SALT

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## SALT EQUALIZER

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## Introducing SALT: An Orientation for New (and Not So New) Law Teachers

Nancy L. Cook, Cornell University Martha Chamallas, University of Pittsburgh

SALT is sponsoring a program to explore progressive approaches to law teaching and scholarship. This FREE program, to be held at the Marriott Hotel in New Orleans, is scheduled for the late afternoon of Jan. 2, 2002. The date coincides with the opening of the AALS Annual Meeting. Designed primarily for faculty who have been teaching less than four years, but open to all, "Introducing SALT: An Orientation for New (and not so new)

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## Presidents' Column

SALT equalizer

Library

Received on: 11-05-01 University of Georgia Law

Margaret Montoya, University of New Mexico Carol Chomsky, University of Minnesota

We are writing this on the day after the tragic attack on New York and Washington, D.C. We join what has become a

"We join what has become a global chorus of voices offering condolences to victims and their families."

global chorus of voices offering condolences to the victims and their families. We also join in this period of reflection

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# SALT Joins Statement "In Defense of Freedom at a Time of Crisis"

Editor's Note: As this issue was going to press, SALT Co-Presidents Margaret Montoya and Carol Chomsky added SALT's endorsement to the following statement, developed by a coalition of organizations.

- Last week thousands of people lost their lives in a brutal assault on the American people and the American form of government. We mourn the loss of these innocent lives and insist that those who perpetrated these acts be held accountable.
- This tragedy requires all Americans to examine carefully the steps our country may now take to reduce the risk of

"We need to ensure that actions by our government uphold the principles of a democratic society."

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#### Freedom:

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future terrorist attacks.

- We need to consider proposals calmly and deliberately with a determination not to erode the liberties and freedoms that are at the core of the American way of life.
- 4. We need to ensure that actions by our government uphold the principles of a democratic society, accountable government and international law, and that all decisions are taken in a manner consistent with the Constitution.
- We can, as we have in the past, in times of war and of peace, reconcile the requirements of security with the demands of liberty.
- We should resist the temptation to enact proposals in the mistaken belief that anything that may be called anti-terrorist will necessarily provide greater security.
- We should resist efforts to target people because of their race, religion, ethnic background or appearance, including immigrants in general, Arab Americans and Muslims.
- We affirm the right of peaceful dissent, protected by the First Amendment, now, when it is most at risk.
- We should applaud our political leaders in the days ahead who have the courage to say that our freedoms should not be limited.
- 10. We must have faith in our democratic system and our Constitution, and in our ability to protect at the same time both the freedom and the security of all Americans.

## SALT and CLEA to Sponsor October Conference on Affirmative Action

On Oct. 5–6, 2001, the Society of American Law Teachers, with the assistance of the Clinical Legal Education Association, will hold a National Conference on Affirmative Action at the University of Cincinnati. This conference is planned to coincide with the 6th Circuit expedited hearing of the appeals of the cases challenging the University of Michigan undergraduate and law school admissions processes.

The conference, hosted by the University of Cincinnati, will build on the momentum developed at the trial in the Michigan cases and the organizing efforts of the students on various campuses. The objective of the student-intervenors and this conference is to expand the debate beyond the diversity rationale of the *Bakke* case by focusing on the resegregation of higher education and the continuing segregation and institutional racism in K–12 education systems that affect higher education admissions and programs.

The conference will assemble lawyers and experts to speak about the leading cases on affirmative action, including the recently decided *Grutter v. Bollinger*. The speakers will include some of the leading voices on affirmative action in the country including:

- the student-intervenors in the Michigan Law School case,
- the MALDEF attorneys litigating the Rios case against the University of California at Berkeley (alleging that the admissions process discriminates against students of color),
- a leading researcher from the Harvard Civil Rights Project, and
- Jeffrey Lehman, Dean of the Michigan Law School.

The panels will also feature the student activists from Michigan and California who have succeeded in changing the tone of the debate in and out of the courtroom.

The next *Equalizer* will include coverage of the Conference for those who are unable to attend.

For those who can attend, the registration fee is \$50 payable at the University of Cincinnati Kingsgate Conference Center. For hotel accommodations, please contact the conference center at (513) 487-3800 and ask for the SALT conference rate (\$79/night).

For more information, please contact SALT Co-President Margaret Montoya at 505-277-3010 or montoya@law.umn.edu.

## Presidents' Column:

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about the fragility of life, the sanctuary of family and friends, and the incalculable toll exacted by violence, from both terrorism and imperialism. The ripples of these horrific acts have not reached all of our lives; many of us wait to learn about those who are yet unaccounted for. We extend our best wishes and fervent prayers to you and your loved ones during these dark moments. May justice prevail.

This issue of the *Equalizer* brings you news about two issues that have been central to SALT's Action Campaign for Access and Justice: affirmative action in higher education and the use of the LSAT in law school admissions. There are new developments pertaining to affirmative action, see Bill Kidder's article on page 6 as well as new critiques of the LSAT, see Michael Rooke-Ley's article on page 7, as well as a new article by Richard Delgado, "Official Elitism or Institutional Self Interest?, 10 Reasons Why UC-Davis

Presidents' Column continued on page 9

## **SALT Salary Survey**

Howard A. Glickstein, Touro Law School

Every year at this time, we ask law school deans to provide salary data for the Annual SALT Salary Survey. The number of schools responding to our request has declined since the ABA stopped collecting salary data. Each school certainly continues to maintain such data.

There follows a list of schools that either declined to provide us with data for our last survey or failed to respond at all to our request. We urge all SALT members to encourage your deans to respond to this year's survey, which will be in the mail by mid-October. (Even If your school has participated in the past, it is useful to reinforce with your dean the importance of the survey and to urge continued participation.)

A special plea to those of you at public law schools: Your salary data should be readily available. If you have access to it, please send it to me or tell me how I can obtain it.

