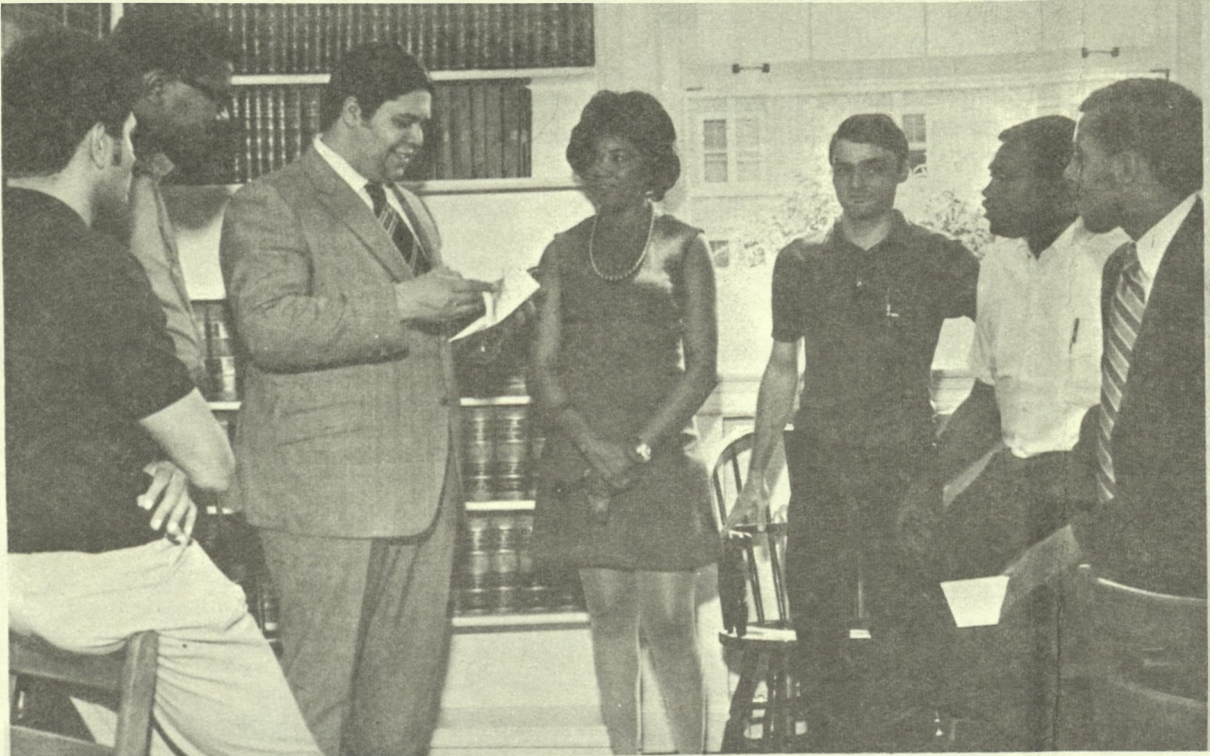
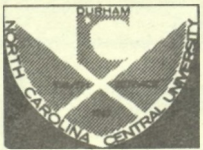


Law . . . Bridge To Justice

LAW DAY USA 1970



NCCULS ALUMNUS RETURNS TO ALMA MATER — Vice-Mayor Maynard H. Jackson, of Atlanta, Georgia, returned to visit students and faculty of the Law School. The annual celebration of Awards Day at the University was honored by his presence as guest speaker.



THE BARRISTER

North Carolina Central University
School of Law

VOL. II — No. 1 DURHAM, N. C. FRIDAY, MAY 1, 1970

Alumni Returns To Observe Law Day

By JOHN TAYLOR

The alumni of NCCULS are being welcomed back to observe the Law Day festivities with students and honored guests. The theme of "Law . . . Bridge to Justice" signals the beginning of events of a day which is proclaimed by the President of the United States.

These activities planned by the Law Day Committee, under the chairmanship of Mrs. Cecelia Cook, have been extended this year to recognize the Durham community and those who have rendered their services to the Law School.

Schedule of events:

Thursday, April 30 — A symposium "Job Responsibilities

and the Law at 7:00 p.m. (Moot Courtroom).

