

# THE LAW SCHOOL

(From October 1972 to November 1973)

## I. ENROLLMENT

Opening total enrollment this fall was seven hundred. This was made up of 235 students in the entering class, 218 in the second year class, and 247 in the third year class. Application pressure was slightly down from the all-time high of the previous year, but the quality of applications remained at such a level that the competitive situation for individual applicants was not affected. Indeed, the final admission cut-off line was again forced slightly upward. As reported last year, undergraduate averages in the B to B-plus range and Law School Admission Test Scores in the range of 625-650 (on a 200-800 scale) are the norm to which students must now aspire for fair assurance of admission.

Composition of the student body in terms of residences and pre-law educational backgrounds remains essentially unchanged from that of recent years. Thus, eighty-four percent of the entering class were residents of North Carolina (a percentage which would be larger if "technical" residents—those barely qualifying as one-year domiciliaries—were included). This compares with eighty-six percent residents admitted in 1972 and eighty-three percent in 1971. The nonresidents admitted this year come from fifteen states. In addition to the University of North Carolina, sixty-two undergraduate institutions are represented in the entering class. Of these, Davidson College, Duke University, and North Carolina State University, in that order, had the largest representations.

## II. THE FACULTY

Two of our regular faculty are on leaves of absence for this academic year: Professor Kenneth Broun, as Visiting Professor of Law at the University of Illinois, and Associate Professor David G. Epstein, as visiting Associate Professor of Law at the University of Texas. We are pleased to have Professor Frank L. Maraist of the University of Mississippi and Professor Douglas J. Whaley of the Indiana University, Indianapolis Law School as visitors on our faculty.

Three new faculty members joined us this fall on regular appointment. Assistant Professor Jonathan A. Eddy comes from Haile Selas-

sie I University in Addis Ababa, Ethiopia, where he served three years on the law faculty and as Assistant Dean. He is a 1966 A.B. graduate of Harvard and received his J.D. in 1969 from the University of Washington where he was editor-in-chief of the law review. His teaching assignments are in Contracts, Sales, and Negotiable Instruments. Assistant Professor Gail L. Richmond comes to us after a year's teaching at the Capital University Law School, preceded by a year's practice as an associate in the Cleveland, Ohio firm, Jones, Day, Cockley & Reavis. She is a 1966 A.B. graduate of the University of Michigan where she also earned a M.B.A. degree in 1967, followed by a J.D. from Duke University in 1971. Her teaching assignments are in Corporate Tax, Income Tax, Legal Accounting, and Business Associations. Assistant Professor William J. Turnier joined us after a period of five years practice as an associate with Cravath, Swaine & Moore in New York. He earned a B.S. degree from Fordham in 1963, a M.A. from the University of Pennsylvania in 1967, and a L.L.B. from the University of Virginia in 1968. His teaching assignments are in Advanced Property, State and Local Taxation, Estate and Gift Tax, and Income Tax.

In addition to their normal teaching, counseling, and law school committee responsibilities, the faculty engaged in a variety of professional and public service activities, participated in general University affairs in a number of leadership roles, and made numerous contributions to the legal literature. These are here summarized:

Kenan Professor William B. Aycock continued service on the Estates Administration Drafting Committee of the General Statutes Commission.

Assistant Professor Walker J. Blakey continued his extremely capable direction of the School's National Moot Court competition effort. A team coached by him won the regional competition and participated in the national finals.

Associate Professor Kenneth S. Broun continued service as Chairman of the University's Committee on the Status of Minorities and as Project Coordinator of the N.C. Legal Services Association. During the summer of 1973 he served on the faculty of the National Institute for Trial Advocacy in Boulder, Colorado. He had published in West Publishing Company's casebook series, *Problems in Evidence* (with Meisenholder).

Professor Robert G. Byrd continued to serve as principal consultant to the Governor's committee to study automobile insurance.

He also served as Chairman of the University Faculty Committee on Student Discipline. He had published another in the important series of articles on North Carolina tort law: *Proximate Causation in North Carolina Tort Law*, 51 N.C.L. REV. 951 (1973).