11.1
Alabama
American University
Arizona
Arizona State
Baylor
Boston College
Boston University
Brigham Young
Brooklyn
Cal Western
Case Western Reserve
Chapman
Chicago
Chicago-Kent
Cincinnati

Columbia
Cornell
Cumberland (Samford)
Denver
DePaul
Detroit-Mercy
Duke
Emory
Florida Coastal
Fordham
George Mason
George Washington
Georgetown

Harvard

Hofstra Indiana (Bloomington) IAG Kansas Kentucky Lewis & Clark Loyola (Chicago) Loyola (LA) Mercer Miami Minnesota Mississippi College Nevada-Las Vegas New England New York Law NYII North Carolina Central Northwestern Notre Dame Pennsylvania Penn State-Dickinson Pepperdine Quinnipiac Richmond Roger Williams St. John's Saint Louis

St. Mary's

San Diego

San Francisco Santa Clara South Carolina Southern California Southern Methodist Southwestern Stanford SUNY Buffalo Stetson Temple Thomas Jefferson **UC Berkeley UC Davis** UCLA Utah Vanderbilt Villanova Virginia Wake Forest Washington and Lee Washington (St. Louis) Western State Whittier Widener William and Mary Wisconsin Yale Yeshiva

## SALT Funds Fellowships for Pre-Law Summer Institute

By Heidi Nesbitt, PLSI Director

Editor's note: At its January 2001 meeting, the SALT Board voted to fund two fellowships for students in the Pre-Law Summer Institute for American Indians & Alaska Natives (PLSI). Here is a report on the students who received the fellowships.

I want to update SALT on the students who received the SALT Fellowship you so generously provided to the Pre-Law Summer Institute for American Indians & Alaska Natives (PLSI) this summer. The two students who received \$1,000 each were Catherine Bryan and Vincent Knight.



Catherine Bryan and Vincent Knight were the recipients of SALT Fellowships to attend the Pre-Law Summer Institute for American Indians & Alaska Natives.

Catherine Bryan is a Navajo student with a strong interest in international law. Her experiences with Algerian refugees while studying for her master's degree in French literature at the Université Blaise Pascal in Clermont-Ferrand, France, solidified her goal of participating in political and social change through helping "to break the barriers to international trade and the right of humans to immigrate." Her work in the PLSI demonstrated her dedication to the study of law, leading her torts professor to write:

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## No Exit?\*

By Anthony Paul Farley, Boston College Law School (on leave 2001– 2002), Visiting Professor Golden Gate University School of Law (2001–2002)

Editor's note: An important focus for SALT is to bring issues of justice into the law school experience. This article, part of an occasional series, describes a program called "Changing Lives Through Literacy," in which Prof. Farley and some of his law students teach literature to probationers in Dorchester, Mass.



Two million people are imprisoned in the U.S. The majority of them are black. This is slavery in a new form, as is the scandalous quality of the educational resources meted

out to the heirs of *Brown v. Board of Education*. The attack on freedom and the attack on literacy are, of course, related. Among the many thousands gone the way of incarceration are few, very few, who ever had the experience of a decent school.

Many, far too many, of our urban schools resemble prisons. Visit one of these schools and you will see how dreams are killed at an early age. Dreams are killed by educators who sometimes do not love the children they have promised to educate. Dreams are killed by an education-industrial-complex that too often creates conditions that make such love almost impossible to imagine. Dreams are killed as an ever-more colorlined nation abandons the twin dreams of education and emancipation altogether.

Many, far too many, of these dreamless children find themselves leaving their loveless schools only to land in prison. Our failing schools, like our failing prisons, are overwhelmingly and unconscionably black. The failure of the school and the failure of the prison together create the colorline. The new slavery—linked to the old by the colorline—is the product of this two-stranded failure.

"Our failing schools, like our failing prisons, are over-whelmingly and unconscionably black. The failure of the school and the failure of the prison together create the colorline."

Failing schools produce illiteracy just as surely as failing prisons produce recidivism. The failure of these two institutions seems always to escape serious examination. In the antebellum South the dream of the literate slave was always emancipation, just as the dream of the emancipated slave was always literacy. Reading and freedom have always been connected in the minds of former slaves and former slavemasters in the United States. Witness the trials and tribulations of Frederick Douglass in his struggle for both mental and physical liberation, for freedom from both illiteracy and the plantation.

Our schools fail. Our prisons fail. The former produce illiteracy while the latter produce recidivism and both kill dreams of an emancipated future in the U.S. When institutions fail year after year we must reexamine what we mean by failure. When the reformers respond to this year's failure with last year's failed solutions we must reexamine what we mean by reform. These failed prisons, these failed schools, and all these failed endlessly-recycled reforms actually

succeed in continuing the colorline's division of the United States into two nations: black and white, separate and unequal. And there seems to be no exit from this cycle of failure.

What is to be done?
We should turn the prisons into schools.

We can begin by reforming the probation system. This is being done in Dorchester, Mass. Since 1994, we have conducted a literature program for men and women who have been convicted in the Dorchester District Court for various offenses.

The Dorchester experiment is part of a statewide program called "Changing Lives Through Literacy," which was founded by

"If a university-level literature course can be taught as probation, then anything can be taught anywhere to anyone. Probation offices...can be transformed into schools."

English Professor Robert Waxler of the University of Massachusetts at Dartmouth and Judge Robert Kane. The Dorchester organizers include Judges Sydney Hanlon and Thomas May; Probation Officers John Christopher, Deirdre Kennedy, Yvonne Nelson, John Owens, Theresa Owens, and James "Bobby" Spencer; along with English Professors Ann Murphy of Assumption College and Taylor Stoehr of the University of Massachusetts at Boston, and me. In addition, a number of Boston College Law School students like Gretchen Hunt '99 have distinguished themselves as program facilitators over the years.

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## New Collaboration Seeks to Connect Justice Issues and Legal Scholarship

Bricker Lavik,
Past chair of the Minnesota State Bar
Association Legal Assistance to the
Disadvantaged Committee, Director of Pro
Bono at Dorsey & Whitney, Minneapolis,
lavik.bricker@dorseylaw.com

Legal Scholarship for Equal Justice (LSEJ) is a new project — still in the planning stage — to join the creative thinking and scholarship of Minnesota's law schools with the practice experience and insight of the state's lawyers for the disadvantaged. A group of professors and lawyers from legal services programs, the Minnesota State Bar Association, and the Minnesota Justice

"While the numbers of the poor and low-wage workers swell, funding for legal aid and volunteer attorney programs has stagnated or declined."

Foundation are working to bridge the gap between the law schools and poverty law practitioners to benefit the disadvantaged.

