

EQUALIZER

SALT

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Society of American Law Teachers

December 1990

MARILYN YARBROUGH TO RECEIVE ANNUAL SALT TEACHING AWARD AT JANUARY 5th DINNER IN WASHINGTON, D.C.

The Society of American Law Teachers will present its annual Teaching Award to Marilyn Yarbrough, dean of the University of Tennessee College of Law. Recent individual recipients include Rhonda Rivera, Howard Lesnick, Barbara Babcock, Clint Bamberger, Derrick Bell and Herma Hill Kay.

According to Awards Committee Chair Jean Love, the SALT Board selected Dean Yarbrough in recognition of her consistent commitment to service and the exceptional quality of her leadership in legal education dating back to the time she was a law student.

Marilyn Yarbrough left a promising career in aerospace engineering to study law at UCLA. While a law student, she demonstrated her scholarly and organizational abilities while serving as Assistant Editor, Editor-in-Chief, and Executive Director of the Black Law Journal. Under her leadership, the Black Law Journal became a forum for the discussion of issues largely ignored by other journals and a publication which provided high quality law journal experience for black students.

She began her teaching career in 1975 as a teaching fellow at Boston College Law School. In 1976, she joined the faculty of the University of Kansas School of Law as an Associate Professor and was promoted to full professor in 1981. From 1983-1987, she served as the University of Kansas Associate Vice Chancellor for Research, Graduate Studies, and Public Service. She was a visiting Professor of Law at Duke University from 1983-1984, and in 1987 became Dean and Professor at the University of Tennessee at Knoxville. Her teaching and research interests include child custody, torts, race and employment discrimination law, and women and the law.

Dean Yarbrough's service record is extraordinary and has spanned a wide range of institutions and interests. She has taught and administered several Council for Legal Educational Opportunity Summer Institutes and served three years as chair of the Skills Training Committee of the ABA Section on Legal Education and Admission to the Bar. Before she served as President of the Law School Admissions Council from 1986-1988, she chaired several LSAC Committees: the Service Committee, the Nominating Committee, the Minority Enrollment Task Force, and the Test Development and Research Committee. She was a member of the LSAC Board of Trustees from 1980-1989. Her commitment to service beyond the realm of legal education is demonstrated by her past service as a Public Member of the Accrediting Council on Education in Journalism and Mass Communications, as a member of the National Collegiate Athletic Association Committee on Infractions, as a Commissioner of the Kansas Commission on Civil Rights, as the President of the Board of Directors for the United Way of Lawrence, Kansas, and as the Chair of the Lawrence, Kansas Housing Authority. Her current activities are equally distinguished: she serves on the boards of directors for the Pulitzer Prize, the Poynter Institute, the First American National Bank of Knoxville, and Maryville College.

She is married to David Didion and has two daughters, Carmen and Carla.

Dean Yarbrough will receive the award at the January 5th, 1991 SALT



Dinner during the AALS Annual Meeting in Washington, D.C. To reserve a place at the dinner, contact Professor Stuart Filler at the University of Bridgeport School of Law, 303 University Avenue, Bridgeport, Connecticut, 06601 (telephone 203-576-4442). Please make your reservation no later than December 24th.

- Linda Greene

President's Column

On a number of occasions during our September teaching conference, we speculated on why there is such a lack of interest and involvement in public interest law among our students. One perceptive student reminded the audience that "most of us were in the eighth grade when Ronald Reagan was elected President". This comment encapsulates the difference in the social setting in which most of our students matured from the one most of us experienced.

When I was in the eighth grade, Franklin D. Roosevelt was in his third term. For many of you, it was Eisenhower, Kennedy or Johnson. One's world view is affected dramatically by the times in which one matures.

There might be a way for us to provide our students with a better understanding of their role as lawyers within the legitimate confines of what we do at law schools. It seems that in recent years law schools have been deficient in providing students with a history of the legal profession and of the role of lawyers, particularly in this country. We tend to jump into the present without much consideration of the past. There is so much current material to cover that we rarely have time to devote to the role of lawyers in our country, as well as elsewhere, as the defenders of freedom and liberty.

