atmosphere at this conference ... I feel a real need to continue the work that was done.

The work will continue, both at the ninety law schools throughout the country represented at the May workshops and at the SALT Teaching Conference at Santa Clara School of Law, October 29-30, 1993. ■

GIVE ME MORE: A FIRST-TIMER REFLECTS ON THE TEACHING CONFERENCE

— Elvia Arriola
University of Texas
School of Law

So, what was it like attending my first SALT conference? The two-day gathering in New York City of more than 240 professors actually espousing the idea of introducing issues of race, homophobia, sexism, disability and class into the classroom was, to say the least, inspiring. I remember how I couldn't wait to meet other people, who, like me, dare to be labeled "non-traditional."

I can't in a few lines capture all of my impressions but a few items stand out. First was the feeling that it was OK to be thinking about and writing about non-traditional scholarship. For so long I was told that legal writing must be "objective," yet argumenta-

tive. Little did I realize when I first entered teaching as a writing instructor nearly 10 years ago that, by the time I would leave law practice to get on the tenure track, loners like Richard Delgado would help pave the way for women, minorities and other progressives to change the legal scholarship and teaching

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landscape. I remember one of my more "liberal" colleagues saying to me in my first semester that it was "risky" (in light of being untenured) to insist on writing in a non-traditional vein. I responded, "I'm going to write about what I love; if I can't do that here and get tenure, then maybe I should not stay here."

Staying with that commitment in the actual writing process is not that hard, as I have always found myself intellectually drawn to issues of oppression and the breadth of possibilities for gender and race theory, for example. The transdisciplinary perspective is not just important to me; it is absolutely essential. What seem harder, though, are the feelings behind that commitment. Everyday encounters with colleagues can range from raised eyebrows to blank stares, to empty comments like "interesting". At UT Law School, in particular, where women remain a significantly small percentage of the faculty, and latinos and blacks and gays altogether constitute a total of two persons, being different is a threat on both sides. And yet I will not give up my interest in writing about lesbians and gays or exploring feminist legal theory. But there are those moments in such an environment when the weight of "oppression" is deeply felt. In my utter humanness, my self-doubt comes

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up. I get afraid. I question my legitimacy because I am surrounded by a world, a work environment that reminds me (particularly at faculty meetings) that it is dangerous not only to be different, but to be committed to difference and diversity. I'm sure we've all had our encounters with the reactions to the Harry Edwards article which at best crystallizes so much of the "traditional" criticism of cls, feminist and critical race theorizing. But that is why SALT was important for me, particularly being a first-timer and still new on the tenure track.

Another thing I got from that conference was the feeling that *I am not alone in this work*. The feelings of aloneness may be real on any given day, a moment as I sit at my computer developing some line of thought that questions the ways in which traditional methodology has taught us to look at the world. But the feelings pass; I learn they do not dictate reality. The reality I got from the SALT Conference is that my feeling "oppressed" is rather normal. Gradually, the legitimacy of raising race, sexism, homophobia, etc. in the classroom is taking hold. Resistance and reaction, no doubt, are signs that the message is getting across, that we are making progress and nurturing social change.

*"... I saw the SALT Conference
as a place where we can walk
the talk of diversity ..."*

A final note on my impressions was the actual learning experience in my workshop on criminal law facilitated by Mary Coombs. I saw through exchange and feedback that we have so much to contribute to each other. I was very impressed with the literature tools used to intersect both race and sexual preference in the study of rape law devised by people like Phyllis Bookspan and Paula John-

son. (Those interested in this information, which drew on excerpts from Gloria Naylor's *The Women of Brewster Place*, should contact Mary Coombs at the University of Miami.)