Professor Donald F. Clifford continued to serve as a member of the Corporation Law Revision Committee for the North Carolina General Statutes Commission.

Professor Dan. B. Dobbs had published by West Publishing Company as part of its hornbook series a major work: *Remedies: Damages-Equity-Restitution*. He also had published an article, *Pressing Problems for the Plaintiff's Lawyer in Rescission: Election of Remedies and Restoration of Consideration*, 26 ARK. L. REV. 322 (1972).

Associate Professor David G. Epstein had published two major works by West Publishing Company: in the "Nutshell" series, *Debtor-Creditor Relations*, and in the casebook series, *Teaching Materials on Debtor-Creditor Relations*. He served as Associate Conferee on the National Bankruptcy Conference.

Associate Dean Morris R. Gelblum served as an elected member of the University Faculty Council.

Assistant Professor Peter G. Glenn served as a member of the State Estuarial Planning Committee.

Associate Professor Ronald C. Link served as Vice-Chairman of the American Bar Association's Committee on Continuing Legal Education in the Section of Real Property, Probate and Trust Law, and as a member of that Section's Committee on Professional Responsibility. While on leave as Visiting Professor at Northwestern, he served as Reporter to the Joint Chicago Bar Association-Illinois Bar Association Committee on the Uniform Probate Code.

Professor Arnold H. Loewy continued to serve on the Criminal Law Sub-Committee of the Pattern Jury Instructions Committee of the North Carolina Conference of Superior Court Judges.

Associate Professor Martin B. Louis presented a paper, published as part of the North Carolina Bar Association's Continuing Legal Education Materials, on the use of summary judgment.

Associate Professor John Martin served as a member of the University Committee for the Development of a Curriculum in the Administration of Justice.

Associate Professor Robert A. Melott continued to serve as a

member of the University Committee on Residency Status and of the Faculty Athletic Council and as a member of the Criminal Law Committee of the National Bar Examiners Conference on Multi-State Bar Examination.

Professor William P. Murphy was lecturer at the Southwestern Legal Foundation's Short Course in Labor Law in Dallas, Texas during May 1973.

Associate Professor Barry Nakell had accepted for publication in the *Kentucky Law Journal* an article, *The Effect of Due Process on Criminal Defense Discovery*.

Professor and Librarian Mary W. Oliver served during this period as President of the American Association of Law Libraries. She continued to serve as a member of the North Carolina Bar Association's Committee on "Bar Notes".

Graham Kenan Professor Daniel H. Pollitt served as special counsel to the Special Subcommittee on Labor and to the Subcommittee on Agricultural Labor of the Committee on Education and Labor, U.S. House of Representatives, and as a member of the Southern Regional Council. He had published an article, *Union Security in America*, in the September 1973 issue of the *AFL-CIO Federationist*, and began service as an elected member of the University Committee on Faculty Hearings. His *Report on Academic Freedom at East Tennessee State University* was published in 50 AAUP BULLETIN 80 (Spring, 1973). He appeared as counsel by appointment in several cases at the appellate level involving questions in his primary teaching field, constitutional law.

Associate Professor Thomas J. Schoenbaum was on leave during the 1972-1973 academic year as a Fulbright Lecturer at the University of Cologne. During this period he had published two articles, *Public Rights and Coastal Zone Management*, 51 N.C.L. REV. 1 (1972); and *The European Community and Management of the Environment: A Dilemma*, 13 NAT. RES. L.J. 494 (1973). He has completed and has had accepted for early publication *Reform of the Structure of the American Corporation: The "Two-Tier" Board Model* by the *Kentucky Law Journal*, and *Das "Board-System" Als Mitbestimmungs Konzept der Zukunft?* by *Der Betrieb*. He served as chairman of a drafting subcommittee of the Coastal Zone Committee for the North Carolina Bureau of Sport and Commercial Fisheries, as Technical Advisor to the North Carolina Marine Science Council, and as a member of the International Council on Environmental Law, Bonn, Germany.

Graham Kenan Professor John W. Scott continued during this period to serve as Chairman of the Committee on Revision of the Principal and Income Act for the North Carolina General Statutes Commission.