A student may better appreciate the flag burning cases if he or she had read Milton, Mill, Holmes and Brandeis. There would be a greater depth of understanding of religious freedom cases if students were familiar with the persecution of religious minorities, such as Catholics and Jehovah Witnesses, at different periods during the course of our history. Issues of sex discrimination would be better appreciated by those who had read about Myra Bradwell. And affirmative action and busing cases might be better understood by someone who knew of Dred Scott. (How many constitutional law case books include meaningful discussions of



the Bradwell and Dred Scott decisions?).

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It would be ideal if all law schools offered a course in public interest law and did more to direct students toward public interest careers. Far less controversial would be a greater emphasis on the history of the legal profession and the role of lawyers. I think we could stimulate the interest of our students in public interest law and in public service if we spent more time reviewing the role of lawyers in our society and the historical background of some of the current issues we consider in class. This approach certainly is within the mainstream and enhances good legal education.

- Howard Glickstein

SALT's Teaching Conference: Work to Be Done Back Home

The SALT Teaching Conference, entitled "Private Gain or Public Interest: The Struggle for the Soul of American Legal Education", was held September 14-15, 1990 at N.Y.U. The conference raised important issues with respect to the law school's role in sensitizing and training students to meet their professional responsibility to serve the public interest and, in the process, to increase their own personal and professional satisfaction. Faculty committees who deal with subjects described below should consider ways for each law school to enhance its support of public interest and pro bono work. Discussion of the topic will continue at the AALS mini-workshop on Public Interest and the Law School to be held Thursday, January 3, 1991 in Washington, D.C.

What is "public interest"? What do we mean when we say that we want our students to demonstrate concern for the public interest? Two types of definitions emerged: (1) an employer-based definition: public interest means work for legal services, the public defender, nonprofit advocacy groups, and public interest law firms (some would broaden this to include the state's attorney, attorney general and other governmental jobs); and (2) an attitudinal and client service-based definition: public interest includes the provision of services to low-income clients and the handling of cases that benefit the public at no or low cost. Pro bono work by private practitioners meets this definition as does work for a nonprofit or government office.

Two approaches for legal educators follow from these definitions. One is to encourage and prepare students to handle a public interest job after law school. The other is to focus on teaching students

about value choices, empathy and the responsibility lawyers have to contribute to the community in whatever setting they choose.

At what points in the law school structure can public interest be promoted and how? Current efforts and suggestions from the conference are summarized below:

Admissions:

- (1) Consider public interest experience and goals as favorable factors in an application.
- (2) Provide public interest scholarships (For example, Valparaiso provides five full scholarships with an agreement to work for at least three years in public interest work upon graduation).

Orientation:

- (1) Raise questions of lawyer satisfaction and self-knowledge in selecting a career.
- (2) Discuss diverse career paths.

Curriculum:

- (1) Offer a first-year course that exposes students to questions of values and gives perspective on who is underserved by the legal system. (Homer LaRue from the University of Maryland described the Cardin program as an example).
- (2) Offer clinics in which students learn how to represent low-income clients and to reflect on and become motivated by the experience. Jane Aiken movingly described her AIDS clinic at Arizona State. She said that her students relate well to their articulate, white, gay male clients who help students understand how the system is failing them. She said that her students seemed to then better understand the plight of other clinic clients whose experience is less familiar to them.
- (3) Teach classroom courses using current public interest litigation as cases for study. Lucy White at UCLA described her use of a pending Fair Housing case brought in Los Angeles as the central case in her Civil Procedure class. Encourage use of some public interest hypotheticals and cases in every course.
- (4) Develop a public interest "concentration" to prepare students to excel in public interest work. Gerald Lopez described Stanford's public interest track, which consists of five courses. Two core courses are offered in the second semester of the first year: (a) "Law-yring", which deals with the intervention of

a lawyer in a poor person's life and focuses on interviewing and participating in community meetings; and (b) "Subordination: Traditions of Thought



and Experience", which deals with lawyers' roles in oppression and possible ways to lift oppression. The three advanced courses are: (a) "Local Economic Development", which focuses on what the powerless can do in actual, local situations (e.g., organization of workers of color in Silicon Valley, advocacy about redevelopment in East Palo Alto by Blacks, Latinos and Asian-Americans); (b) "Teaching Self-Help in Lawyring", in which students work in field placements in community groups; and (c) "Starting Up and Running a Progressive Law Practice", which studies law collectives, IOLTA-funded service centers, and the effect of financial arrangements on service.