Finally, the workshop was also an exciting opportunity to see diversity at work. We had very intense discussions addressing the feelings of students, particularly around race or homophobia, aroused in the classroom. What is our role in protecting such students? Is this an appropriate thing for us to do? What was most amazing about these talks was the realization that as professors open to "non-traditional" teaching and writing perspectives, and though united in the common interest of exploring diversity, we had to struggle with our differences from each other and participate in the experience of the conflict that produces needed change. As one who welcomes that kind of conflict/discussion, it was a breath of fresh air, something to expand my mind and experience, and revitalize my commitment to writing during the summer. In these tentative moments when we spoke, and questioned, and heard a different voice, agreed and disagreed, I saw the SALT Conference as a place where we can walk the talk of diversity. For that experience, I'll be ever grateful -- and will go back for more. ■

DON'T FORGET . . .

the
"West Coast Version"
of the
1993 SALT Teaching Conference

October 29-30, 1993

Santa Clara University
School of Law

— See pages 10-11 herein for details —

PROFESSOR DWIGHT GREENE SLAIN BY UNKNOWN ASSAILANT

- Doug Colbert
Northeastern University
School of Law
- Jerome M. Culp
Duke University
School of Law

Hofstra University School of Law Professor **Dwight L. Greene** was found murdered in his home on Friday, July 8. A SALT member, Professor Greene assumed an enormous role in both legal academic circles and in the community at large. He dedicated himself to increasing the numbers of faculty and students of color; he nurtured new faculty of all races; he devoted vast time and energy toward achieving social and economic justice through his church and through programs to mentor African-American and Latin-American youths. His life will be celebrated at an event to be held in mid-October, 1993 at Hofstra University School of Law.

Doug Colbert:

You never forgot Dwight when you met him or spoke to him. He wouldn't let you. His spirit was so alive, engaging and energetic; he made you believe that you should "go for it", and then he helped you actually get there. How many telephone conversations or personal meetings did we share with Dwight, never knowing where he found the hours to give, but certain that when we were through talking we had a much clearer sense of direction, purpose and strategy. In a single conversation, subjects ranged from suggestions he had for parenting teenage sons and daughters, to a valuable perspective on the latest faculty squabble, to insight about the necessary steps for creating change in our law schools and in our communities.

Dwight was intensely interested in everything we thought and did. His mind was so sharp, so alert, so quick to comment that he always sparked us; we sometimes took notes, the good students that we are.

Dwight was often our teacher, so much wiser about people and how the world works than his forty-four years would warrant. But he wasn't only *our* teacher and, for many, *our* best friend; Dwight also became close to each member of our families and to our friends. They appreciated him as we did; whenever he called, it was a contest for who spoke with him first and who waited their turns. We referred strangers to Dwight -- prospective law teachers and even promising law students. We then heard back that he had spent an enthusiastic hour on the phone helping to map out strategy with each new-found friend.

And it wasn't just a one-time thing. Dwight maintained and nurtured relationships. He enjoyed people of an incredibly wide diversity of background and thinking. He always seemed to be there whenever we needed him, so much so that we quickly forgave his customary quite-a-bit-later-than-expected arrivals, or when he couldn't return phone calls right away. He cracked a joke and just made you glad to finally see or speak with him. He gave generously of himself to his loving mom Mary and son Anthony. He spread himself thinly between his activism, his scholarship, his collegueship and his friends. A small injection of Dwight's intense energy, humor and insight often had a disproportionately constructive and uplifting effect.

*"He seemed to bring out
the very best in everyone . . ."*

Dwight's exuberant enthusiasm for people, for issues, for whatever he was involved in, was delightfully infectious. Sitting with him at a gathering meant we could expect to be overstimulated for the evening as we reacted to his marvelous stories and he engaged us in friendly debate. He seemed to bring out the very best in everyone. People who rarely smiled laughed around Dwight. Those who

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never danced felt compelled to follow him to the dance floor and give it their best shot. Seeing his transformation as a scholar, taking on multiple projects simultaneously, meant that we just had to see what that experience was all about. Dwight's counsel always seemed to be right on target, his encouragement so real, that we knew he shared in whatever we were doing.

We will miss Dwight enormously. Whatever role you were lucky enough to have Dwight fill in your life, there is now a painful hole. We can only mourn his loss and celebrate having known and learned from this very special person.