Most of today's disadvantaged are denied access to justice. While the numbers of the poor and low-wage workers swell, funding for legal aid and volunteer attorney programs has stagnated or declined. The American Bar Association has reported that less than 20 percent of the disadvantaged who would benefit from the help of a lawyer get one. The lawyers for the disadvantaged — both legal aid programs and volunteer private attorneys — often lack the resources and time to fully research,

Collaboration continued on page 11

#### PLSI:

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"... her questions and comments tend to anticipate the direction in which the course is moving, and hence they help to keep the class focused on precisely what is most relevant and important for understanding the emerging theories and doctrines under discussion." A very bright and hard-working single mother, in addition to being an

excellent law student, Ms. Bryan was chosen to receive the SALT Fellowship.

Vincent Knight is a member of the Pueblo of Laguna and a natural leader, having served in leadership positions in high school, college, and,

just last year, being elected to serve as Mayordomo at Laguna. The position of Mayordomo not only administers law and traditional Pueblo customs, but also includes nontraditional responsibilities such as enforcing village ordinances, settling domestic disputes, and handling cases sent down to the village by the tribal prosecutor. At the same time, Vincent was a recruiter of disadvantaged students for the UNM School of Medicine, traveling to many rural high schools, regional universities, and BIA reservation schools "convincing kids they have the intelligence to become a health professional, they just needed some will and direction." One PLSI professor in his evaluation of Vincent wrote, "His demeanor during class lectures reveals an intense concentration on the intricacies and nuances of legal doctrine and theory, and the relevance and precision of his questions and comments confirm the high quality of his attentiveness and intelligence." Mr. Knight's commitment to disadvantaged

youth, his ability to encourage and lead, and his goal to enter the profession where he can "help more people," made him our other choice to receive a SALT Fellowship.

The goal of both these students is to clear the path for those less fortunate than themselves, to work for justice, human rights, and opportunity, from the local level to the international arena. We see them as possessing the best qualities of the legal profession and are certain that

members of the Society of American Law Teachers will be able to point to them with pride as the first recipients of the SALT-PLSI Fellowships.

We wish to thank SALT so much for its contribution to this very important

program. As you can see, two terrific people would be missing from law school and, ultimately, the profession without SALT's assistance, because both of these students were only admitted to law school based on their performances in the PLSI.

"...two terrific people would be missing from law school and, ultimately, the profession without SALT's assistance..."

## SALT E-Mail List

SALT has created an email list to make it easier for the Board to communicate with all of you about upcoming SALT events and to share information about activities and opportunities of importance to our members. If you did not receive a message welcoming you to the listsery, please contact Carol Chomsky at choms001@umn.edu so that you can be added to the list. If you have information about a conference or other activity that you would like to share with SALT members, please send it to saltlist@umn.edu.

## Affirmative Action Litigation Update

By William C. Kidder, Researcher at Testing for the Public (Berkeley, Calif.), and a recent graduate of Boalt Hall

Because of SALT's involvement in the case, this summary emphasizes *Grutter v. Bollinger*, a challenge to affirmative action at the University of Michigan Law School (UMLS). It also briefly covers other recent rulings.

In March 2001 a federal district court ruled on *Grutter*. The court principally relied on a Center for Individual Rights (CIR) expert when it concluded, "[T]he evidence indisputably demonstrates that the law school places a very heavy emphasis on an applicant's race." The core of CIR's case consisted of racial/ ethnic comparisons of admission odds for applicants with similar LSAT scores and UGPAs, which the court found to be "mathematically irrefutable proof." The court also construed the fact that UMLS had a broad target of 10-17 percent underrepresented minorities as proof of an unconstitutional "hidden quota" system.

The Grutter court ruled that diversity is not a compelling government interest. Judge Bernard Friedman agreed with CIR's contention that Justice Powell's opinion—upholding race as a plus factor to promote the educational benefits of diversity—represented his view only, and was not a holding of Bakke. The court opined that considering race is unconstitutional except as a narrowly tailored remedy for past discrimination.

Judge Friedman enjoined UMLS from considering race, but the Sixth Circuit granted a stay while the case proceeds on appeal on an expedited basis, with argument set for October 2001.

By rejecting Powell's diversity rationale, the court sidestepped the heart of UMLS' case, which involved social science evidence on the educational benefits of racial diversity (look for UMLS' expert reports in the fall 1999 *Michigan Journal of Race and Law*).

A separate defense of affirmative action was presented by the student-intervenors. The court concluded that the "daunting" legal flaw in their case was that affirmative action could not remedy "societal discrimination." The Intervenors charge that this characterization grossly misrepresents their core argument, which focused on racial bias in LSAT scores and college grades. For example, in Powell's *Bakke* opinion he both rejected societal discrimination and suggested that

"...the pervasiveness of White male privilege on predominantly White college campuses imposes extra burdens on students of color, and caused them to be unfairly evaluated in admissions."

compensating for bias in standardized tests and grades could justify racesensitive admissions.

The Intervenors' experts on standardized testing included Martin Shapiro, Jay Rosner, David M. White, and Eugene Garcia. The intervenors' experts argued that several factors caused the LSAT to function as a test that rewarded Whiteness, not just brightness. The court ruled that bias on the LSAT was not proven at trial, though it did find a couple of the Intervenors' explanations plausible.

With support from SALT, the Intervenors commissioned UCIA professors Walter Allen and Daniel Solorzano to conduct a campus climate study of top feeder schools to UMLS (Michigan, Michigan State, Harvard, and Berkeley). Based on this study and his much larger body of work on the same topic, Allen testified that the pervasiveness of White male privilege on predominantly White college campuses imposes extra burdens on students of color, and caused them to be unfairly evaluated in admissions.

The district court gave no weight to Professor Allen's testimony. First the court isolated the Allen/Solorzano study from the extensive research literature in the trial court record, and then it dismissed the study based on its sample size. However, the Intervenors never presented the campus climate study as a freestanding exercise, but as a confirmatory extension of Allen's research spanning 20 years.

While the Intervenors' case focused on the LSAT and campus climate, their efforts to establish the broader historical and policy arguments for affirmative action included testimony from many of the nation's leading authorities. Most of these expert reports will appear in the *La Raza Law Journal* this spring.