Friday, May 1 — Law Day Assembly, Lt. Col. Talmadge Bartelle, Judge Advocate General Corps, guest speaker. 10:30 a. m. B. N. Duke Auditorium.

Friday, May 1 — Law Day Luncheon, The Honorable Matthew G. Carter, Mayor, Montclair, New Jersey, guest speaker, 1:00 p.m. Downtowner Motor Inn.

Friday, May 1 — Art Exhibit at 3:00 p.m. A Elder Student Union.

Saturday, May 2 — Moot Court Competition (Time to be announced).

Saturday, May 2 — Law Day Dance 10:00 p.m. Holiday Inn (Downtown).

NCCU Law Graduate Appointed Judge

By JAMES HARRIS

Clifton E. Johnson, '67, was appointed to the bench by Governor Bob Scott last fall. Judge Johnson was nominated by the Mecklenberg Bar Association to preside in the district court system.

After being sworn into office by Judge Willard I. Gatling, he was immediately assigned to preside over the traffic court in Charlotte.

A native of Williamson, North Carolina, and the fourth of nine children, Judge Johnson is one of the youngest judges on the bench in the state of North Carolina. He is the son of Charlie M. Johnson, the first black policeman in Williamson. He is married to Brenda Johnson and is the father of a daughter, Yulonda Javel, age 4.

Prior to his appointment, Judge Johnson served as assistant district court prosecutor in Mecklenberg County, and practiced in Durham with the firm of Pearson, Malone, Johnson, and DeJarmon.

President Nixon And Regional Philosophy

By PETER V. SMILDE

Following the rejection of the Carswell nomination by the U.S. Senate, President Nixon announced on April 9 on nationwide radio: "I have reluctantly concluded that it is not possible to get confirmation of a judge on the Supreme Court of any man who believes in the strict construction of the Constitution as I do, if he happen to come from the South"; and, "The South is entitled to proper representation on the Court."

To certain citizens of the southern states this statement may have a ring of appeal, despite its misleading implications. If the statement be taken at its face value, the philosophy that prompted Mr. Nixon to make it could have grave consequences for the immediate future of the Nation's highest court, and for the American people.

The U.S. Constitution contains no mandate whatsoever

that the composition of the Supreme Court reflect a regional balance or preference in the nine members who serve on it. Article III, Section 1 is explicit: "The judicial power of the United States shall be vested in one Supreme Court . . ." Article II, Section 2 states: "He (the President) shall nominate, and, by and with the advice and consent of the Senate, shall appoint . . . judges of the Supreme Court . . ." Article III, Section 1 further states: "The judges of the Supreme Court shall hold their offices during good behavior." They shall be compensated for their services, not to be diminished during tenure. The Constitution is otherwise completely silent about any requirement or preference concerning regional selection or political or judicial philosophy of the Justices.

A majority of the 95 Justices who served on the Court since its inception obviously were influenced initially by the Presi-

dent who appointed them, sharing common political and professional beliefs. The Frankfurter-Roosevelt and Fortas-Johnson friendships, for example, are well known, as is the political debt of General Eisenhower in 1952 to Governor Earl Warren of California. Following the Fortas resignation in May 1969 after a slanderous attack by a national magazine, the news media and special interest groups have taken it upon themselves to launch a massive inquisition of Judges Haynsworth and Carswell. Their investigation was aided by the relative remoteness of both men from the President. Chief Justice Warren Burger, as we may recall, was a personal acquaintance of Mr. Nixon for many years and was well known in Washington political circles prior to his appointment. Thus the question can be raised: Doesn't President Nixon have any friends in the southern

See Nixon, page 3

The observance of Law Day 1970 and the main theme exalt the principles of justices. By definition, justice is that principle of rectitude and just dealing of men with each other or the maintenance or administration of that which is just. Thus, as we keep in mind these principles here must be the realization that justice will eventually be extended to every phase of American life and help eliminate those problems which confront our nation.

Justice is not only the fair dealing of men with one another, but also deeply involves those who make laws as well as those who seek their enforcement. Enactment of laws is only one step toward achieving justice. Those laws which must be interpreted to add impetus to the eradication of the ills of our society.