- (5) Establish a no-credit mandatory pro bono requirement for students (described below).
- (6) Incorporate discussion of diverse career choices and values into all offerings in the curriculum.

Placement:

- (1) Make information about public interest jobs available, by contacting NAPIL and NAPL, for example, as well as local organizations.
- (2) Counsel on career choices and values. Brooklyn, for example, has hired a public interest coordinator to counsel students and to coordinate public interest efforts at the school.
- (3) Invite alumni engaged in public interest work to speak on career choices to students.
- (4) Offer a loan forgiveness program to those who enter low-paid public interest work.
- (5) Inquire about and post employers' policies on pro bono. Inquiries include whether a firm has a specific program, whether there is a minimum commitment by each lawyer and whether pro bono hours count toward the annual hours required by the firm.

Support for Student Groups:

- (1) Provide support for student public interest organizations.
- (2) Provide logistical support for student - promoted mandatory pro bono.

- (3) Offer summer fellowships for public interest work.

Library:

Collect appropriate holdings and periodicals.

Three tapes are recommended:

- (1) "Legal Heroes", produced by Larry Dubin at the University of Detroit, includes interviews with several lawyers who love their work and are good role models.
- (2) "Pro Bono Service: Responsibilities and Rewards", produced by the ABA, describes the work done by several pro bono lawyers and the satisfaction they derive from it.
- (3) "A Cry for Justice", produced by the Public Interest Center in Baltimore, Maryland, deals with the defense of battered women who killed their husbands.

Faculty Modeling:

- (1) Encourage faculty with public interest backgrounds to share selected experiences with students in and out of class.
- (2) Impose a mandatory pro bono requirement on all faculty members and include it as a part of the tenure review process.

Development/ Fundraising:

- (1) Raise funds for scholarships, summer grants and post-graduate fellowships for public interest work.
- (2) Fund a loan forgiveness program.
- (3) Counsel/assist individual students and student groups seeking grants to fund summer/ other work in the public interest. These efforts boost students' confidence in their abilities to "make up" jobs and find funding.

Graduation:

Recognize student contributions in public interest work with awards.

Institutional Attitudes:

- (1) Define institutional success in ways other than increasing the number of graduates who are hired by big firms.



- (2) Consider ways to include a student's appreciation of his/her social responsibility when evaluating performance in classroom courses.

- (3) Recognize public interest scholarship as legitimate.

- (4) Offer faculty development programs on public interest topics and on the promotion of values in the curriculum.

Public Relations:

Through the media, share information with the community on public interest work at the law school.

Profession:

Encourage firms to reallocate some resources spent on excessively high salaries and on summer associate wining-and-dining to loan forgiveness programs or other worthwhile purposes.

What issues should we consider regarding mandatory pro bono for students?

Student panelists supported mandatory pro bono because it prompts students to take action and prompts law schools to make exposure to public interest work logistically easy for students, just as on-campus interviews facilitate contact with private firms.

Proper staffing of a mandatory program is a key requirement. If the pro bono work is to include direct client representation, supervision and training are essential. Further, a classroom or other forum for discussion is important to insure that students are reflecting on the experience rather than confirming and acting upon unchallenged assumptions about poor people.

Ivan Bodensteiner of Valparaiso or Wendy Brown of Tulane can provide information about the mandatory pro bono programs at their schools.