Other recent developments include Gratz v. Bollinger, where a different district court judge ruled in December 2000 that the University of Michigan could consider race, and that diversity was a compelling interest. Gratz is on appeal before the Sixth Circuit, The Ninth Circuit also upheld the Bakke diversity rationale last December in Smith v. Univ. of Washington Law School. In August 2001 the Eleventh Circuit upheld a lower court ruling in Johnson v. Univ. of Georgia, and struck down affirmative action at Georgia. Intervenors lost in both Gratz and Johnson. This summer the Supreme Court declined to review both Smith and a new (narrow) Fifth Circuit ruling in Hopwood. Thus, Grutter, Gratz, and Johnson stand the best chance of being taken up by the Court. Civil rights leaders believe Johnson is not a good case for the Supreme Court to hear because the University of Georgia, unlike Michigan, did not to present social science evidence on the educational benefits of diversity.

## Introducing the Equal Justice Society: Integrating Legal Theory, Practice, and Activism in Furtherance of Social Justice

Margaret M. Russell, Santa Clara University School of Law, Hastings College of Law Visiting Professor (2001–02)

The distinguished histories of SALT, NLG, and other progressive organizations in the legal academy are potent reminders that the best antidotes to political despair are effective community organizing and coalition-building. In the tradition of these progressive legal organizations, we

Nov. 16–17, 2001
"The Assault of
Federalism on Civil
Rights: Developing
New Strategies to
Protect Civil Rights in
a Conservative Era"

invite you to join the Equal Justice Society (EJS) and to make plans to attend our first conference, *The Assault of Federalism on Civil Rights: Developing New Strategies to Protect Civil Rights in a Conservative Era*, which will be held at Harvard Law School on Nov. 16–17, 2001.

EJS was formally established in June 2001 after a year of planning by a coalition of progressive legal academics, public interest practitioners, legal workers, private sector attorneys, and civil rights activists. EJS aims to become a national force for unifying and organizing those who are interested in generating, developing, and supporting innovative legal theories and strategies to eliminate the

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## Land Tenure Center Extern is Filler Fellow

Brenda Haskins,

Land Tenure Center, University of Wisconsin-Madison, www.wisc.edu/ltc/

The Summer Law Extern Program at the University of Wisconsin-Madison has designated Les Schneider as the Stuart and Ellen Filler Fellow. Les will be a third-year student at the University of Dayton Law School this fall. His undergraduate degree is from the University of Tennessee.

The Summer Law Extern Program (SLEP) is offered jointly by the Land Tenure Center and the University of Wisconsin Law School. Now in its fifth year, SLEP provided opportunities for nine externs from six law schools to spend June, July, and part of August working in rural areas with extreme unmet legal needs. Attorneys at host organizations supervise the law student externs as they work on issues that impact land holdings in low-income African American, Appalachian, Latino, and Native American communities.

Les spent the summer in Albany, Ga., where he divided his time between the Federation of Southern Cooperatives/Land Assistance Fund and Georgia Legal Services.

The Federation of Southern Cooperatives/Land Assistance Fund (FSC) is a 31-year-old organization dedicated to assisting Black farmers retain their land. The FSC was born out of the civil rights movement in 1967 with Black land based economic development as its vision.

Les' responsibilities included all client interviews, researching and analyzing applicable legal theories, and writing case summary briefs for attorneys to review. FSC clients set up appointments at the FSC office or, in the alternative, Les traveled to the clients' homes or farms to conduct interviews and gather relevant information.

After such initial interviews, some client problems can be solved by correspondence with the appropriate administrative agencies and relaying the pertinent information to the clients. Other cases, however, can present possible legal action and need further, in-depth research. In such a case, Les conducted any applicable legal research for a supervising attorney to review and use as needed. In addition, throughout the summer, Les gave presentations on the importance of estate planning to groups of local farmers, in an effort to curb the recent trend of minority farmer land loss.

Les' duties at Georgia Legal Services involved the same kinds of interviews, research, and brief writing for low-income clients.

## Re-Engaging Faculty in the Admission Process: A Modest Proposal; or Talk (of access and justice and equality) is Cheap and Our Work Must Begin at Home

Michael Rooke-Ley, SALT Co-President-Elect



Thanks to the hard work of Peter Margulies, Theresa Glennon, and others, SALT is, once again, in the forefront of the ongoing battle for diversity, equality, and excellence in the academy and in the legal profession. As authors of the SALT-sponsored report, tentatively titled "Challenges and Opportunities: The Future of Law School Admissions and Admission Testing," Peter and Theresa condemn, with eloquence and urgency, the overreliance on the LSAT by law schools nationwide. Given the disheartening setbacks for affirma-

Re-Engaging Faculty continued on page 13

## **Board Introductions**

Editor's Note: Six new members of the SALT Board began service in January. We hope to introduce all new board members in the Equalizer, and begin in this issue with three.

## Roberto Corrada. University of Denver College of Law

Scholarship & Professional Energy

My legal scholarship has focused primarily on the rights of ethnic and sexual minorities. including the military's policy of discrimination on the basis of sexual orientation and the rights of members of minority religions under the National Labor Relations Act. My

current professional energy is directed toward teaching. I have become very interested in how to enhance student learning and interest in law school while at the same time exposing students to ideas about justice and inculcating a sense of obligation toward society as a whole. I have just completed a year as a Carnegie Scholar exploring ways to improve active and collaborative learning strategies that I have employed in the law school classroom. I am currently working on an article about this experience.

Goals for Salt

As a SALT Board member, I hope to work on issues involving teaching, bar

> examinations, and affirmative action. In teaching, I would like to see more law schools move toward a studentcentered approach. Such an approach would require a law school and its faculty to pay much more attention to teaching than they have in the past. In the area of bar examinations, I would like to help SALT move more in the

direction of working to eliminate the bar examination. There are other ways to ensure minimum attorney competence that will nevertheless allow for greater representation for more people from all walks of society. With respect to affirmative action, I hope to work with SALT to preserve affirmative action as an important tool for both enhancing diversity in law schools and for redressing the wrongs of both past and present discrimination.

## Nancy Cook, Cornell Law School

I've been a clinical law teacher since 1981. I'm currently director of clinical programs at Cornell, and previously taught at American University and the University of New Mexico. At Cornell, I teach a Youth Law Clinic, which is a program that emphasizes community connections and a multidisciplinary approach to problem solving for teen parents and for youths in the criminal system. I also teach a seminar in Law Through Literature. In my teaching and scholarship, I've tried to develop ways of integrating legal analysis, real life experience, and creativity. I've published a number of fictional works in law journals as well as more traditional pieces.