There are those who suffer the injustices of prejudice, the inequities of poverty, the indignities of discrimination, and yet have the hope for peace and the desire to seek the basic rights that have been bestowed upon them by the provisions of the Constitution. Although there is disagreement with existing statutes, the democratic process by which we live must be the one to make the necessary corrections of such problems.

The call for law and order

REFLECTIONS

By BILL PROCTOR

Graduation and the Bar Examination are just around the corner. However, before we as members of the class of '70 can look forward as we must pause a moment and look back. I suppose we have fond memories of our stay in Law School. It seems hard to believe that the graduation day was dreamed 3 years ago is rapidly approaching.

Approximately 56 of us stormed the doors of NCCU Law School in September 1967. we sat in the Moot Courtroom Sacred, confused, bewildered while people seemed to spill out of the room, like fish out of a pond. As the weeks of the first semester slipped by, will we ever forget sitting in class hoping and praying that Professor Dalzell (The Great White Father) wouldn't call on me today. Hearing the late Professor Watkins (The General) say, "what's your rule; we're going to sit right here. Send out for the coffee." I suppose that some of the students who are no longer here will cross our minds, Reece Whiting — handing Dean Sampson a kleenex to blow his nose; Mike Winder — telling Dalzell that he's wrong. I don't think that first exposure to the legal profession would be complete without that time-wasting one hour Legal Bibliography course taught by what's her name — you know she was right; we did need that silly course — thanks, you know she was right; we did need that silly course — thanks, Mrs. D. Who can ever forget that unpredictable crazy man — Brown Hugo something or other. Then there was that roly poly fellow who always seemed to answer your question, but you still did not know what he was talking about. His name escapes me at the moment but I think Ford Motor Company named a Mercury after him — LeMarquis

along with the strict construction and interpretation of our Constitution is not one to override the basic needs within our nation. It is evident that if progress is to be successfully accomplished, the bridge must be able to withstand the weight of those who are willing under the law to cross and help those who suffer.

Can there be a Utopia? Can "equal justice for all" be attained? These questions may gain a qualified affirmative vote with basic considerations. The accomplishments of man and the industrialization of our nation within the 20th century have had a phenomenal effect on the lives of each and every citizen of this country and the world. These gains more and more clearly emphasize the need to strive zealously to realize the ideals and principles embodied in the Constitution: that the people of America are one, not only in war or in peace but in all other respects that are of national interests.

Thus, in the words of the Preamble, it is that: "We the People . . . in Order to form a more perfect Union, establish Justice, insure domestic tranquility, provide for the common defense, promote the general Welfare and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution . . ."

It seemed that Christmas break was upon us, then finals, then Spring. Things began to change; then we ran across concave chest Dale Whitman from U.N.C., man, he was a junior Dalzell. On to bigger and better things. Fooled you, you thought I forgot about the Bow Tie Kid and his detour and frolic and scope of employment — whatever kind of "scope" that is.

Last but for from least is the chain smoker who promises to quit every day, Dean Prosser — oops, Sampson. Maybe one day he'll find that turnip that he's been trying to squeeze blood out of. When you do, Dean, bear in mind that "the risk to be perceived defines the duty to be obeyed."

Summer's over, back to the grind, hey yal, only 2 years to go. Same faces, same instructors, a few changes. New face in the crowd of Mr. "C," Champagne Charlie. Another new adventure the law school football team. The undergraduates call us "old men." Well "old men," we just happened to win the intramural football title. You know, I still don't know if we played to win, to prove we weren't old men or to meet and celebrate our victory at the expense of Professor Payne. Please, if you see Brown Hugo in his new suit, remind him to remove the price tag.

Fall semester finals, half way through. New exposure again, Mr. U.C.C. himself, Nordstrom, exchange professor from Ohio State University Law School via Duke who knew sales and the U.C.C. like he invented the subject. Then there's Professor Poland from U.N.C. whose Trusts final by his count had 75 issues — hey, baby, I believe you. There's a rumor that a senile man is teaching Domestic Relations. Well, Mr. Pearson

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THE BARRISTER

North Carolina Central University
DURHAM, NORTH CAROLINA 27707

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AND WILLIAM PROCTOR.