Jerome Culp:

Dwight graduated from Wesleyan University in 1970 and Harvard Law School in 1974. Dwight interspersed working for Chief Judge Brietel of the New York Court of Appeals as a legal assistant and work as an Assistant United States Attorney for the Criminal Division with work at Davis, Polk and Wardwell. In 1984-85 he visited at Brooklyn Law School, and he joined Hofstra one year later. His work as a prosecutor had included drug and other criminal prosecutions, and he brought that knowledge of the constitution and criminal procedure to his teaching and research at Hofstra. An active participant in Critical Race Studies Summer Programs, he had published on issues involving race and criminal law, criminal procedure and constitutional law. His work is known for its ability to merge practical knowledge with critical analysis and for fresh ideas about different and better approaches to the issues raised.

This marriage of the practical with the theoretical can be seen in his article in Buffalo Law Review on abusive prosecutors and drug-addicted mothers. He demonstrates in that article the abuse of discretion that prosecutors have used in the area of drug-addicted mothers and suggests creating Prosecutorial Research and Information and Reporting Boards to monitor and change the attitude of

prosecutors in this area. In *Drug Decriminalization: A Chorus in Need of Masterrap's Voice*, 18 Hofstra Law Review 457 (1990), he argues that the issue of the inappropriateness of drug activity is an easy attitude to agree upon, but that trying to figure out approaches that will

*"Professor Greene spent his
career . . . attempting to
bring different people together . . ."*

both be productive and change behavior is much harder. The article is an eloquent description of the voice of the non-included in the drug discussion. His point is that we cannot understand the real world of drugs until we include the often angry voice of drug participants in the discussion. He suggests that the way we produce democratic voice needs to be changed and that we can do so without endangering the important goals that society shares.

His last article is typical of his work and is to be published this fall in Columbia Journal of Gender and Race entitled *Naughty As They Want to Be*. Dwight examines the problem of car theft in major cities. He concentrates his concern on the problem in Newark, New Jersey, and he makes the point that people have merged three different problems into one - car theft - which includes the problem of car jacking (the forceful taking of an automobile), joy riding (the surreptitious use of an automobile for recreative purposes), and car stealing (taking an automobile usually without violence for resale). Professor Greene demonstrates how these problems have been misunderstood by the press and Congress as one problem. In addition, Dwight raises the issue of how we are to interpret the actions of teenagers who joyride in Newark, and he notes that this is a form of protest and participation in the process by people who are eco-

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**RE-IMAGINING TRADITIONAL LAW SCHOOL COURSES:
WORKSHOPS INTEGRATING CLASS, DISABILITY, GENDER, RACE AND
SEXUAL PREFERENCE INTO OUR TEACHING AND COURSE MATERIALS**

SALT TEACHING CONFERENCE

Friday and Saturday,

October 29-30, 1993

Santa Clara University School of Law

This is to announce the West Coast version of the highly successful SALT Teaching Conference which was held at New York University School of Law in May of 1993. This two-day Conference will provide an opportunity for experienced and new teachers of nine subjects to work together in small groups. Each group will work intensively on teaching and materials in its subject area, for a total of eight hours over the two days of the Conference. The subject areas will include Civil Procedure, Clinical/Lawyering, Contracts, Criminal Law, Environmental Law, Legal Research and Writing, Property, Tax and Torts.

The planners of the May Conference at NYU attribute much of its success (over 240 attendees) to its innovative use of subject matter working groups. As Zipporah Wiseman and Anne Goldstein, Co-Chairs of the New York Conference said, "These were working groups, not audiences for presenters. The participants spent about eight hours in their subject matter groups, working both on issues that the coordinators had identified beforehand and on issues that the participants raised spontaneously. For some groups the focus was teaching, for others the production of materials, while some groups worked on both areas. Where presentations were used, they were short and served as catalysts for discussion."

The SALT Conference at Santa Clara will also attempt to explore ways of working with the intense emotional reactions often generated among our students and colleagues when diverse perspectives are integrated into traditional courses. In addition, the Conference will explore strategies for successfully integrating these important issues into our teaching and course materials.

TENTATIVE SCHEDULE

Friday, October 29, 1993

12:30 - 1:30	Registration.
1:30 - 2:50	First Plenary Session: Opening talk and teaching demonstration with discussion.
3:00 - 6:00	First subject matter working group meetings.
6:00 - 6:30	Cocktails.
6:30 -	Dinner at Santa Clara University.