Cary C. Boshamer Distinguished Professor Frank R. Strong served for the third time as Director of the Association of American Law Schools' "Law Teaching Clinic", this session being conducted at Boulder, Colorado in the summer of 1973. He continues to serve as National Secretary-Treasurer of the Order of the Coif, and on this campus, as an elected member of the University Faculty Council. He had published in the *Arizona Law Review* an article, *The Economic Philosophy of Lochner v. New York: Emergence, Embrasure, Emasculation*; and in the *American Bar Association Journal*, an article, *Three Little Words and What They Didn't Seem to Mean*.

Professor Richard M. Smith continued to serve as a member of the Committee on Lien Law Revision for the North Carolina General Statutes Commission.

Assistant Professor Paul R. Verkuil served as consultant to the Administrative Conference of the United States. He had published an article, *Bank Solvency and Guaranty Letters of Credit*, 25 STAN. L. REV. 716 (1973). He has had accepted for early publication two other articles: *Developments in the Regulation of Supermarket Advertising Practices: An Empirical Study*, by the N.Y.U. Law Review; and *Judicial Review of Informal Rule Making and the Substantial Evidence Test*, by the Virginia Law Review.

Professor W. Laurens Walker had published an article, *Discovery and Presentation of Evidence in Adversary and Non-adversary Proceedings*, 71 MICH. L. REV. 1129 (1973) (with John Thibaut and Allan Lind). He continued service on the University Committee on Financial Aid.

Professor Seymour W. Wurfel continued service as a member of the North Carolina General Statutes Commission, the North Carolina Coastal Zone Planning Committee, the Board of Governors of the University of North Carolina Institute of Nutrition, and the Sea Grant Advisory Committee.

The writer of this report continued to serve as a member of the North Carolina Courts Commission, as Chairman of the Committee on University Government, as a member of the University Faculty Hearings Committee, and as chairman of a special committee to study the University's tenure system.

### III. THE LAW LIBRARY

As of July 1, 1973, the Law Library had a total collection of 152,764 catalogued volumes and a total of 110,763 catalogued microcards and microfiches. During the fiscal year 1972-73, a total of 4,268 volumes and 6,442 microcards and microfiches were added by purchase and gift. Among the donors of important additions to the collection this past year we are pleased here to express appreciation to Messrs. Arch Allen, John Lewis, William Jackson, B. Everett Jordan, D. Emerson Scarborough, Thomas Starnes, James Wallace, and Mrs. Walter Stroud. Additionally, the following faculty members contributed gifts to the collection: David G. Epstein, Frank R. Strong, and the late Professor Emeritus Fred B. McCall. Finally, we acknowledge with special feelings of gratitude a generous gift by Mrs. Walter D. Navin of over 630 items from the library of her husband, our late colleague and friend, Professor Walter D. Navin. This gift was made as a memorial.

Two important additions were made to the staff of professional librarians, both to fill vacancies created by resignations. Miss Ann Fortenberry, recently Law Cataloguer at the University of Alabama, has assumed that position here; and Mrs. Claire Pratt, formerly Reference and Circulation Librarian at the Duke Law Library, has become Reference Librarian.

During the past year, as indicated above in this report, Professor and Librarian Mary W. Oliver was President of the Association of American Law Libraries. This necessitated a considerable amount of travel on her part in discharge of the duties of that office. Her staff responded admirably to the increased responsibility which necessarily devolved upon all and maintained library operations with undiminished efficiency. This was a tribute both to them and to Professor Oliver's administrative skill in organization for which the school feels just pride.

### IV. CURRICULUM

One of the top priorities in our personnel recruiting efforts of the past year was the addition of two faculty members with specialized experience in tax law. The addition of Professors Richmond and Turnier, elsewhere noted, exactly realized that aim and permitted us to organize the important tax segment of our curriculum in the manner we had desired. In addition to allowing additional sectioning of the basic tax course offerings, always in heavy student demand, we were

enabled to add a course in "State and Local Taxation" and, closely related to the tax courses, a course in "Legal Accounting." Another important new course added is "Interviewing, Counseling and Negotiation", being offered by Professor Blakey (whose "Client-Counseling" student team, incidentally, won the national competition last year in extra-curricular competition).