Editorials —

**"A House Divided Against Itself
Cannot Stand."**

This famous quotation declares to those concerned, that where division settles among a group of individuals there cannot be the fulfillment of desired goals. Our student body is not an exception to this quotation.

Whereas the students pursue the study of law, they must also be aware and involved in the activities of the student associations, not for personal gain, but to lend their talents and ideas for a well rounded program. The various activities during the course of the year need the cooperation of not just a few, but of all the students who are willing to lend their time and effort. Some activities are criticized within the student program; however, without financial assistance or the energetic spirit of fellow students, nothing can be accomplished successfully.

There are those who do not wish to be involved or participate in the various organizations; this is understandable within reason, but as to those who alienate themselves from the entire program and the association of fellow students, they are only making their personality worse and lives harder

The Lawyer And The Juvenile Court

By GEORGE MANNING

Although most law schools include subjects and courses which in some way touch the juvenile offender, there is nothing in the structure that prepares a lawyer for representing his client in the juvenile hearing. There must be incorporated within the curriculum some course or seminar to prepare the future lawyer and those already in practice, for their role in preparing a defense for the juvenile offender.

Recent decisions have expounded rulings that will make many changes in the proceedings for offenders under the age of 18. (North Carolina law classifies one under 16 as a juvenile.) The most significant of decisions handed down by the Supreme Court was the case of *IN RE GAULT*, 387 U.S. 1, (1966) which drastically changed the entire juvenile proceeding throughout the United States. The court there made it clear that an accused juvenile offender must be protected by the Due Process Clause under the 14th Amendment, thus insuring his right to counsel and the privilege against self-incrimination. Though most juvenile courts have been considered "therapeutic tribunals" most states have revamped their statutes to make the necessary guidelines for the protection of the juvenile's rights.

In North Carolina, the juvenile court comes within the jurisdiction of the District Court. The proceedings are held on a non-judicial basis and in a closed hearing, however the juvenile offender is granted an opportunity for counsel, but this privilege is very rarely used because of the informality of the proceedings.

Thus, the issues confronting counsel in this type of proceeding, which is non-judicial, are what are his duties and responsibilities to his client? In most instances, those who come before the court are not involved in a serious offense but are there because of domestic problems or trouble with the school authorities. Therefore, the lawyer must be knowledgeable of the situation and of his presentation before the court. He must also be aware of the new legislation in the various jurisdictions and the problems of the juvenile in our ever changing society in order to render the best possible legal service.

INQUIRING REPORTER

What new programs would you like to see implemented in NCCU Law School for the future years?

J. Etheridge, '71 — "There will have to be new ways and means to get adequate funds for the growth of the law school and there should be a legal advisory board for the student court which could be as a service to students."

V. L. Cain, '71 — "Qualify for the Association of American Law Schools and new courses in the taxation field."

D. C. Bridgers, '72 — "The faculty and students should be a more cohesive unit to discuss the students desires, as a planned course of action in various

projects for the school."

E. Jett, '72 — "There should be more involvement with the community and an intern program with special attention given to freshman students. Also, there should be more seminars to discuss pertinent issues and cases."

E. Fulwood, '72 — "A more realistic financial aid program for law students and a respectable wage for students employed on campus of at least \$2.50 per hour. Also, there should be an evaluation of the effectiveness of instructors."

D. Mailman, '72 — "I would like to see people stop talking and start doing."

**THE DEAN'S
CORNER**

The school year of 1969-70 opened on a happy note on September 15, 1969. That Monday morning get-acquainted meeting was a bright and friendly one. We looked forward to a good year. Four days later, we faced our first obstacle.

The spirit of the student body during this period was tremendous. The fact that not a single class was missed as a result of the tragic fire stands as a monument to the courage, vision, and spirit of these students. It is also a reminder that this generation of law students is willing to face the task and to bear the burden of becoming a great lawyer.

This column is not entirely concerned with the immediate past. Our question is where do we go from here? Other law schools, the Community Churches, and individual friends have responded generously to our needs. The State has advanced funds so that we are in the process of re-ordering books which were destroyed, and the renovation of the law building is practically complete.