What special issues arise when law school faculty and staff counsel students of color about public interest work? There was lively debate on this question. Some faculty began from the premise that the civil rights movement had as a specific goal the opening up of opportunities to people of color, and that for law schools to try to steer students of color into public interest jobs and away from traditional "prestigious" firms was inappropriate. Faculty taking this position subscribed to the broader public interest definition given above, that graduates can act responsibly in their jobs and/or in their communities regardless of the employer. Others argued that the choice of day-to-day work reflects a values choice and felt it appropriate to attempt to influence all students as they make career choices.

"Minorities In Public Interest Work" is the topic of the Robert Cover Memorial Retreat to be held March 7-10, 1991 in Massachusetts. Information is available from Ron Sly or Steve Wizner at Yale.

- Jane Schukoske

Fall SALT Board Meeting

The Board of Governors of SALT held its regular Fall meeting on September 19, 1990 immediately following the SALT Teaching Conference at NYU School of Law. The public service theme of the teaching conference was echoed in several of the agenda items considered by the Board.

After SALT Treasurer Stuart Filler reported that we currently have 550 members and nearly \$45,000 in our budget, the Board considered requests for SALT financial support for various projects. The Board voted to make a grant of \$1,200 to the Law Students for Pro Bono, a group working with the National Association for Public Interest Law, to fund a mailing to every law school encouraging students to advocate the adoption of a mandatory pro bono program at each school. Board members felt that SALT money should be used to actively foster initiatives by student groups to increase awareness of pro bono and public service opportunities.

An additional funding request was approved to provide travel subsidies for minority students to attend the Cover retreat. In the past, the SALT Board has authorized \$5,000 for expenses for the Cover retreat, and law schools sending students were expected to provide support for student travel expenses. In an effort to encourage more minority students to attend the retreat, it was suggested that we increase the subsidy to \$10,000. While everyone appreciated the need to promote minority attendance at the retreat, some Board members felt that it is the law schools' responsibility to fund their students' attendance. After a discussion, it was decided to commit \$5,000 to fund the conference and an additional \$5,000 to fund attendance by minority students as a "challenge fund", whereby any school having a student who receives SALT travel funding would be required to match the sum by sending another minority student to the retreat. Several members expressed concern about the timing of the retreat, which is the weekend following the annual BALSAs conference. It was again stressed that the conference organizers should make a special effort to contact minority student groups at each school to publicize the retreat.

Michael Caudell-Fagan, Executive Director of the National Association for Public Interest Law, attended the Board meeting as a visitor and described the activities of NAPIL. This group is dedicated to increasing student and attorney awareness of opportunities in public interest law and holds a public interest law forum each year in Washington.

Nan Aron, the Executive Director of the Alliance for Justice, also attended the Board meeting to talk

about some of the activities of the Alliance. She asked SALT to join the Alliance in sponsoring a day of nationwide "teach-ins" that would focus on Supreme Court nominations and the federal judiciary. While some Board members questioned the need for such teach-ins, others supported the idea, and the Board voted to endorse the Alliance's teach-in proposal and to co-sponsor a day of teach-ins to be held in the Spring.

Nan Aron also reported on the confirmation hearings being held for the nomination of David H. Souter. While Aron did not doubt that Souter would be confirmed, she did encourage SALT to go on record with a statement of concern about Souter's "troubling record". Sylvia Law reported that she and Rhonda Copelon had drafted a general statement of concern about the Souter nomination. While the Board decided that it would not be in our best interest to go on record as having been opposed to the nomination because there was little likelihood that it would fail, the Board did vote to adopt the more general statement of concern and to send it to Senator Biden to be read into the Congressional Record.

The Board was pleased to vote unanimously to present the Annual SALT Award to Dean Marilyn Yarbrough of the University of Tennessee and a posthumous award in memory of Professor Denise Carty-Bennia at the annual dinner in January [see articles herein].

The Nominations Committee, chaired by Richard Chused, recommended that the following new people be nominated for the Board of Governors: Haywood Burns, Michael Burns, Phoebe Haddon, Arthur Leonard, Holly Maguigan, Hank Rose, Eleanor Swift, Gerald Torres and Stephen Wizner. The current Board members who have agreed to run again for election to the Board are: Kate Bartlett, Richard Chused, Linda Greene, Jean Love, Dean Rivkin, and Aviam Soifer. [Election ballots were subsequently mailed to the membership in late October; the results are reported on page six herein.]