Confirming the generally favorable assessment of the program given by both students and faculty participants, the first year "small-section program" was approved for continuation. By this program each first year student is provided in one of his courses the experience of instruction adapted to a class consisting of not more than twenty-five students. This permits, in addition to more individualized attention in general, some instruction in legal research and rudimentary legal writing exercises. Essential support for this program is provided by members of the Holderness Moot Court bench, who act as teaching assistants for the various small sections.

#### V. THE LAW CENTER

The Law Center continued to have as its main priority the funding and administration of research in statutory revision. This included during the 1973 legislative session the provision of some direct service to the General Assembly in respect of proposed or preliminarily considered legislation. Among these were research in respect of the following: reorganization of the State Highway Commission; anti-trust and fair-trade provisions of General Statutes Chapter 75; price-fixing authority of the State Milk Commission; state housing and community development laws; injunction bonds; "no-fault" divorce laws; coastal zone management; environmental protection; and workmen's compensation.

The Center also funded projects in another area of major interest—that of civic and continuing legal education in the domain of law. These included the preparation of teaching materials in consumer protection for use in high schools, the preparation of materials adapting the American Bar Association's Code of Professional Responsibility to the North Carolina State Bar's Canons of Legal Ethics, and the production of audio tape cassettes for use in rudimentary instruction in legal research.

#### VI. THE SUMMER SESSION

Responding to the greatly increased student enrollment of recent years, the number of courses offered in our summer session was in-

creased for the 1973 summer session from twelve to fifteen. Professors Loewy, Clifford, Smith, Glenn, Dobbs, Murphy, Wurfel, Martin, and Blakey of our faculty taught in this session. They were joined by the following visitors from other law faculties: Professors Charles Robson of Georgia, Frank Read of Duke, James Martin of Michigan, Howard L'Enfant of Louisiana State, James Freedman of Pennsylvania, and David Robertson of Texas.

## VII. ACADEMIC ACHIEVEMENT

The masthead of this issue lists those students who are members of the editorial board and the staff of the *Law Review*. Twenty-three students, on the basis of standing in the top ten percent of the class of 1973, were elected by the faculty to the Order of the Coif, a national honorary law society. These students were, in order of their final standings: John David Lowery, Charles Herman Cranford, Robert John Wishart, Robert Starr Gillam, John Craig Lillie, William Lunsford Long, Ernest Stanhope Delaney, David Michael Rapp, Vance Barron, Jr., George Rowe Hodges, Sammy Ray Kirby, Ann S. Beddingfield, Kenneth Paul Olsen, Lee Austin Patterson, II, Thomas Adger Lemly, Thomas Joseph Farris, Joseph William Freeman, William Laurence Haigh, Marvin A. Bethune, William Sloan Patterson, Richard Lawrence Vanore, John Amos Jones Ward, and Charles Eugene Murphy. Of this group Barron, Cannaday, Cranford, Delaney, Gillam, Kirby, Lillie, Lowery, Rapp, and Wishart were winners of the Chief Justice Walter Clark Awards, made annually to the ten students who, on the basis of their cumulative records after five semesters, have the highest averages in their class.

The degree of J.D. with High Honors was awarded to John David Lowery.

The degree of J.D. with Honors was awarded to Vance Barron, Jr., Marvin Allen Bethune, Jimmy Dean Cooley, Charles Herman Cranford, Sidney Lawrence Cottingham, Ernest S. Delaney, III, Thomas Joseph Farris, Joseph William Freeman, Robert Starr Gillam, William Laurence Haigh, George Rowe Hodges, Thomas Adger Lemly, John Craig Lillie, Charles Eugene Murphy, Jr., Lee Austin Patterson, II, William Sloan Patterson, David Michael Rapp, Richard Lawrence Vanore, and John Amos Jones Ward.

Paul Joseph Michaels was the winner of the Block Improvement Award, given to the senior who, having devoted himself most sincerely



to his law studies during all his law career, makes the most consistent improvement in academic work from the date of enrollment to the end of his fifth semester. This award, which consists of a three-hundred dollar cash prize, was established by Mr. Norman Block of the Greensboro Bar in memory of his father.