As a SALT Board member, I am looking to apply some of these same ideas both to create more space for a multiplicity of voices in the academy and to develop specific strategies for working alliances. I've been actively involved in CLEA (the Clinical Legal Education Association) as well as in the Clinical Section of the AALS for many years and hope to facilitate connections between the larger clinical community and SALT.

## Bob Dinnerstein, American University

## Professional energy

As an associate dean for academic affairs, much of my daily energy is directed toward dealing with the curriculum, faculty matters, and other aspects of our complex institution. Our school is also scheduled to have its sabbatical ABA-AALS visit next spring, and, for my sins, I am chairing our self-study committee. These activities, while

draining, give me an important perspective on how legal education operates at the beginning of the new millennium (as does my membership on the AALS Membership Review Committee).

In my current position, I

for me means teaching in one of our clinical seminars in the fall (this year I will be returning to our criminal justice clinic, whence I started), and a law and disability seminar in the spring. In that seminar (and in what little writing or substantive speaking I get to do these days), I increasingly focus on ADA issues and the latest Supreme Court efforts to undercut the statute's reach. I am fairly active in a number of civil rights-oriented organizations, currently serving on the

still teach half-time, which

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#### Presidents' Column:

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Should Abandon the LSAT (and Why Other Good Law Schools Should Follow Suit)," 34 U.C. Davis L. Rev. 593 (2001). As you receive this issue, we will be gathering in Cincinnati for a conference focusing on Grutter v. Bollinger, the case against the Michigan Law School's admission policies. This conference is being sponsored by SALT and CLEA (the Clinical Legal Education Association) and features many voices that have been among the most prominent in the recent affirmative action debates being heard in and out of courtrooms. See the notice on page 2 for more details on the conference. This conference was quickly organized in response to an appeal from the student intervenors to focus national attention on support for affirmative action just preceding the October 23 hearing of the Grutter case in the Sixth Circuit Court of Appeals.

This is an exciting and busy time for SALT members. SALT has provided crucial assistance to the student intervenors in the Grutter case by providing financial help, serving as expert witnesses and collaborating in the organizing effort. One of those expert witnesses, Charles Lawrence, III, a past president of SALT, has written a law review article (Two Views of the River: A Critique of the Liberal Defense of Affirmative Action, 101 Colum. L. Rev. 928 (2001)) critiquing the "liberal" rationales of the Bakke case. His article advances the arguments being made by the intervenors in the Grutter case as well as those of the plaintiffs in Rios v. University of California, a new case alleging that the admissions practices discriminate against students of color.

SALT also continues to be active on the issues raised by the so-called Solomon Amendment, which sought to allow the military to recruit on law school campuses despite its discriminatory stance

#### Orientation:

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Law Teachers" will consist of two separate sessions. In the first, starting at 3:30 p.m., presenters will focus on how to respond to difficult challenges in the classroom that relate to such issues as race, class, and gender. Presenters in the second session will discuss the process of finding (or keeping) one's voice in legal scholarship.

The Orientation program is to be followed by a group dinner at a local restaurant where incoming and outgoing SALT presidents will help facilitate a discussion for the nontenured on surviving institutional politics. (Dinner will take place around 6 p.m. and, unfortunately, is not free.) Confirmed speakers and facilitators include Fran Ansley (Tennessee), Jody Armour (USC), Pat Cain (Iowa), Carol Chomsky (Minnesota), Martha Mahoney (Miami), and Michael Rooke-Ley (Nova Southeastern).

SALT members are especially encouraged to pass on information about the program to newer faculty colleagues who may not be acquainted with the mission and work of SALT. Questions about the program can be directed to Martha Chamallas (chamallas@law.pitt.edu) or Nancy Cook (nancy-cook@postoffice. law.cornell.edu).

towards gays, lesbians, bisexual and transgendered persons (and towards straight women). Frank Valdes has produced a new pamphlet that is being distributed by SALT to law schools explaining the duty of law schools to ameliorate the effects of allowing the military and other discriminatory employers to recruit on their campuses.

In January 2002 SALT will celebrate its 30th anniversary in New Orleans at our annual banquet We will honor the

#### Dinnerstein:

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board of the Washington Legal Clinic for the Homeless, the Equal Rights Center, Mental Disability Rights International, and Evros, a new disability rights organization in Slovenia. I also serve on the board of the District of Columbia Quality Trust for Individuals with Disabilities, a new entity that will help provide advocacy and monitoring services on behalf of people with mental retardation who are former residents of Forest Haven, DC's now-closed institution for people with mental retardation.

#### Goals for SALT

I feel that it would be somewhat presumptuous of me to identify my own goals for SALT. One of the important aspects of being on the board of an organization is to work together with hard-working, committed people to achieve the organization's common goals. As a longtime member of SALT, I am comfortable with its progressive voice and its efforts to democratize legal education in numerous ways. The current focus on bar examinations and LSATs, for example, is an important area for SALT to remain active in. Also, SALT's teaching conferences are important activities as we struggle to translate our good theory and ideas into concrete experiences and practices.

founders of SALT who created an organization of strength and vibrancy and celebrate 30 years of SALT's commitment to equity, access, and justice. You'll be receiving more information on this gala event as plans progress. See notice page 5.

To strengthen support for progressive law teachers, particularly those relatively new to the academy, SALT will be inaugurating an annual program just preceding the AALS sessions to connect new law

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#### EJS:

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conservative bias of our legal system. A primary goal of EJS is the establishment of a strategic legal research center that will produce and disseminate legal scholarship with an aim toward progressive law reform; toward this end, EJS will also sponsor national conferences, regional roundtables, and other law school campus activities. In this respect, the work of EJS will complement the ongoing work of existing progressive legal organizations, and will seek to foster dialogues and long-term collaborations among progressive lawyers, activists, legal scholars, and law students. In short, we hope to exemplify the belief that enduring social justice stems from both progressive theory and practice.

