

Can A Black Man Get A Fair Trial In This Country?



THE BARRISTER

NORTH CAROLINA CENTRAL UNIVERSITY
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FROM SCOE

by ROSCOE BRYANT

In this first and maybe only issue of the Barrister for the year, I would like to bring up a few comments on the students of this school. In particular the upperclassmen.

For those of you who advocate a change in the status of this law school and the attitude of others toward this law school and do nothing. For those who criticize and belittle the efforts of those who do seek change. For those who sit by and let the same game be run on them by students and administrators alike. For those who want to stay in their own little complacent world and procrastinate every time an opportunity for change is given.

I HAVE GOOD NEWS FOR YOU. YOUR TIME IS DEAD!

Your time has past, because no longer can we sit by and let you pull down those who want change both in the world and at NCCULS. For those of you who consider yourselves as being activators of social change, and do nothing to perpetrate that change, how can you bring about a change in Society when you cannot bring a change in our community of 130.

I ask the incoming students not to fall in the rut of those surrounding you. Seek a change within yourself and within the system in which you dwell. The law is a great tool available to the poor and the oppressed, don't blow your chance, and the chance for "the People."

My aim in trying to change the format of this paper is to give the students a different means of expressing themselves with different content and missions, and by leaving a rigid format and stilted content that has restricted range and diversity in the past.



Impressions Of A Record Class

by HENRI NORRIS

Seventy first year students entered the law school this year increasing the total enrollment to 124. Fifteen of these new students are women, who to the delight of the men, make a total of 25 female students in the school or 20% of the total student body. The three new Indians, twelve new whites, and 53 new blacks produce the following total racial percentages:

4	or	3.2%	Indian
26	or	20.9%	white
94	or	75.9%	black

The new students come from more than 12 different states, Liberia, and 26 different undergraduate schools. North Carolina with 29, and N.C.C.U. with

26 predominate as domiciliary and undergraduate schools claimed. Otherwise the statistics are spread evenly over the aforesaid number of states and graduate schools.

This year the new group of fledging neophytes preceive the study of the law as some vague pursuit—exactly of what they aren't certain. Many of the students were so overwhelmed that they were ready to return to their homes and leave law to those possessed with faculties more adept than their own.

Here are some of the first impressions of the freshman

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by HAYWOOD BURNS

From the NEW YORK TIMES
July 12, 1970

Some of the greatest barriers to blacks receiving fair treatment in the courts today rise not so much from direct racial antipathies as from the structure of the law itself. It is here that the link from the past to the present is most clearly revealed. Historically, the men who made the laws were for the most part explicitly hostile to the interests of the poor and the nonwhite or at least ignored them. This historic hostility and neglect have brought about a structural inequality through which the law, by its substantive doctrines and procedural rules, works invidious discriminations against the poor and the nonwhite.

Intent is not necessary. Institutionalized bias need never make reference to race or class to remain in its operation and impact highly discriminatory. The structural inequality represents a confluence of costs and class bias in the law in which poor whites are deeply affected too.

On its face, the structural inequality relates largely to differences in the economic status of individuals, but it has a peculiarly racial dimension since such a widely disproportionate number of the poor in this country is nonwhite. Even without bad motives on the part of those who administer the system of justice, the continued application of the legal system in this way is racist because of the way in which it perpetuates past racial wrongs.

The legal system has so far proved unable to eradicate racism from American society in large part because it is itself so severely tainted with racism, but the law is much too valuable a weapon in the struggle for major social change to be discarded for this reason. Not only can it serve as an insulator of the activist, but experience has shown that through test-case litigation it is possible to correct at least some of its structural inequality.

It is unrealistic, however to speak of major structural change and fairness to blacks in the legal system without examining the social context in which law operates. In many ways, the law merely reflects the larger society. It is un-

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THE BARRISTER

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One Proposal For Law School Reform

by RALPH NADER

In all the discussion recently at law schools about grading and curricular reform and student participation in faculty and administration decisions, it appears that one highly significant proposal could be adopted forthwith. I refer to the establishment of a year-long course given by students for the benefit of the faculty.

The case for such a course is compelling and the mechanics of conducting it fairly simple. Students have a great deal to convey to the faculty — their legal experience in clinical work, a greater sense of the urgencies of the times that are straining the legal system, their frequently greater familiarity with new techniques or bodies of knowledge of relevance to developing legal systems and their considered critiques of formal course work that makes up the law school's teaching pattern. There is substantial evidence that many professors are developing a keen appreciation that law students have much to teach as well as to learn. This recognition is bound to increase as law students, organized in investigating teams, begin producing first-rate empirical studies of legal institutions. But even for those members of the faculty who resist the obvious, a student course for the faculty can be justified as a steady feedback process that is bound to enrich the professor's response to his classes.