Saturday, October 30, 1993

9:00 - 12:00	Second subject matter working group meetings.
12:00 - 1:00	Box lunch.
1:00 - 2:15	Second Plenary Session: Strategies for successfully integrating class, disability, gender, race and sexual preference into teaching and course materials at your school.
2:30 - 4:30	Third subject matter working group meetings.
4:30 - 5:30	Third Plenary Session: Open discussion of Conference experience.

We hope that you will be able to attend the October Conference. Could you please make copies of this announcement and distribute it to your colleagues, urging them to attend? If you would like to help in planning the subject matter working group meetings or have any suggestions or questions, please write to Professor Eric Wright, Santa Clara University School of Law, Santa Clara, California 95053 or fax him at (408) 554-4426 -- or simply call him at (408) 554-4353.

REGISTRATION FORM

1993 SALT TEACHING CONFERENCE

OCTOBER 29-30, 1993

(Friday and Saturday)

CHECK ONE:

☐ SALT member \$90

☐ Non-SALT member \$115

☐ Registration fee and SALT membership dues \$125

CHECK ONE:

☐ Civil Procedure

☐ Clinical/Lawyering

☐ Contracts

☐ Criminal Law

☐ Environmental Law

☐ Legal Research & Writing

☐ Property

☐ Tax

☐ Torts

Name _____

Address _____

Office Telephone No. _____ Fax No. _____

☐ Check if you desire information on hotel rooms

Send this form with check payable to SALT to:

Professor Stuart J. Filler
Bridgeport Law School at Quinnipiac College
600 University Avenue
Bridgeport, CT 06604-5651

nomically and socially disempowered. In this view, the actions of these teenagers in joyriding is a kind of social protest that needs to be understood as such if it is to be altered in appropriate ways. He argues that these teenagers are like the old black woman in Mississippi, described by **Derrick Bell**, who doesn't believe that she can change things but believes it is important to protest. Dwight suggests remedies for this problem, including providing opportunities for young people to have access to automobiles in certain situations as rewards to ameliorate some of the problems that joyriding has produced. He also notes that the argument that criminal penalties will work in this situation is misguided.

Dwight, an elegant person and always a gentle soul, was known for his willingness to help students and former students in their careers. He provides a tower of strength to a generation of Hofstra students and to his friends in the academic community. Professor Greene spent his career as a teacher and a scholar attempting to bring different people together. He played such a role whenever difficult issues were raised. Whether it was Rodney King or Crown Heights or disagreements in his law school, he was always there trying to create change and understanding. In all of these activities, Dwight brought that rarest of abilities -- the ability to listen and hear others. Dwight's life was truly a light in the darkness, and it is a light that will be missed by students, academic colleagues and friends. ■

In Memory of

Professor
Dwight L. Greene

Hofstra University
School of Law

SALT BOARD MEETS IN NEW YORK

— Joyce Saltalamachia
New York Law School

The SALT Board of Governors meets three times a year to discuss new proposals, projects, and any other business necessary for the functioning of SALT. The Board held its Spring meeting on May 21, 1993 at NYU Law School, with 22 Board members attending.

This meeting began with a discussion of the newly-revised By-laws. The revision of our By-laws has been an on-going project led by **Sylvia Law** and **Howard Glickstein**. One change eliminates the rarely, if ever utilized, avenue for nominations of officers directly from the membership-at-large. In order to retain membership involvement, renewed efforts will be made to encourage SALT members to contact the Nominating Committee with suggestions for new Board members. The new By-laws also expand the definition of individuals who are eligible to join SALT, by adding a category for full-time administrators and law librarians.

Sylvia Law distributed the list of 1993-1994 Committee members. She reported that, after consulting with clinical faculty Board members, she had decided not to appoint a separate Clinical Committee this year; there appeared to be no need for such a separate Committee since SALT will always be interested in, and supportive of, clinical issues. There was a discussion about the need for special committee on the issue of a SALT position on mandatory pro bono. When the topic of mandatory pro bono was raised at a previous Board meeting, it was evident that there was a wide divergence of opinion on whether SALT should support various ABA proposals for a mandatory pro bono requirement. After discussion, the Board decided that there was no need for a separate committee on mandatory pro bono at the present time, but there may be such a need in the future if we decide programmatically that this is an area on

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which to concentrate.