The Equal Justice Society began with a core group of individuals who met informally in the summer and fall of 2000 to discuss our shared concerns about the growth of right-wing ideology in American jurisprudence and in the courts. Particularly influential in fostering the rightward tilt of the judiciary is the Federalist Society, which has successfully penetrated law schools, the judiciary, the legal profession, and many aspects of government, public policy, and public debate. Under the rubric of such principles as federalism, states rights, and limited government, the Federalist Society has effectively promoted the rollback of decades of social justice achievements. The EJS founders, who have long been active in progressive legal efforts in law practice and academia, concluded that the time is ripe for a new organization not only to reverse the destructive tide of Federalist Society accomplishments, but also to implement a positive vision of equal justice through progressive legal theory and practice.

EJS is now a national organization with broad and diverse support in

progressive legal communities. The cochairs of the organization are: Eva J. Paterson, Executive Director of the Lawyers Committee for Civil Rights of the San Francisco Bay Area; Professor Charles Ogletree of Harvard Law School; and Professor Margaret M. Russell of Santa Clara University School of Law (Visiting Professor 2001-2002, Hastings College of the Law). Other law professors who support EJS include: Margalynne Armstrong, Erwin Chemerinsky, Carol Chomsky, Angela Harris, Lynne Henderson, Pamela Karlan, Charles Lawrence, Shauna Marshall, Mari Matsuda, Margaret Montoya, David Oppenheimer, Norman Spaulding, Stephanie Wildman, and Eric Yamamoto.

## Establishing an Equal Justice Society Chapter at Your Law School

Throughout this academic year, EJS plans to reach out to law students through the establishment of law school chapters

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## SALT's 30th Year Celebration and Reunion Banquet: "Honoring Our Founders"

George J. Alexander • David I. Cavers • Harry Kalven • Anthony G. Amsterdam • David L. Chambers • Sylvia Law • Charles E. Ares • Leroy Clark • Howard Lesnick • Frank Askin • Alan Dershowitz • Ian R. MacNeil • Barbara Babcock • Norman Dorsen • Jay W. Murphy • E. Clinton Bamberger • Thomas I.

Emerson • Frank C. Newman • Derrick A. Bell, Jr. • Monroe Freedman • Melville B. Nimmer • David Skillen Bogen • Ruth Bader Ginsburg • Robert Pitofsky • Addison M. Bowman • Nathaniel E. Gozansky • Robert J. Rabin • Ralph S. Brown, Jr. • Charles R. Halpern • Cruz Reynoso • Herman Schwartz • Robert A. Sedler

"Over the past 30 years, SALT's impact on issues of access, diversity and justice within our profession has been enormous. I'd hate to contemplate the face of the academy without it." — Derrick A. Bell, Jr.

Join us in honoring our inspiring founders — the first SALT Board of Governors — who, along with other progressive voices during SALT's first three decades, have changed the face and content of legal education across our nation.

Saturday, January 5, 2002 Cocktails 6:30–7:30 p.m. Dinner 7:30 p.m. New Orleans (Save the date. Details to follow.)

Further information: Paula Johnson, (315) 443-3364, pcjohnso@law.syr.edu; Norm Stein, (205) 348-1136, nstein@law.ua.edu.

#### EJS:

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throughout the country. We invite you to help sponsor or support a chapter at your school. In order for EJS law school chapters to grow and thrive, faculty participation is essential. Therefore, we urge you to join these efforts right now, before the demands of the academic year accelerate. If you are interested, please contact Susan Serrano, Program Coordinator, Equal Justice Society, c/o the Lawyers Committee for Civil Rights of the San Francisco Bay Area, 301 Mission Street, Suite 400, San Francisco, CA 94105; (415) 543-9444; FAX (415) 543-0296; sserrano@lccr.com. You can also visit our website at equaljusticesociety.org.

## Equal Justice Society Conference

Inaugural Conference: The Assault of Federalism on Civil Rights: Developing New Strategies to Protect Civil Rights in a Conservative Era

## Harvard Law School Nov. 16–17, 2001

Please make plans now to attend our first conference. Among the speakers confirmed are: Elaine Jones (NAACP LDEF), Pamela Karlan (Stanford), Charles Ogletree (Harvard), Erwin Chemerinsky (USC), Michelle Alexander (ACLU-NC), Isabelle Katz Pinzler (NOW), Laurence Tribe (Harvard), and Christopher Edley (Harvard). For more information, contact Ms. April Williams at the above snail mail address or at awilliams@lccr.com.

#### Collaboration:

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analyze, and debate complex legal issues and policy questions raised by their practice; the insights and efforts of the law school community on such complex legal issues and policy questions promise to

"LSEI will benefit law

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making it relevant to

our communities."

improve and expand representation to the disadvantaged.

LSEJ will take a number of specific steps to establish this partnership. One key mechanism will be a standing committee including professors, legal aid lawyers, private attorneys, the judiciary, public defenders, and other interested parties. The committee will serve

to channel issues from the community into academia, and scholarship from academia into the community. It will help to collect and frame research topics and creative strategy questions for the law schools, form partnerships between professors and practitioners, involve students in researching and writing on current issues affecting the disadvantaged, and help to disseminate and popularize legal scholarship that can benefit poor people and their advocates.

In addition to its ongoing work throughout the year, LSEJ will convene a symposium each year, starting in 2002, to report on scholarship for justice in the past year, brainstorm about large scale systemic and tactical issues requiring innovative solutions, and have working groups to discuss research and writing projects that can be done at the law schools.

There are a number of potential outcomes for the law schools, including:

law review articles by professors, students and practitioners; amicus briefs researched by students and written by professors; empirical studies; moot court questions; term paper assignments; independent study questions; class topics; exam questions; practitioners guest lecturing for a law school class; professors

co-counseling cases; draft legislation; and volunteer opportunities for students with practitioners. There is also the potential for transformational thinking and for the devising of new theories, strategies, and legislation to address poverty law issues.

LSEJ will work to encourage the scholarship by proactively seeking funding for

stipends for professors who undertake these equal justice projects. It will work with the law schools to seek to ensure appropriate credit for equal justice scholarship is given in tenure and salary decisions. It will also encourage law reviews and other publications to publish this work. In addition, special attention will be given to disseminating the scholarship to poverty law practitioners directly and through bar association publications.

LSEJ will benefit law school faculty and students by giving them research issues, collaborators, and help in publishing their work and making it relevant to our communities. Practitioners will gain from the powerful analytical research, creative thinking and resources of the law schools. The disadvantaged in Minnesota will gain by direct help with greater access to equal justice.