Once the principle of a student course is accepted, the mechanics could be worked out to maximize participation and efficiency. Law schools have always been good at mechanics. By way of suggestion, a steering committee of students, chosen by their peers, could organize the course content, decide whether to inflict an "eye for an eye" and adopt the Socratic method or develop another less time-consuming procedure, determine the kinds of demonstrative evidence to be utilized, the field trips to be taken and the to other law schools and in journals of legal education. I am sure

that many exciting innovations and benefits can be derived once such a course is adopted.

What the faculty may be realizing is that the breakdown in the last few years of its presumed or actual arrogance toward the students — whether ingrained or merely a teaching technique — is a wonderful experience. The rewards reaped are increasing displays of foresight — a quality of which the law schools in the past could rarely be accused — and a greater infusion of empirical and normative content in course and extracurricular work.

Some ground rules for such a course would obtain near unanimous support. There should be no grading and no compulsory attendance. I expect that the newspaper would welcome reactions and suggestions relating to such a proposal. Let us hear them.

First Impressions

(Continued from page 1)

class members:

.....

I've wanted to be a lawyer since I was a child, but the first week has given me second thoughts. Now that I'm over my initial fright, I'm looking for spinoff benefits to be conveyed ward to three trying, but exciting years.

Undergraduate school was nothing like this!

If there were only more hours in a day, I could make it. With all this reading I don't even get a chance to see my girl.

It's a lot of work, but after all, that's what they tell me I'm here for.

Studying law is like finding a stick on a country road that turns out to be a snake. When you pick it up you can't turn it loose, but you aren't sure you want to hold on either.

I like it, but I am confused.

All in all, the freshmen see many long nights and hectic days ahead of them. Let's hope their first impressions will be



NCCU LAW SCHOOL RECEIVES AWARD, ONLY NINE SCHOOLS HAVE ACHIEVED SIMILAR HONORS

The Law Students Division of the American Bar Association in its annual convention August 10-14, 1970 in St. Louis, Missouri awarded a plaque to the School of Law, North Carolina Central University in recognition of Outstanding Membership Achievement. The American Bar Association awards plaques to those law schools whose membership in the Law Student Division is 70% or more of its school enrollment. Of the 145 American Bar Association approved law schools in the United States, only nine law schools have achieved this honor.

The plaque was awarded to the School of Law of NCCU at the annual banquet, Tuesday evening, August 11, 1970.

"Since there are no questions, I will proceed through tonight's assignment."



Monologue Or Dialogue?

The cartoon on this page aptly depicts the encouragement given to inquiring minds in many classrooms. Whether the teacher merely ignores the raised hands rebukes them as "sandbaggers," answer in a facetious manner or simply tells the class he does not have time for questions, the result is the same — students are conditioned to not question what is being taught. Instead, like Pavlov's dogs, they sit passively until they receive their cue — "The general rule today is" — at which time every one in class hastily jots down the precious words which will carry them

through finals, the bar exam and eventually to victory in the courtroom. Admittedly, the instructor has an obligation to cover all the material which is necessary to give his students a proper foundation in the law. However, the recitation of cases by students, combined with the sleep-inducing monologues of some teachers, accomplishes little more than that which would be gained by the casual perusal of any second-rate hornbook.

At the risk of being innovative, instructors at NCCULS, should consider adopting new methods which would encourage discussion of the law—not what is but why it is.

a continuing source of inspiration for the coming months.

MEMORANDUM

From: John P. Dalzell
To: Freshman Class
Subject: Absentism
Date: November 18, 1970

It has been brought to my attention that the attendance record of this class is a disgrace to our gracious benefactor who at your request, has given you your chance for a legal education. Due to the lack of consideration by your class with so fine a school, as shown by such frequent absentism, it has become necessary for us to revise some of our policies. The following changes are in effect as of today.

Sickness: No excuses . . . we will no longer accept your doctors statement as proof, as we believe that if you are able to go to the doctor, you are able to come to class.

Death (Other than your own): This is no excuse. There is nothing you can do for them, and we are sure that someone else with a lesser position can tend to the arrangements. However, if the funeral can be held in the late afternoon, we will be glad to let you off one hour early, provided that your share of class work is ahead enough to lead the class on your return.

Leave of Absence : (For an operation) We are no longer allowing this practice. We wish to discourage any thought that you may need an operation as we believe as long as you are a student here you will need all of whatever you have and you should not consider having anything removed. We admitted you as you are and to have anything removed would certainly make you less than we bargained for.

Death: (Your own) This will be accepted as an excuse, but we would like two weeks notice!

Also entirely too much time is being spent in the restrooms. In the future, we will follow the practice of going in alphabetical order. For instance, those whose names begin with "A" will go from 11:00 to 11:05, "B" will go from 11:05 to 11:10 and so on. If you are unable to go at your time, it will be necessary to wait until the next day when your turn comes again.