Our finance guru, **Stuart Filler**, reported that the SALT Teaching Conference, to begin the next day, had generated 60 new members, along with a very healthy profit. SALT now has over 700 members representing 150 law schools. Board members reported some

*"SALT now has over
700 members representing
150 law schools . . ."*

confusion over the time-table for payment of annual dues. Stuart stated that all dues are payable on September 1 and that membership runs from September 1 through August 31. **Martha Chamallas** and the Membership Committee have been asked to regularize a strategy to recruit members. In response to suggestions, the Board discussed whether SALT should actively recruit adjuncts for membership and whether there should be a separate adjunct committee. It was decided that, while a separate committee was not necessary at this time, it would be a good idea to recruit adjuncts for membership. The Membership Committee will consider this and other suggestions for further increasing SALT's membership.

The Committee on Positions, which evaluates requests for support, both financial and intellectual, from outside groups, had two issues to discuss. The first was the question of SALT co-sponsoring a National Lawyers Guild Conference in New York to be held in August. After considering the Guild's request, the Committee on Positions recommended against co-sponsorship but left open the question of whether to have a SALT social event at the Conference. A discussion followed, and support evolved for the Committee's recommendation. Many people felt that Guild Conferences will continue to be held whether or not SALT participates and that SALT participation should be reserved for in-

stances where it is the most meaningful. However, this opinion was not unanimous. **Dean Rivkin** spoke in favor of co-sponsorship because the goals and objectives of SALT and the National Lawyers Guild frequently coincide. There was some confusion among the Board over this special National Conference versus the Guild's Annual Convention. In this instance, SALT was being asked to co-sponsor a National Conference, not the Annual Convention. After more discussion, there was a straw vote which indicated that the Board did not favor sponsorship, but does favor pursuing closer ties with the National Lawyers Guild.

The Committee on Positions did recommend signing onto an amicus brief in the case of *Ezold v. Wolf*, a sex discrimination law suit against the Philadelphia law firm of Wolf, Block, Schorr and Solis-Cohen, on the theory that the suit relates to professional education and diversity. Ms. Ezold is asking the United States Supreme Court to review a decision of the intermediate federal appeals court overturning her landmark victory against the law firm for denying her admission to partnership on the basis of gender.

A separate discussion took place to consider what SALT should do to support the nomination of **Lani Guinier** (see **Phoebe Haddon's** article on page 1.). While the issue of this particular nomination soon became theoretical, the general discussion of strategy is still a valid one for future reference. What should SALT do as an institution to show support or opposition to nominations or political candidates? While individuals can write articles and letters, there is always a question about SALT's institutional response. It was also suggested that SALT have a position about how scholarly writing should be considered in such situations, similar to the Bork nomination issues. **Jerome Culp** stated that people should be held responsible for what they write, but that distortions must be challenged. Board members agreed that, in instances like this, SALT should have an institu-

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tional presence, but the Board was undecided as to the form that that presence should take.

Pat Cain reported that there is still no official AALS sponsorship for our program at the AALS annual meeting. The program itself will be on health care and will be presented in conjunction with the Law and Community Section. There was a discussion on whether to continue to try to have a separate program at AALS or whether our interests were being sufficiently represented by existing AALS programs. A discussion followed about SALT's relationship with AALS. SALT has, at various times, been well-represented on the AALS Board and among its officers. Currently, Liz Schneider and Gerald Torres are on the AALS Executive Board. While SALT ties with AALS might be considered helpful, they also may have an impact on SALT's traditional "outsider" status. Several members expressed the need to "keep us honest" and not have a closer relationship with AALS.

Two members from the Association of the Bar of the City of New York's Sub-committee on Law Student Perspectives attended this Board meeting to report that the Sub-committee is looking at faculty diversity issues in law schools in the New York area. The Chair of the Sub-committee stated that they were finding it difficult to get data and were looking for a methodology to obtain information. The Sub-committee also planned to study hiring practices and processes. After discussion, the Board decided that SALT should join the Bar's pilot program to study faculty diversity among New York City law schools and should help in gathering data.