Our legal education seminar on Title VII of the Civil Rights Act of 1964 — October 12-13, 1969 — was a success. The students' seminar on Moratorium Day was an informative and educative experience. It is the sincere hope of the Dean's Office that we will have more of these types of programs throughout the school year in the future. Such programs are invaluable because in three short years, you cannot learn all you need to know in just the fifty-minute class periods.

On November 7-8, 1969, our moot court team journeyed to Norfolk, Virginia, where it participated in the Seventeenth Annual National Moot Court Competitions.

The student body gave a surprise recognition ceremony for the installation of the new Dean of the Law School. The Dean and his family were greatly pleased by this magnificent gesture on the part of the student body.

It should be especially noted that the faculty of the Law School has been greatly impressed with the enthusiasm and the esprit de corps of the student body throughout this school year. In spite of the inconvenience and hardship occasioned by the repairs to the building, the basic law school programs have been carried on in high manner.

The second national issue of the *NCCU Law Journal* is due off the press soon. Subscribers and *IPAHAY* members will soon receive their copies.

The Law Day Committee has worked in yeoman-like fashion to make this *Law Day* a memorable occasion. I know that the students and the alumni will enjoy this special *Law Day* ceremony.

This is our first attempt to have all the alumni return to the Alma Mater. The Dean and the faculty hope that this occasion will be the beginning of a closer and more cooperative alliance between the school and the alumni, as well as a greater degree of cooperation between the law student and the community.

The legal research project which the Law School, in conjunction with the Foundation for Community Development, should serve as a bridge to this See *Dean's Corner*, page 4

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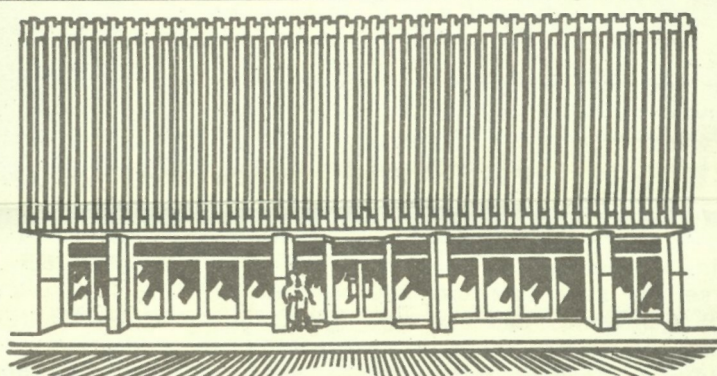
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YOUR HOST IN

DURHAM

Mr. Nixon And Regional Philosophy

(Continued from page 1)

states whom he deems qualified to serve on the Court? Human nature being what it is, every Judge (or Senator, for that matter) has at least one skeleton in his moral closet. A certain attachment to the President, on the other hand, may gracefully obscure an inevitable deficiency from the hypocritical scrutiny of political and professional zealots. The Fortas removal and Haynsworth and Carswell rejections are basically symptoms of the same psychotic malaise, irrespective of the merits of the original contentions against these men. But we must also recognize certain other factors.

The present impasse has been created, none-the-less, by the ineptitude of a President (and his advisors) who announced less than a year ago that he would not use the Court for the purpose of a so-called racial, religious or geographic balance. The bland statement of April 9, therefore, is not only unexpected but is in its historical setting unprecedented

and preposterous. There exists scant evidence that any of the 95 Justices have reflected specifically regional or geographic philosophies in their judicial opinions. One may argue that a specifically regional, political or judicial philosophy does not exist at all and may, in fact, never have existed. Political irrationalities are always the tools of certain individuals to entice groups or masses of men. Such expression is basically antagonistic to the American judicial temperament which the Supreme Court invariably has shared. During the past thirty years and during various stages prior thereto, the Supreme Court has been fervently concerned with basic, human rights which exist quite apart from the daily self-seeking activities of politicians. 28 of the Justices since 1789 have hailed from southern states — predominantly Tennessee, Kentucky and Virginia. (Excluding Texas), many of the outstanding civil rights opinions of the past two decades have come from the pen of Justice Hugo Black of Alabama. Two of the most pernicious anti-human,

anti-civil rights opinions of the 19th century, on the other hand, were written respectively by a northern Democrat and by a northern Republican (*Dred Scott v. Sanford*, 1856 and *Plessy v. Ferguson*, 1896). The vigorous dissent in *Plessy* came from Justice Harlan, a Republican from Kentucky. The list can be multiplied to prove that the Justices of the Supreme Court have not expressed any so-called native or regional political philosophies in their opinions, nor have they been encouraged thereto by any President.