O.E.O. Program Gives Indians Opportunity

By HENRY W. OXENDINE

Four Lumbee Indians, all residents of Robeson County, are enrolled in the Law School at NCCU.

The Indian students are part of a program sponsored by the Bureau of Indian Affairs and O.E.O. The purpose of the program is to provide Indians, who might not otherwise get the opportunity, a chance to attend Law School. Presently there are less than 50 Indian lawyers with half that number or less in service to Indian Tribes.

There are approximately 50,000 Lumbee Indians, 30,000 or more living in Robeson County. Another 10,000 or more live in surrounding counties. Several thousand live outside the area: many living in larger cities of North Carolina, and many living in other states. There are Lumbee Indians in approximately 40 of the 50 states. The Lumbees do not have a practicing attorney in Robeson County.

The O.E.O. program now has more than 100 Indian Law students in over 30 Law schools from Harvard to U.C.L.A.

1—Horace Locklear — Lumberton, N. C., 1964 graduate of Pembroke State University, taught school 1½ years, State Supervisor North Carolina Manpower Development Corp.

2—Ertle Knox Chovis — Pembroke, N. C., 1965 graduate of P.S.U., 4 years as a Naval Officer.

3—Arnold Locklear — Maxton, N. C., 1965 graduate of P.S.U., taught school 5 years.

4—Henry W. Oxendine — Pembroke, N. C., 1964 graduate of P.S.U., taught school 6 years.

The law school of the University of California at Davis has solved the problem of boring law reviews. At Davis, the students research a single topic for an entire year, and then publish a book in their findings.

Can A Black Man

(Continued from page 1)

realistic to think that in a racist society the law, or any institution, can completely transcend that racism. Changing the law involves changing America.

There will not be institutional fairness for blacks in the courts until there is fairness for blacks in America. This relates not only to the structure of the law in terms of its procedural and substantive rules, but to the personal level as well. It is folly to say that ours is a government of laws, not men. Laws are made, interpreted and applied by men, and in Americas' case by men in a racist society. Ultimately, there is the simple and obvious truth that the judicial system is run by people, mostly by white people and that most white people are racially biased.

Can a black man get a fair trial in the United States? If by fair one means free of bias the answer has to be generally No.

The Noble Sovereign

It was the boast of Augustus . . . that he found Rome of brick and left it to marable . . . but how much nobler will be the sovereign's boast when he shall have it to say that he found law dear, and left it cheap; found it a sealed book, left it a living letter; found it the patrimony of the rich, left it the inheritance of the poor; found it the two-edged sword of craft and oppression, left it the staff of honesty and the shield of innocence.

LORD BROUGHAM
CASE AND COMMENT

OREGON GROUP FORMING: The students of the State of Oregon have successfully formed the Oregon Student Public Interest Research Group (OSPIRG,) a student-financed and directed group of professionals who will represent student interests in the courts and in the legislature. If their financing referendum to assess each student one extra dollar on his activity fee is successful, a whole new source of funding for public interest lawyers could be developed.

LEO-JL WII

After being hit by a golf ball on the Churchill Valley golf course, the plaintiff came into court and was hit again, this time with the mashie iron of a nonsuit, even before he had a chance to drive on to the green of a jury deliberation. Being forced into the sand trap of a non-suit, the plaintiff was denied an opportunity to enter into the fairway of his litigation. I believe this is not a fair way to dispose of a suit in trespass. Accordingly, I yell "Fore!" and dissent. Musmanno, J. in TAYLOR V CHURCHILL VALLEY COUNTRY CLUB (1967, Pa) 228 A2d 768.

Current Thoughts

In an effort to explain the origins of campus unrest, the FARM OBSERVER of Woodland, California undertook the following sensitive analysis: "During World War II, the psychopaths, the queers and oddballs normally unemployable were able to find jobs and get married to reproduce their kind of oddballs. Without the War they would have had a difficult time in finding mates in competition with the mass of their age group. But with the competition away to war, they managed to get married and reproduce a batch of misfits now going to colleges throughout the land and making themselves heard as peaceniks . . . some of them have even become teachers and are now spreading their warped philosophies among their own kind as well as among healthy youngsters in the schools." Hay, Jesse, have ya got the North Forty plowed yet?

Denver Law School may have the best clinical education in the country. The school offers fifteen courses and employs three professors full time to supervise the program.