The meeting came to a close with the discussion of the desirability of holding a West Coast version of the Teaching Conference in the Fall. Board members were enthusiastic in their support of such a conference and deputized Sylvia to find a location and choose a date for such an event. [The Conference is on for October 29-30, 1993 at Santa Clara University School of Law; see pages 10-11 for details.]

SALT Board meetings are usually scheduled to immediately precede or follow a SALT Conference, and members are always encouraged to attend *The Board will next meet on Sunday, October 31, 1993 from 8:00 a.m. to 2:00 p.m. at Santa Clara*. East Coast members should know that there are flights out of San Francisco around 3:00 p.m. or 4:00 p.m. that will get people home late on Sunday night. ■

UPDATE ON CRACKER BARREL AND CREF

— Arthur S. Leonard
New York Law School

In the last issue, we noted that the CREF pension fund in which many of us participate has a significant investment in the shares of the Cracker Barrel restaurant chain. Cracker Barrel is the target of shareholder protest over its overtly anti-gay employment policies. Since then, U.S. District Judge Kimba Wood has ruled in a case involving Wal-Mart Stores that shareholder resolutions on equal employment opportunity issues must be included in the proxy statements sent out to the shareholders, finding invalid a Securities and Exchange Commission position to the contrary, which had been used by Cracker Barrel to avoid including a shareholder resolution on this issue in its own proxy mailing.

Also, since the last *Equalizer*, I have had an opportunity to speak with New York City Comptroller Elizabeth Holtzman about this issue. It was her shareholder resolution, offered on behalf of the city's public employee pension funds, that was at issue. Comptroller Holtzman is urging that investigators not sell their Cracker Barrel shares, but rather join with her in attempting to get Cracker Barrel's policies changed through the shareholder resolution. Letters to CREF urging that policy would be most appropriate. ■

TIAA-CREF, DIVESTMENT AND SOCIALLY RESPONSIBLE INVESTING

— Marjorie Fine Knowles
Georgia State University
School of Law

As a long-time member and former Board member of SALT, I am writing to further address the issues raised by Arthur Leonard in the April 1993 issue of *The Equalizer* and in his update herein. Professor Leonard suggested that TIAA-CREF should either divest its shares in Cracker Barrel because of that company's hiring policy which discriminates against gays and lesbians or at least support a shareholder resolution on this issue offered by New York City on behalf of its employee pension funds.

*"... we do not divest as a way of
trying to affect a company's policy.
Rather, we ... stay in the
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investor ..."*

I am a trustee of CREF and serve as Co-chairperson of the TIAA-CREF Committees on Corporate Governance and Social Responsibility. The Committees have consistently recommended to our Boards that we do not divest as a way of trying to affect a company's policy. Rather, we believe it is much more effective to stay in the arena as a major institutional investor so we can press for what we believe is the correct policy. Certainly, we agree that a company's hiring policy should in no way discriminate on the basis of sexual orientation. In its own employment practices, TIAA-CREF is resolute in promoting non-discriminatory policies that enforce equal employment opportunity and in promoting affirmative action. And Professor Leonard is correct in stating that many faculty members with holdings in CREF work for institutions

which ban discrimination on the basis of sexual orientation.

*"... divestment as a means of
protest is generally an ineffective
way to advance a position ..."*

However, we believe that using divestment as a means of protest is generally an ineffective way to advance a position or to move a debate on public policy. To sell our stock in Cracker Barrel would only serve to remove us from an arena in which meaningful progress can be made on this and other issues - we would lose our votes as well as our shareholder voice. Furthermore, there are also legal constraints arising from a pension fund's fiduciary responsibility, which are always relevant to the issue of divestment.

As Professor Leonard mentioned, the resolution to Cracker Barrel on its employment policies is presently the subject of litigation. While I cannot speak for the Committees, I feel sure that we would vote on it in a way that is consistent with our strong policy in favor of equal employment opportunity, a policy that is clearly reflected in our history of voting on such issues. We have not joined in sponsoring the New York City resolution because of a longstanding decision of the Committees to sign only our own shareholder resolutions.

