



UNC
SCHOOL OF LAW

NORTH CAROLINA LAW REVIEW

Volume 47 | Number 2

Article 4

2-1-1969

The Law School

Dickson Phillips

Follow this and additional works at: <http://scholarship.law.unc.edu/nclr>



Part of the [Law Commons](#)

Recommended Citation

Dickson Phillips, *The Law School*, 47 N.C. L. REV. 381 (1969).

Available at: <http://scholarship.law.unc.edu/nclr/vol47/iss2/4>

This Note is brought to you for free and open access by Carolina Law Scholarship Repository. It has been accepted for inclusion in North Carolina Law Review by an authorized editor of Carolina Law Scholarship Repository. For more information, please contact law_repository@unc.edu.

THE LAW SCHOOL

(From September, 1967 to December, 1968)

I. ENROLLMENT

Total opening enrollment in the fall of 1968 was 502. Entering class enrollment was 208. Both these figures represent some attrition from earlier expected figures due to the lifting of the draft exemption for law students during the past year. This is considered merely an exception to the clear, upward trend in applications and enrollments evident during recent years.

Composition of the student body in terms of residences and pre-law educational backgrounds continued essentially unchanged from the pattern of recent years. Thus, 81 per cent of this year's entering class are residents of North Carolina, as against 83 per cent in 1967, and 80 per cent in 1966. The remaining 19 per cent of this year's first year class come from a total of 16 other states. Approximately 42 per cent of the members of this class had all of their undergraduate work at the University of North Carolina at Chapel Hill. The remaining 58 per cent had some or all their undergraduate work at a total of 75 other colleges and universities. Ninety-four per cent of this class hold undergraduate degrees. All who do not are on the University's combined degree program and hence will have been awarded their undergraduate degrees before completing law school.

II. NEW LAW SCHOOL BUILDING

Van Hecke-Wettach Hall was occupied as the new law building on September 23, 1968. Because of last minute delays in construction, the move was completed only after holding a half-week's classes in old Manning Hall. Despite the inevitable confusion and inconvenience that this caused, the new building with its greatly increased space and better functional arrangement is proving to be the great facility that was our hope. Almost as welcome as the building are the wholly new furnishings and equipment, which have been almost completely installed. We welcome all alumni and others who may be in Chapel Hill to inspect this fine facility.

III. FACULTY

With the close of the 1967-1968 academic year, Professor John P. Dalzell completed his final year of teaching and retired under the manda-

tory retirement policies of the University. This marked the end of a teaching career at this school which, with the exception of a period during World War II, had run without interruption for thirty-one years, since 1937. It was marked by steadfast devotion to the job at hand and to the institution, by consummate kindness to and consideration of students and colleagues, and by rare dedication to the unspectacular job of intensive preparation day in and day out for painstaking, careful teaching. Professor Dalzell thus joins Professor McCall as helpful and gracious *emeriti* for whose continued presence with us at the Law School we are most grateful.

We report with regret the loss to our faculty during this period of Professor Ernest L. Folk III, who accepted an appointment at his alma mater, the University of Virginia Law School. Professor Folk served our school in superb fashion for the five years of his tenure in Chapel Hill. He is sorely missed. Professor John W. Scott was on leave of absence during the spring semester of 1967-1968 academic year as a Visiting Professor at the University of New Mexico Law School; and Professor Dan B. Dobbs is on leave of absence for the full 1968-1969 academic year as a Visiting Professor at the Cornell Law School. As Visiting Professors on our own staff this year, we are pleased to have Mr. John Evans, LL.B. 1966, Duke, a member of the Cleveland, Ohio bar; and Mr. Kenneth S. Broun, LL.B. 1963, Illinois, a member of the Chicago bar.

Two regular members of the faculty were added this year. Mr. W. Laurens Walker, A.B. 1959, Davidson, LL.B. 1963, Duke, joined us as Assistant Professor of Law after a period of private practice in Atlanta, Georgia and a year of graduate study working toward the S.J.D. degree at Harvard Law School. He is teaching a section of the first year course in Civil Procedure, and sections of the courses in Evidence and Income Taxation. Mr. Arnold A. Loewy, B.S. 1961, LL.B. 1963, Boston University, LL.M. 1964, Harvard, joined us as Associate Professor of Law, coming here from the University of Connecticut where he had taught for four years. He is teaching a section of the first year course in Criminal Law and Procedure, a section of the course in Constitutional Law, and a seminar in Constitutional Law.

During this period, two members of our faculty received well-deserved promotions in rank. Messrs. Robert G. Byrd and Walter D. Navin, Jr. were promoted from the rank of Associate Professor to Professor.

In addition to their normal teaching and law school committee responsibilities, the faculty engaged in a variety of professional and public ser-

vice activities, participated in general University affairs and contributed a number of publications to the legal literature. These are here summarized.