#### No Exit:

▼ continued from page 4

The program has been an outstanding success.

Many of the participants experienced the program as the first time they ever read a book from cover to cover. Many have confessed to me their late realization that reading could be liberating and enjoyable. They speak of joy in discovering the pleasures of the text and of anger that the doorway to the world's imagination, the book, was hidden from them in school. They look back in anger at the ways in which they both failed in school and were failed by their schools. They realize the ways that their schools succeeded in causing them to fail themselves by producing failing grades. They realize, more importantly, that they can read and that they have ideas about great literature. And this causes them to look forward with hope.

At the end of each term, we hold a voluntary graduation ceremony in the district court. The graduates invite their

families and friends. Most years, one or more of the graduates gives a short valedictory speech to the audience. Each graduate is named in court and is presented with a diploma. Tears and applause always accompany the graduation ceremony. Afterwards, everyone joins the judges in chambers for tea.

A literature program is just a beginning. Dorchester is just a beginning. If a university-level literature course can be taught as *probation*, then anything can be taught anywhere to anyone. Probation offices all over the nation can be transformed into schools. Prisons too can be transformed, utterly, into places of elementary, secondary, and university education. And with success in the transformation of our failed prisons into successful schools must come success in the transformation of our failed schools into freedom schools.

Our schools have become prisons. Our prisons, whatever they may be labeled, must be transformed into schools. If this seems like a dream it is no less real than the collective nightmare we have made of

our schools and prisons. If this seems like a dream it is no less real that the nightmare we will live if our nation remains half slave and half free. One program is not enough. All of our prisons need to become schools. All of our schools need to become limitless palaces worthy of the boundless imaginations of youth. To break the colorline, to save our bodies and souls from the nightmare we have manufactured, to renounce the past and create a decent society at long last, we must all join the liberation movement and fight for literacy and emancipation as for bread and roses. Which side are you on?

Contact:

Changing Lives Through Literature Phone/Fax: 508-990-2282 E-mail: umassdclt1@umassd.edu Web: www.umassd.edu/ specialprograms/ changing/home.htm

\*©Anthony Paul Farley 2001. This essay also appeared in the *Boston College Alumni Magazine*.

## Farley Reading List for Changing Lives Through Literature

The Gospel According the Matthew (KJV)

Frederick Douglass

Narrative of the Life of Frederick

Douglass

W.E.B. Du Bois, The Souls of Black Folk

Booker T. Washington
Up from Slavery

Dorothy Day From Union Square to Rome Jeanne Wakatsuki-Houston A Farewell to Manzanar

Primo Levi Survival in Auschwitz Night

James Baldwin Notes of a Native Son

Malcolm X (with Alex Haley)
The Autobiography of Malcolm X

Ray Bradbury
The Martian Chronicles

Alice Munro Selected Stories

Paule Murray
Brown Girl, Brownstones

Ursula K. LeGuin
The Wind's Twelve Quarters

Derrick Bell Faces at the Bottom of the Well

Subcommandante Marcos of the Zapatista Army of National Liberation Chiapas: The Southeast in Two Winds

## Re-Engaging Faculty

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tive action in recent years and the depressing prospect of the current United States Supreme Court addressing raceconscious admission practices, we must find ways not to shatter the dreams of yet another generation of students of color. If SALT is to realize its vision, as stated in our membership brochure, of "a future in which law schools embrace students and faculty from diverse backgrounds and perspectives who work together to develop a more just conception of law, and the legal profession extends meaningful access to all sectors of our society and serves as a clarion voice for justice and equality," we must attend to our work at home. That is to say, at our home Institutions - where we work each day, which we represent in our communities, and for which we are directly responsible we must personally engage ourselves In the work of admissions and commit ourselves to minimizing the role of the LSAT in the admission process.

Generally speaking, law schools have progressed from a system where faculty committees set admission standards, reviewed all the files, and made the hard decisions; to hiring admission professionals to help us with the process; and now, to turning over the task almost exclusively to the admission office. As a result, we are out of touch with the realities of the market, with the kind of people who are applying, and the kind of people who are accepted (and most professors would be shocked, I imagine, by what they might learn).

Despite the valuable training and expertise which admission professionals bring to the process, the sheer volume of their work can be overwhelming and, most significantly, they are under increasing pressure from deans and faculty members to raise median LSAT

scores. Inevitably, overreliance on the LSAT has become widespread, and individual assessments have become increasingly cursory. With our "presumptive deny" and "presumptive admit" system, admission officers at nearly one-half of our nation's law schools read less than 30 percent of the files. At 75 percent of the schools, less than one-half of the files are read. Only 10 percent of law schools read more than 70 percent of the files.

"The admission
process today is
streamlined, efficient,
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But de-emphasizing the LSAT will never happen as long as admission officers continue to feel the pressure from deans and from faculty members concerned with hierarchy and the law school food chain, as fueled by U.S. News and World Report rankings.

The admission process of today is streamlined, efficient, and predictable, but it is not likely to identify and select the most able future lawyers best suited to serve all segments of society. Furthermore, and not coincidentally, it serves to perpetuate an overwhelmingly white legal profession. As LSAC president and executive director Phil Shelton has said, the LSAT "simply cannot be the single most important variable" in the admission process.

Yes, the correlation coefficients for the LSAT with regard to first-year grade point

averages is .41, and for the LSAT combined with undergraduate GPA — that's the Index — it's .48 when correlated with first-year grade point averages. But these are only mean figures, and there is a very wide range of actual performance and a very high and uncomfortable degree of unpredictability.

"All that the LSAT was ever intended to predict," says Shelton, "was performance on property, contracts and torts essay questions. That's all. Period." And even with respect to this rather narrow objective, the LSAT does not predict anywhere near as well for African-Americans, and perhaps other minority applicants, as it does for white students, reports Peter Pashley, the LSAT's director of testing and research. Far too much emphasis has been placed on how an applicant will do on a contracts exam when making the fundamental determination as to whether he or she will make a good lawyer.

Attributes required for success are many. This is a multidimensional enterprise. We require not only logic, but character, judgment, perseverance, leadership, creativity, empathy, and other interpersonal skills. As Peter and Theresa have written in the SALT report, "legal competence is not a road race, but the practice of a craft."