I am pleased to have this subject discussed in *The Equalizer*. I am also pleased to have the opportunity to draw the attention of SALT members to the CREF Social Choice Account. This Account, which was established to give participants interested in socially responsible investments an alternative to the "classic" CREF Stock account, includes a "social screen." More information about that option may be obtained by calling TIAA-CREF's toll free number (1-800-842-2776) and asking for material about the Social Choice Account. ■

THE MacCRATE REPORT: OPPORTUNITY FOR CURRICULAR REFORM

— Elizabeth M. Schneider
Brooklyn Law School

In July 1992, the ABA Section on Legal Education and Admissions to the Bar published a report entitled *Legal Education and Professional Development -- An Educational Continuum*, Report of the Task Force on Law Schools and the Profession: Narrowing the Gap. This report, known as the MacCrate Report in honor of the Task Force Chairperson, Robert MacCrate, was distributed to law schools and law faculties during this academic year and is an important document for SALT members to read and affirmatively utilize.

The mandate of the Report is set out in the Introduction: "Legal educators and practicing lawyers should stop viewing themselves as separated by a 'gap' and recognize that they are engaged in a common enterprise -- the education and professional development of the members of a great profession". The Report examines the legal profession, details a set of comprehensive "skills" and "values" that lawyers should have, and analyzes the educational continuum beginning with pre-law education to law school to ongoing professional development in practice. Most important to law teachers generally, and to SALT members specifically, the Report analyzes the ways in which traditional legal education has not broadly emphasized "skills" and "values" that are necessary for practice and urges a greater link between theory and practice in law school curricula. The Report emphasizes the critical importance of clinical education and integration of instruction of lawyering "skills" and "values" in law schools' educational programs.

The MacCrate Report has been the subject of much discussion at various professional meetings, and there has been a wide range of reactions to it by law school faculty and deans. In my capacity as a member of the Executive Committee of the AALS, I recently

served on a Committee to consider the AALS position on the Report (along with another member of the SALT Board of Governors, Phoebe Haddon, and other SALT members Howard Lesnick and Elliott Milstein). As a result of this Committee's work, the Executive Committee of the AALS issued a statement which has been sent to the deans of all law schools to distribute to law faculty. This statement "embraces the call for institutional experimentation and self-examination" by law schools and states that "to the extent that the Report challenges law schools to re-examine the dominant curriculum and pedagogy, we recommend that the AALS promote discussions related to the Report through such forums as a mini-workshop at the 1995 Annual Meeting and other national conferences".

*"... the Report challenges
law schools to re-examine
the dominant curriculum
and pedagogy ..."*

Whatever one's view of the MacCrate Report, it is a useful vehicle to promote institutional discussion of curricular goals within law schools. The Report will be the basis for continuing discussion over the role of law schools in training students for legal practice and raises many important issues concerning legal education that are important to SALT. SALT members should read the Report and the AALS statement, make sure that they are circulated to all law school faculty and affirmatively utilize the opportunity that the Report provides for institutional self-examination, reflection and curricular experimentation. ■

FINALLY ... GENDER, RACE AND TEACHING STATUS DATA NOW BEING GATHERED BY THE AALS

— Richard Chused
Georgetown University
Law Center

SALT has voiced concerns for many years about the sorts of data gathered by the AALS for use in the *Directory of American Law Teachers*. The lack of carefully gathered data on gender, race and teaching status made it impossible to use AALS data for studies of hiring and retention patterns in American law schools. Researchers, including SALT, were forced to independently create their own data bases. In addition, the AALS generally refused access to its data base to social scientists interested in studying legal education. SALT studies of law school hiring patterns by David Chambers, Chuck Lawrence and me published in the past decade have highlighted problems in the hiring and promotion of women and minorities. Other studies have confirmed many of SALT's findings.

Some changes are finally being made by the AALS. At the request of the Empirical Studies Committee of the AALS, upon which I now sit, significant changes were made in the most recent questionnaires sent to law school teachers by the AALS. The most important alterations make it possible to track gender and race employment patterns among different groups of law teachers. Information on both the primary teaching obligations of legal academics (traditional classrooms, clinics, and legal writing programs, among others) and the employment status (untenured, tenured, non-tenurable contract employee) will now be in the AALS data base. In addition, the Empirical Studies Committee has been empowered to grant access to AALS data base to social scientists who submit carefully drawn proposals to the AALS for studying some aspect of the legal academy. These changes in AALS policy will allow both the AALS and independent social scientists to do

much more sophisticated research on the composition and structure of law school faculties. ■

JUSTICE FOR SALE

— Nan Aron and
Barbara Moulton
Alliance for Justice,
Washington, D.C.