Student-Sponsored Public Interest Firms

by DONALD ROSS
NYU Law Student, '70

Students as a class possess more energy, idealism, resources and resourcefulness than any other identifiable societal segment. Yet they find that their values are not reflected in the society in which they live. They protest and demonstrate, but the student movement, by definition, is cyclical — it always dissolves during the summers and at exam time — and lacks the expertise which would allow it to focus on any specific problem in an effective way (demonstrations on the courthouse steps have shown themselves to be notably lacking in influence on the ultimate decision in a given case). Not surprisingly, this mode of activity has effected no important social change.

If students (or any other identifiable interest group) are to make their collective voice heard where it counts, a change of tactics is clearly required. The Public Interest Research Group, sponsored by Ralph Nader, is suggesting at campuses across the country that an exciting new concept be implemented. This idea manifests the obvious resolution of the inadequacies in the student movement — the hiring of full-time professionally skilled persons to press student interests in the courts, the legislatures, and elsewhere. Basically, the scheme uses highly skilled lawyers and other professionals, such as engineers and ecologists, on the side of the environmentalist and the consumer needful of protection.

To employ the term "adversary system" as descriptive of the status quo in environmental protection, for example, where the day-to-day confrontation is between Wall Street lawyers and little old ladies in tennis shoes, is folly indeed. Industries are now operating in vacuum. They are regulated by agencies composed largely of colleagues on sabbatical from their corporate jobs or civil servants waiting for an offer from industry. The public is unrepresented in the circles where policy is made. The student-sponsored public decision-making the consideration which is so obvious absent — it can require that the social cost of investment be treated as the crucial factor it is.

The critical mass required in any such firm, if it is to have impact, is 10-15 members — six to eight lawyers combined with a balance of ecologists, engineers, social scientists and others. The funding needed is \$150,000 to \$300,000 per year. There are about eight million college students in the U.S. — by taxing themselves only \$2 per semester (a minimal increment over their present payment of tuition and fee). \$32 million could be generated. This is enough money, at a nominal cost to each student, to establish more than 100 groups of public interest professionals. The possibility of making an adversary system a reality is therefore clearly before us.

Students in Oregon are now engaged in a campaign to set up their version of this concept. Within the month, referenda will be held at Portland State University, University of Oregon, Oregon State University, Lewis & Clark, and Willamette. Organizations dedicated to the holding of similar referenda are now working at Oregon Technical Institute and many other smaller schools. By voting in favor of the proposition of these campuses, the students will be voluntarily increasing their incidental fees by \$1 per student per quarter. They will be dictating that this money be turned over to a student-elected and controlled board whose job it will be to hire and direct the full-time professionals. All available indications are that the propositions will pass overwhelmingly at schools with a composite population of well over 50,000 — yielding on a three-quarter / year basis, at least \$150,000 with which the group called the Oregon Public Interest Group (OPIRG) will be funded.

Clearly, the measure, even if passed at all the schools in the state, must be approved by the State Board of Higher Education. It seems unlikely, though, that the Board would deny students this opportunity to work within the system for change. The very essence of the proposal is one of rationality. The students of Oregon will be asking for what they learned in civics class was their right — asking for an effective voice in the councils of government —

Campus Violence 70-71 (?)

In its report and analysis of campus unrest, the American Council on Education's Special Committee on Campus Tensions noted that it is the belief of students in general that the failings of American society are its propensity to violence, its exploitation of the weak, its indifference to human values, its hypocrisy, and its corruption. It also pointed out that many students believe that the colleges and universities contribute to this sad state by perpetuating and instilling those values by which our nation's leaders intimidate and gain from external wars, and internal repression. Perhaps, if most students do, in fact, believe this, the university must serve to develop channels through which its academic community may vent its feelings in a positive, constructive manner. Where we have seen violence to the extent that lives have been lost on the campuses, it is apparent that the university

the same voice that industries and other special interest groups alone now have.

Oregon seems destined to be the first state in which this effort will bear tangible fruit. However, Washington, Minnesota, Georgia, California, Colorado and Connecticut each have small groups working toward a similar goal. The realization is there that this scheme presents an eminently viable method which can be employed to achieve the kinds of long-range broad social reforms students see as so desperately needed. Combined with the advent of the 18-year-old vote, success seems inevitable.

has not fulfilled its obligation to provide a means for expression. Not only the university, but the community at large has an obligation to attempt to work with a generally discontent and demoralized student population to avoid future violence.

Certainly violence can not be totally avoided, but it can be minimized. Particularly at those universities which are fortunate enough to have law schools, the law student body must assume a leadership position and must become an integral part of the university community. It is fair to say that the average student is ignorant of his rights and responsibilities. Law students can provide definition, awareness, and organize those universities which are for in the internal affairs of the university. Perhaps, one might consider the law students' efforts as being the difference between minimal campus disruption and riot.

Punitive legislation prompted during emotional furors only served to shackle the educational establishment. The more realistic approach is through understanding, reason and guidance . . . and this is the place for the law student.

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