Although the Supreme Court has been a powerful instrument for legal and, consequently, social change during the past thirty years, it is hardly in the nature of the American character to expect a retrogression to outmoded and impractical philosophies or to desire a lack of progress from the important civil rights gains that have been made since 1950. As a lawyer Mr. Nixon should know that strict constructionism of an 18th century document is and has been neither possible nor feasible in a hyper-mobile, communications-minded, industrial civilization. One can

argue that an attempt at strict constructionism of the U.S. Constitution in the 1970's will, in fact, destroy this implicit meaning of that document and will not preserve it, as has been the laborious task of the past two decades. Many statutes cases and constitutional provisions construed by the Court are themselves products of intense political, social and economic conflict. The Court has a duty to continue to clarify constitutional issues where the Constitution is not explicit, such as in the areas of apportionment, economic rights, the exercise of religious and conscientious beliefs, obscenity and the rights of the accused, whenever a lower court refuses to acknowledge a specific, human grievance. Hopefully the legitimate need and complaint of the individual will continue to outweigh the amorphous, less rational interest of the larger society. Any attempt, however, to undo the basic civil rights legislation of the past twenty years can not be tolerated.

Thus Mr. Nixon may take a proper cue for his next Supreme Court nomination by means of a long look at the accomplishments of the past and a realistic

evaluation of the present. In doing so he must realize that a Supreme Court Justice can not reflect the immediate political philosophy of a President too long if that Justice is to honor the mandate to uphold and to expound the U.S. Constitution, (Cf. C. J. Marshall in *McCulloch v. Maryland*, 1819.)

Ironically the recent conduct of the Senate in the Haynsworth and Carswell nominations is indirectly a reflection of Mr. Nixon's own political philosophy. The President believes in a strong, independent Congress, and the Senate has willingly flexed its muscle without succumbing entirely to outside pressures. Although the enactment of a specific code of judicial qualifications may not be desirable, the Senate probably will continue to look askance at any nomination that has a purely political coloring and with which Mr. Nixon himself can hardly identify as President of the United States.

Thus far the Supreme Court has managed to transcend political frustrations and petty sectional interest. No President has the right to demand that the Court become the tool of political frustrations and ambitions if both President and Court are to retain the respect of a majority of the American people. Only the President is in a position to end the present feud between the Senate and himself. In the final analysis, if the Court is to function as an independent though influential branch of the Federal Government in the proper historical and constitutional perspective, whether the next or a future nominee comes from a southern state is really immaterial.

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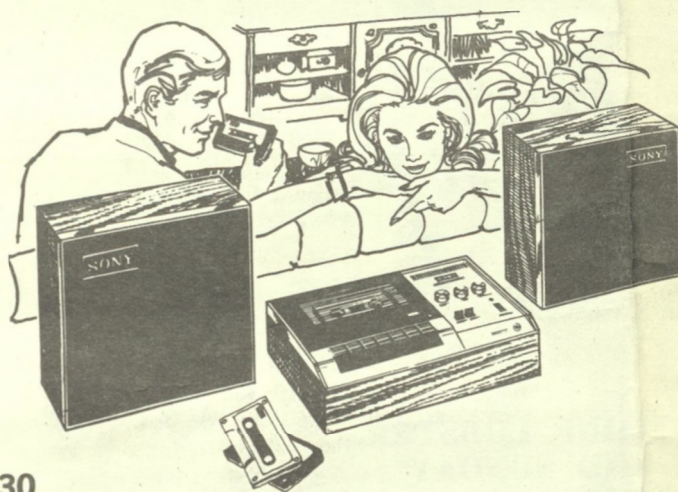
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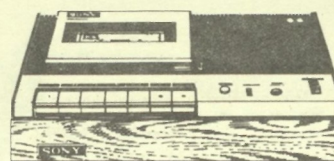
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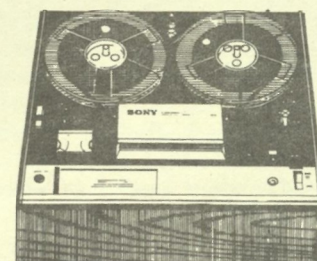
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FACULTY NOTES