The Lawyers Title Award, a one hundred dollar prize to the senior demonstrating excellence in the study of real property law and selected at this school on the basis of the highest average grade on the three courses in Real Property, Titles, and Future Interests, was won by John David Lowery.

The Millard S. Breckenridge Award is a one hundred dollar prize presented to the senior selected by the Law Faculty, upon recommendation of the faculty members teaching the appropriate subjects, for excellence in the study of the law of taxation. The award, which consists of the annual income from a fund given to the Law School by Dr. Madelaine R. Brown, was won by Charles Robin Britt.

The Judge Heriot Clarkson Award is presented annually to the student making the highest grade in the course in Professional Responsibility. The award, which consists of a law book or books purchased with the income from a fund provided by the will of the late Associate Justice Heriot Clarkson of the North Carolina Supreme Court, was won by Michael Everett Kelly.

The United States Law Week Award, a prize of approximately one hundred dollars value, is given to the graduating student in law who, in the judgment of the faculty, has made the most satisfactory scholastic progress in his final school year. The award consists of a year's complimentary subscription to *Law Week*, which reports every week important new court decisions and federal agency rulings, and all Supreme Court opinions. This award was won by Robert Neal Hunter, Jr.

#### VIII. STUDENT BAR ASSOCIATION AND STUDENT ACTIVITIES

The activities of the Student Bar Association for the academic year 1973-1974 were conceived and have been developed with two purposes in mind: to provide law students with important services and information and to serve as the focal point for many varied activities and opportunities for participation sponsored and supported by the S.B.A.

Student Bar Association officers for this year are: Joyce Davis, President; George Hearn, Vice-President; Wayne Alexander, Secre-

tary; and Kathryn Hatfield, Treasurer. Frederick George is Chief Justice of the Honor Court, and T. Paul Messick is Chief Justice of the Holderness Moot Court Bench.

Most S.B.A. programs are channeled through student committees, either traditional committees handling projects such as orientation or social activities, or special committees, such as the one set up for the Minority Recruitment Weekend held in October. During that weekend, minority students from undergraduate schools in the state spent two days at the law school talking with students and professors and learning of the opportunities in law. Half of the cost of this project was funded by the Law Student Division of the American Bar Association.

During the previous summer the S.B.A. compiled, published, and distributed to over 1500 law firms across the nation a placement brochure designed to acquaint prospective employers with the quality of students, faculty, and the program of the Law School. It is hoped that this brochure, along with the work of the Placement Committee, will enhance the opportunities of our graduates.

Students also sit on joint student-faculty committees that deal with problems in the areas of curriculum, student-faculty relations, building use, grading and exams, library and placement. Students have also been active this fall in helping interview the prospective candidates for the position of Dean.

One important link between students and alumni is the *Law Record*, edited by Ernest Pearson. This year the staff, under the direction of Kent Smith, has published a weekly *Advance Sheet*, detailing events, announcements, schedules, etc.

The U.N.C. Student Bar Foundation, Inc. distributed four full tuition scholarships and fifteen full tuition loans for the fall semester. The Foundation plans to make available a similar sum for the spring semester. The Foundation is staffed and run solely by law students and continues to be a service and source of scholarship and loan funds to the Law School community. The award of funds is based solely on a demonstrable need of the student applicant. The Foundation not only solicits funds from the law school community and the local bar, but also solicits from external sources including private industry, individuals and other exempt foundations. It was through this solicitation that the Foundation was able to create the Navin Scholarship fund in memory of the late Walter Navin, a member of the Law School faculty. Kenneth Embree serves as Chairman of the Board of Directors with O. Max Gardner acting as President.

## IX. PLACEMENT

Placement of the Class of 1973 can be reported in the following summary. The largest number, 118, are employed by law firms, ninety-seven of these with North Carolina firms and twenty-one with firms in other states. The next highest number, thirty-four, are employed with government agencies, twenty with state and fourteen with federal agencies. Then follow in order, seventeen as law clerks, of which twelve are with state judges and five with federal judges; fifteen with corporations; seven in military service; five in legal aid; four in graduate and professional schools, and accounting firms. Four are practicing alone, and two are in non-legal positions.