Undue corporate influence on law school campuses is of great concern, of course, to SALT members. In the latest report from Alliance for Justice, entitled *Justice for Sale: Shortchanging the Public Interest for Private Gain*, we examine how a coalition of business groups and foundations are engaging in a major campaign to reshape American law, beginning with law students and law professors. The unifying theme is the enormous amounts of money being spent by business interests and foundations for legal change that eases restrictions on corporate behavior and increases protection for private income and property. Our main objectives are to educate academics, foundations, legal practitioners and the public about the vast scope of the campaign, and to spark a renewed commitment among progressives throughout the legal community to a justice system that guarantees equal justice for all rather than for just a financially powerful few.

*"the well-orchestrated mission . . .
to institutionalize the study
of law and economics on law
school campuses . . ."*

Of particular interest to SALT members is the extensive information regarding the funding of law and economics (primarily that with a "Chicago School" bent) within the legal

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academy. The report discusses the well-orchestrated mission of the Olin Foundation - through its tens of millions of dollars in donations - to institutionalize the study of law and economics on law school campuses. Since 1987, Olin has given the University of Chicago nearly \$2.5 million, Yale and Harvard close to \$2 million each, and Stanford and the University of Virginia over \$1 million each, all for the study of law and economics. Other law schools receiving substantial Olin funding include George Mason University, Duke, Columbia, Fordham, Georgetown and the University of Toronto. The money has gone to create permanent faculty positions, channel student course selections, fund faculty and student research activity, and conduct hundreds of workshops and seminars on the "law and economics" of various legal controversies.

"... Olin's largesse ... is apparently being used ... to pay students to enroll in law and economics classes."

One particularly alarming aspect of Olin's largesse is that it is apparently being used, at least by two schools, to pay students to enroll in law and economics classes. At Georgetown, students signing up for the law and economics seminar receive course credit and a \$4,000 stipend, a feature unlike any other course offered at the school. In addition, Olin's initial grant to Harvard Law School included "scholarship" money, but only for students agreeing to take a law and economics course.

The enormous funding appears to be having a tremendous effect in sustaining interest in law and economics. According to a recent study cited in the report, law and economics constitutes 25% of the scholarship in

the Yale, Harvard, Stanford and University of Chicago law journals.

Other major findings of the report include the fact that approximately 40% of the federal judiciary has attended all-expense-paid seminars in law and economics theory sponsored by George Mason University's Law and Economics Center. Expenses to attend the seminars -- held at resort locations such as Marco Island, Florida -- cost up to \$3,500 per judge. In 1991, 31% of the Law and Economics Center's \$967,917 income came from corporate contributors, including Pfizer, Exxon, and General Electric; another 65% came from foundations such as Olin, Bradley, and Scaife.

Furthermore, since 1985, the Olin, Scaife, Bradley, and Smith Richardson foundations have given over \$1 million to the Federalist Society, a conservative legal group started by three law students in 1982 with seed money from the Institute for Educational Affairs, an organization formed to match corporate donors with conservative donees. Today, the Society has over 120 law school chapters, a 25-chapter lawyer division, and roughly 10,000 members, and remains primarily committed to recruiting young legal minds to the conservative cause.

Justice for Sale documents the ongoing efforts of a small, wealthy group to mold a new jurisprudence. It is both a warning and a clarion call for those who are committed to ensuring that the American legal system does not become just another commodity for sale to the highest bidder. SALT members are encouraged to monitor the use and effect of corporate and foundation donations and sponsored events at their law schools and to keep us apprised of your findings. Please contact either of us at the Alliance for Justice, 1601 Connecticut Avenue, NW, Suite 601, Washington, D.C., 20009, (202) 332-3224. Copies of Justice for Sale are available at \$15 each. ■



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