By RAYMOND SITAR

The Law School welcomed four new professors this year who bring a wealth of knowledge from varied backgrounds:

Mr. Nathaniel Adams is a graduate of Howard University where he received his B.A. and LL.B. Admitted to practice in Washington, D. C., he received his LL.M. from the National University before moving to Florida A.&M. University where he taught until last year. He is married and the father of two children.

Mr. Robert A. Williams is a recent graduate of Howard University and received his J.D. from the University of Virginia Law School. Admitted to practice last June, he is associated in his father's law firm in Danville, Virginia. He still enjoys the bachelor life.

Mr. Nicholas A. Smith is a graduate of the University of Tennessee receiving both undergraduate and law degrees. While only on a part time teaching basis, Mr. Smith is also working on his doctorate at Duke University.

Mr. Arnold H. Loewy is a graduate of Boston University receiving both undergraduate and law degrees. As a visiting professor here this spring, he is a professor at the University of North Carolina full time. Prior to coming to UNC, he received his LL.M. from Harvard University and taught at the University of Connecticut. He is married and the father of two girls, ages 5 and 3.

-Reflections-

(Continued from page 1)

son proved your point in May. If there was a generation gap, you turned it into a crediability gap — people couldn't believe all those C's. Oh well, summer's almost over, only 2 semesters more.

Fall is here, ack to the grind. Enter the Black John Wayne or should I say Butch Cassidy. Hey, man, he's right out of law school. Think he knows anything? Naw, probably just ducking the draft. Those remarks were heard after introduction of one of the new faculty members. Don't worry Butch, those seniors in Federal Jurisdiction think you know your stuff even if you are from Danville.

Rumor has been going around that with all those ex-instructors from Florida here, maybe the schools' name should be changed to Florida A.&M., at Durham. Gee, Mr. Adams, the weather's not as warm here. Oh well, I guess it beats Chicago.

"Assistant Dean" Rease, we promise to leave our impressions in your mind. May the thoughts that the class of '71 will be like the class of 570 — keep you awake at night.

Good luck on the Bar Examination and with Uncle Sam class of 1970. Remember we are the "FIRST" class to graduate from NORTH CAROLINA CENTRAL UNIVERSITY LAW SCHOOL.

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LAW WIVES OF NCCULS

The 1969-70 school year saw the increase in membership of the Law Wives and the expansion of its services and the fulfillment of the many purposes of the organization.

Though the purposes of the Law Wives are manifold, they have found the time to promote the social unity among its members and extend their assistance and support to the many students in the law school. The activities have not been limited to the campus, but have extended themselves within the community to those who have been less fortunate.

The coffee served during the exam period and social affairs during the course of the year for the husbands have been quite enjoyable and appreciated. Not only these acts of kindness have they made possible, but a Christmas party for children at the Edgemont Community Center and the recent program on drug abuse have kept the wives busy in addition to their usual chores.

Further testimony of their activities can be gleaned from the fact that the Law Wives

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aided in the cleaning of the building after the fire, held a bake sale, prepared a basket for a needy family at Thanksgiving and sponsored the Barrister's Wives Tea.

-Dean's Corner-

(Continued from page 2)

goal.

The more exposure one has and the more one participates in these supplemental educational programs, the more proficient he will become in analyzing basic legal situations. To-

ward this end, in addition to the research project, I would like to see the Student Bar Association institute round-robin inter-mural moot court competitions. But all of this is meaningless unless the student decides for himself that he owes it to himself to participate fully. He can get out of his legal educational experience only what he put into it.

To a musician, practice is the best way to Carnegie Hall; to the law student, study and participation are the ways to a successful legal career.

A pleasant Law Day to all.

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