Pat Cain, Chair of the SALT AALS/Panel Committee, and Patricia Williams, Chair of the AALS Section on Jurisprudence, described their plans for a program at the AALS meeting on Sunday, January 6, 1991 [see article herein].

The Board decided that it would be appropriate to announce its statement on faculty diversity [see previous newsletter] at a dinner held in honor of



Derrick Bell on Saturday, October 20 at Harvard Law School.

The last issue of the SALT Newsletter contained an extensive story by Pat Cain, Martha Chamallas and Jean Love on the AALS's new non-discrimination policy. Howard Glickstein reported that the ABA's Affirmative Action Committee is considering an amendment to its accreditation policies that would bring the ABA's non-discrimination policy into compliance with the AALS's non-discrimination policy.

The Board members also discussed its retreat, May 17th and 18th on the West Coast. The retreat will be held for the purpose of long-range planning and assessment of the future direction of SALT. The next Board meeting will be held at the AALS meeting in Washington on Friday, January 4 at 7:00 am.

-Joyce Saltalamachia

ELECTION RESULTS

Congratulations to the following candidates who were elected to three-year terms on the SALT Board of Governors: Katherine Bartlett, Haywood Burns, Richard Chused, Linda Greene, Phoebe Hadson, Jean Love, Aviam Soifer, Dean Rivkin, Gerald Torres and Stephen Wizner.

Cover Study Group

This year's Cover Study Group, entitled "What Are We Afraid Of? Daring to Bring Ourselves To Our Work", will be lead by our former President, Chuck Lawrence. The program will take place on Thursday, January 3rd, 8:00-10:00 p.m. during the AALS conference. Chuck will be using the following articles:

1. Charles R. Lawrence, "A Dream: On Discovering The Significance of Fear," 10 Nova L.J. 627 (1986);
2. Milner S. Ball, "Colloquy: The Legal Academy and Minority Scholars," 103 Harv. L.Rev. 1855 (1990); and
3. Vincent Harding, "Toward A Darkly Radiant Vision Of America's Truth," 37 Cross Current 1 (Spring 1987).

Jurisprudence Panel at January AALS Conference

The 1991 Jurisprudence Panel will take place on Sunday, January 6th at 10:30 a.m. Entitled "Inessentially Speaking", this panel will bring together authors from law, literary criticism, political theory and philosophy. It will compare how contemporary questions of feminism, poststructuralism, essentialism

and contructionism have re-framed our disciplinary inquiries. In the context of controversial legal cases, panelists will consider the actual impact of conflicting conceptions (and overlapping philosophies) of voice, identity and discourse boundary. The speakers will be Eduardo Cadava, Professor of English, Princeton University, who will consider Emerson considering a passage of

the Fugitive Slave Act; Nancy Fraser, Professor of Philosophy at Northwestern University, who will speak about a paper she is co-authoring with historian Linda Gordon on the notion of "dependency" and the welfare state; Professor Diana Fuss, also of Princeton University's English Department, who will elaborate upon some of the themes introduced in her book, *Essentially Speaking* (1989) about the discourse of race, gender and class; and Henry Louis Gates, Professor of English at Duke University, who will discuss the intersection of race and gender in the law.

-Patricia Williams

SALT to Give Special Posthumous Award In Memory of Denise S. Carty-Bennia At January 5th Dinner In Washington, D.C.

At its January 5, 1991 Awards Dinner in Washington, D.C., SALT will give its first Posthumous Teaching Award in memory of Professor Denise Carty-Bennia. Professor Pat Williams will deliver the tribute to Professor Bennia.

Professor Carty-Bennia, 43, died unexpectedly on September 11, 1990. She was a professor of law at Northeastern University Law School and, at the time of her death, was a visiting professor at CUNY Law School in Queens, New York. She taught a prodigious variety of courses, including Equitable Remedies, Federal Courts, Sex Discrimination, Civil Procedure, Constitutional Law, and Constitutional Law and Minority Issues.