## X. THE LAW ALUMNI ASSOCIATION AND THE LAW FOUNDATION

The U.N.C. Law Alumni Association conducted a moderately successful annual dues and gift campaign in 1972 and is aiming to break previous records in 1973 with increased basic dues and a growing alumni body. Continually larger graduating classes have pushed the current roll of living alumni to 2,937.

For the fiscal year ending September 30, 1973, 1,112 alumni and friends contributed 20,994 dollars in dues and gifts in response to mailed appeals. These receipts are totally budgeted for current disbursement, largely for scholarship aid but also for undertakings enriching the academic program over and above state funds, such as student activities, the Dean's discretionary fund, and Association operating expenses.

The annual fall meeting included a Symposium on Selected Consumer Problems, in response to increasing interest in this area among practitioners.

The U.N.C. Law Foundation continued its efforts to establish capital funds for investment income, mainly in winding up the Second Century Fund. During the fiscal year ending September 30, 1973, gifts of 81,490 dollars and pledges of 12,740 dollars were received. These amounts bring the campaign total to 622,898 dollars against pledges of 827,499 dollars. Gifts totalling 3,921 dollars were also received for the Foundation's general funds. Approximately 24,000 dollars of investment income was expended on the various commitments to the Law School's programs. The Foundation now holds assets in excess of 925,000 dollars in book value.

During the past year the officers serving the Law Alumni Asso-

ciation were: Cyrus F. Lee of Wilson, President; Julius A. Rosseau of North Wilkesboro, First Vice-President; Robert G. Vaughn, Jr. of Winston-Salem, Second Vice-President; Robert G. Byrd of Chapel Hill, Secretary-Treasurer; and Morris R. Gelblum of Chapel Hill, Assistant Secretary-Treasurer. The officers of the Foundation were: Robin L. Hinson of Charlotte, President; John T. Allred of Charlotte, Vice-President; James C. Wallace of Chapel Hill, Secretary; Robert G. Byrd of Chapel Hill, Treasurer and Assistant Secretary; and Morris R. Gelblum of Chapel Hill, Assistant Treasurer.

#### XI. INSTITUTE FOR PRACTICING ATTORNEYS

The School continued its participation with the North Carolina Bar Association and the other participating law schools of the State in the cooperative continuing legal education program. Participation by individual members of the faculty in the various institutes conducted during the year has been reported in the section on faculty activities.

#### XII. BAR EXAMINATION RESULTS

In July of 1973, out of 205 of our 1973 graduating class taking the North Carolina Bar Examination, 199, or ninety-seven percent, passed. We are most gratified with the success of our graduates.

#### XIII. STATEMENT OF PURPOSE AND DEDICATION

The primary role of this School of Law is to prepare students for practice in the legal profession. This contemplates the American legal profession at large and in its manifold aspects of specialization and emphasis. This role is not adequately discharged by narrow concentration of the mere vocational aspects of the profession, but requires as well major curricular attention to the institution of law in its historical, sociological, and philosophical aspects. Neither is this role acceptably discharged by over-concentration on the particular jurisprudence and legal institutions of this state alone. A proper goal of legal education in a state university must be to prepare graduates to be skilled and competent craftsmen of the profession in the various state and federal systems in which they may practice, to be valuable critics and reformers of the institutions of law in whatever system they may acquire influence, and, through the varied opportunities traditionally open to members of the legal profession, to be constructive and imaginative shapers and implementers of policy through the political processes in which a great number will always be involved.

This School presently produces, and for the foreseeable future will continue to produce, a majority of the persons annually entering the profession of law in North Carolina. Therefore the success of the School in discharging that duty is of obvious importance to the State. To a large extent, the calibre of the bar and bench of the State and hence the calibre of the administration of justice, the reform of legal institutions, and the shaping of policy at all levels of government depend on the success of this School. We hope most devoutly that it will be equal to the task and dedicate ourselves to that end.

DICKSON PHILLIPS  
DEAN