Writing in the *New York Times* recently, Richard Rothstein discussed the severe limitations of, and dangers of overreliance on, the SAT (a critique which applies equally well to the LSAT):

[U]niversities should train students for economic, political, intellectual and moral leadership. These require academic skills, but also more....[S]mall advantages in scores on any test may not be the way to predict...graduates' community service or business creativity. White students have higher average SAT

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## Re-Engaging Faculty

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scores than blacks. Yet a Harvard School of Public Health team found that white college students were three times as likely to engage in binge drinking. In itself, propensity for alcoholism should not disqualify youths for college, but it is not entirely irrelevant. Higher SAT scores don't predict responsibility; tests aligned with high school curriculums may not do much better. A study at the University of California at Santa Barbara found that students who sacrificed to attend-going into debt or taking part-time jobs-were more engaged in academic, cultural and volunteer activities than affluent students with higher SAT scores....Surely college students need academic competence. But a qualifying level can be set by a passing score on standardized exams. Beyond that, score gradations are less important. Little is known about forecasting college or lifetime success; research predicts only freshman grades. Students with higher SAT scores do slightly better in freshman year than those with lower, but the margin is small. But nobody knows if these can predict later college grades or completion, or character, creativity, civic engagement, religious leadership or business acumen.

Like the SAT, the LSAT has become an enormously popular labor-saving device which, conveniently but undeservingly, has been accorded the career-defining attributes of a crystal ball. The pursuit of excellence requires that we avoid seductive shortcuts in the admission process, always keeping in mind the goals of our institutions and the central role which our profession plays in a nation committed to principles of justice and equality.

Corporate lawyer and former ABA president William Paul has urged us to abandon our overreliance on the LSAT and put more of our budget into the admission process so as to better assess personal qualities such as character, leadership, proclivity toward serving the

"...former ABA
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underserved, and pro bono work. This approach, he acknowledged, might well require personal interviews—interviews that would reveal those marvelous applicants with focus and direction and clarity of purpose, the ones who have asked the deeper questions and are less likely to become dissatisfied later.

I offer a modest proposal—a proposal which invites faculty members to work, once again, side-by-side with our admission office professionals. I envision an applicant evaluation process involving seven components:

- (25%) LSAT Score. On a scale to be devised by each law school's admission committee, each applicant would receive 1–25 points based upon his/her LSAT score range, e.g. 2 points for a score of 120–124, 25 points for a score of 176–180. Ministerial application by staff.
- (25%) Academic Accomplishments.
   A committee would devise a formula based upon various factors, e.g. class rank, UGPA, GGPA (if any), college/university, declared major, course selection, year degree awarded, and award points on a scale of 1–25. Ministerial application by staff.

(10%) Personal References and/or Personal Interview. Up to 10 points to be awarded.

The remaining four components should be evaluated separately by different subcommittees so that 1) reviewers will not be influenced by the other components of each applicant's file and 2) the workload of any one reviewer will not be too burdensome.

- (10%) One-Page Essay: Reasons for Attending Law School. "Why do you want to attend law school?" Up to 10 points to be awarded.
- 5. (10%) One-Page Essay: Work Experience. "Work experience—which includes paid and volunteer positions, dependent care and extracurricular activities—may well demonstrate maturity, responsibility, leadership, and acquired knowledge which the applicant can bring to the study and eventual practice of law. Discuss your work experience." Up to 10 points to be awarded.
- 6. (10%) One-Page Essay: Overcoming Adversity.

  "Law students (and lawyers) inevitably face stressful pressures, setbacks, hardships, and crises, all of which require perseverance, stability, and hard work. Tell us about the adversities which you have faced in your life and how you have handled these experiences." Up to 10 points to be awarded.
- 7. (10%) One-Page Essay: Diversity. "Our law school is committed to preparing law students to serve all segments of society. With this goal in mind, educational excellence requires, inter alia, a diverse student body representing all walks of life—culture, race, ethnicity, gender, religion, sexual orientation, the disabled, age, socioeco-

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## Re-Engaging Faculty:

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nomic, urban/rural, etc. How will your background and experiences help to diversify the law school environment and, thus, to better prepare your fellow students to appreciate the needs of certain segments of the population to which they may not have been previously exposed?" Up to 10 points to be awarded.

No single component, nor any designated percentage, is carved in stone. I offer this proposal simply as a working model, subject to all sorts of revisions and refinements. Most importantly—if we are serious about issues of access, about trying to diversify our profession—we must take that short walk down the hall and reengage ourselves in the admission process at our own places of work. Today.

#### Presidents' Column:

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professors to the progressive academic community. The event will introduce new law professors to the organizational opportunities available to progressive law professors and illustrate the range of academic work being done through SALT and other progressive groups. The first program, being planned by Martha Chamallas and Nancy Cook, is scheduled for late afternoon and evening, Wednesday, Jan. 2, 2002. See notice page 1. Techniques for incorporating issues of difference such as race and gender into traditional courses and strategies for maneuvering faculty politics will be the two main topics of this first program. Let your new colleagues know about this program. It is aimed primarily at faculty who have entered teaching in the last five years.

Finally, the Presidents' Column in the last *Equalizer* proposed the idea that SALT change its procedures for electing the Board of Governors by eliminating a competitive election. We received limited responses from the membership on the proposal, but based on the critiques made by both Board members and general members, we have decided to retain our current practice. We are gratified that SALT members are strongly committed to organizational democracy and hope that your commitment will translate into increased participation in the election of Board members.

We thank you for communicating with us and engaging us in dialogue. We look forward to seeing you in New Orleans.

## Society of American Law Teachers

Membership Application (or renewal)

☐ Enroll/renew me as a Co	ntributing Member. I enclose \$100.	
☐ Enroll/renew me as a Su	staining Member. I enclose \$300.	
☐ I enclose	(\$100, \$150, \$200, or \$250) to prepay my dues for	years (\$50 each year).
Enroll me as a Lifetime l	Member. I enclose \$750.	
I am contributing \$	to the Stuart and Ellen Filler Fund to support public interest internships.	
☐ I am contributing \$	as an additional contribution to support SALT's prom	otion of affirmative action.
Name		School
Address		E-mail
		ZIP Code

Mail to: Professor David F. Chavkin
Washington College of Law
American University
4801 Massachusetts Ave. NW
Washington, DC 20016

www.scu.edu/law/salt

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