After graduating from Barnard College and Columbia University Law School, she practiced law with Kaye, Scholer et al in New York.

When Professor Carty-Bennia began teaching in



1975 at Wayne State University Law School, she was one of a handful of African-American women in law teaching. She quickly established a reputation as a committed teacher and activist who advocated faculty, student and curriculum diversity.

Many institutions sought her out for guest professorships and fellowships. She was a visiting professor at the Howard Institute for the Study of Educational Policy from 1975-1976, a Charles Revson Fellow at the Max E. and Filomen Greenberg Center in New York from 1979-1980, a Purington Lecturer in Residence at Mount Holyoke College in 1979, a visiting professor at the University of Hartford School of Law in 1987, and a popular professor at several summer institutes of the Council on Legal Educational Opportunity (CLEO). As a result of her service to CLEO, she became a mentor to many minority law students and lawyers all over the United States.

Denise was also a leader in many organizations. She was an early and active member of the National Conference of Black Lawyers (NCBL), served as the Chair of the NCBL Task Force on Legal Education and Bar Admission, and served as the Co-Chair of NCBL from 1979-1981. In 1981, she was the Chair and Convenor of the First Annual National Black Women and the Law Conference at Fisk University. She was the Chair of the AALS Minority Group Section from 1982-1983 and a member of the Executive Committee of the Section from 1977-1983. At the time of her death, she was a member of the Board of Boston Women's Fund, an Advisor to the Massachusetts Civil Liberties Union Bill of Rights Project, a cooperating attorney with the Center for Constitutional Rights, a member of the Board of the National Employment Law Project, a co-founder and Steering Committee member of the Northeastern University Black Faculty Organization, and co-founder and Chair of the Board of Directors of the National Center for Fair and Open Testing (FAIRTEST).

Denise also was involved in the litigation of many cases of importance to women and minorities. She co-authored amicus briefs in the following cases: Kaiser Aluminum v. Weber, City of Memphis v. Greene, White v. Massachusetts, Beecher v. Boston Chapter NAACP, Thornburgh v. American College of Obstetricians and Gynecologists, Patterson v. McLean Credit Union, and Webster v. Reproductive Health Services. In addition to her formal efforts in these significant cases, she was involved in many other cases, large and small, on behalf of women and people of color.

Professor Carty-Bennia was widely honored for her achievements. She received the Outstanding Ser-

vice Award from the National Black American Law Students Association, the President's Award from the National Bar Association, the Distinguished Service Award from the Northeast Region Black American Law Students Association, the Distinguished Service in Legal Education Award from the Massachusetts Black Lawyers Association, and the Official Citation for Outstanding Distinction in the Field of Legal Education from the Commonwealth of Massachusetts State Senate.

In addition to these distinct honors, she was recognized as a popular and charismatic speaker and was admired by hundreds of students and lawyers who sought her candid advice and counsel.

Her colleagues and friends are still grieving over her untimely death and their loss of a compassionate and committed colleague and friend.

- Linda Greene

Cheers for Emma Jordan

Former SALT President Emma Coleman Jordan of Georgetown University Law Center will be nominated by the AALS Committee on Nominations for the position of President-elect. Congratulations, Emma!

AALS ANNUAL MEETING REMINDERS

Public Interest Workshop - Thursday, January 3rd, all day ("AALS Mini-Workshop on Realizing the Professional Ideal of Service: Responsibility and Possibilities")

Cover Study Group - Thursday, January 3rd, 8:00 - 10:00 p.m.

Board Meeting (members invited) - Friday, January 4th, 7:00 a.m.

Awards Dinner - Saturday, January 5th, 7:00 - 9:00 p.m.

Jurisprudence Panel - Sunday, January 6th, 10:30 a.m.

Artwork Credit

The calligraphy contained herein is the work of Al Chung-liang Huang from his book Embrace Tiger, Return to Mountain - The Essence of Tai Chi.

Society of American Law Teachers

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