Kenan Professor William B. Aycock contributed to this *Review* an article, *Introduction to Water Use Law in North Carolina*, 46 N.C.L. REV. 1 (1967), and delivered a paper, "Historical Flow of Water Law in North Carolina," to the 17th annual Southern Water Resource and Pollution Conference. He also served as a member of the Board of Directors of the Orange County Savings and Loan Association.

Alumni Distinguished Professor Herbert R. Baer completed work on his Second Edition of *Admiralty Law of the Supreme Court*, which is scheduled for publication by Michie Publishing Company in early 1969.

Graham Kenan Professor Henry Brandis prepared and had published a 1968 supplement to *Stansbury's North Carolina Evidence*; served as Advisor to the Committee on Pattern Jury Instructions of the Conference of North Carolina Superior Court Judges; and served for the fourth consecutive year as Commentator on Problems of Evidence at the Annual Seminar of the Federal Trial Examiners, in Washington, D. C.

Professor Robert G. Byrd published, as a part of the Institute of Government Law and Government series, his 324 page monograph, *County Finance*.

Associate Professor Donald F. Clifford had published (as co-author with Professor Smith) a two-volume edition of *North Carolina Uniform Commercial Code Forms Annotated* (West, 1968); continued work on a manuscript for the Institute of Comparative Law in Milan, Italy, as a part of its comparative study of world corporation law; served as a member of the General Statutes Commission's drafting subcommittee on revision of the state's corporation law; and attended as representative of the law school the annual meeting of the Trust Division of the North Carolina Bankers Association, the Institute on Small Business Corporations held by the Greensboro Bar, a Conference on Professional Schools and World Affairs held in Charlotte, and the Southern Law Review Conference in Williamsburg, Virginia, where he participated as panelist.

Professor Dan B. Dobbs had published in this *Review* a note, *Medical Malpractice*, 45 N.C.L. REV. 799 (1967), and an article, *Trespass to Land in North Carolina—Part I: The Substantive Law*, 47 N.C.L. REV. 31 (1968). He also published an article, *Law and the Sickroom*, as part of a symposium on Law and Science in the *Saturday Review*, August 3, 1968, and delivered a paper, *Legal Problems of Organ Transplantation*, to the Hollywood, California, Academy of Medicine.

Graham Kenan Professor Frank W. Hanft had published in this *Review* an article, *The North Carolina General Statutes Commission*, 46 N.C.L. REV. 469 (1968), and continued his service as a member of the General Statutes Commission.

Assistant Professor Michael P. Katz completed and submitted for early publication three articles: *The Supreme Court in a Post-Utopian Era*; *Mr. Justice Fortas and Civil Disobedience*; and *The First Amendment and the Treason Clause—A Rational Principle to Mark the Limits of Constitutional Protection*. He delivered a paper, *Crime and Society—A Functional Perspective*, at the Mars Hill Symposium; and served as a member of the North Carolina Population Planning Council (from October 1968).

Assistant Professor Martin B. Louis continued to serve as a member of the Civil Procedure drafting subcommittee working under the General Statutes Commission.

Assistant Professor and Assistant Dean Robert A. Melott is acting as consulting editor to West Publishing Company in the preparation of a multi-volume work on North Carolina Practice Methods, and served as consultant to the Florida Board of Law Examiners.

Professor Walter D. Navin, Jr. taught as Visiting Professor at the 1968 summer session of the University of Texas Law School.

Associate Professor and Law Librarian Mary W. Oliver served as consultant to Drake University Law School; as Chairman of the Bar Notes Committee of the North Carolina Bar Association (to July 1, 1968); as Chairman of the Certification Board of the American Association of Law Libraries; as representative of the latter Association to the Council of National Library Association; as member of the Libraries Committee of the Association of American Law Schools; and as member of a visiting accreditation team of the Association of American Law Schools. She prepared for publication in the *Law Library Journal* a memorial to the late Miles D. Price.

Associate Professor Kenneth L. Penegar had published in this *Review* an article, *Appraising the System of Criminal Justice, Its Processes and Administration*, 47 N.C.L. REV. 69 (1968), and presented a paper, *Judicial Changes in Welfare Regulations and Policy*, to the annual Welfare Institute of the N.C. Department of Public Welfare. During the whole of the 1967-1968 academic year, Professor Penegar served as Consultant on Legal Education to the Ford Foundation in India and as Visiting Professor of Law at Delhi University.

Professor Melvin C. Poland taught the course in Trusts as Visiting

Professor at North Carolina College Law School during the spring semester of 1968.

Professor Daniel H. Pollitt had published in this *Review* an article, *Free Speech for Mustangs and Mavericks*, 46 N.C.L. REV. 39 (1967) (also reprinted in *N.Y. Law Times*); and in the *Wayne Law Journal* an article, §8(a)(3) of the Labor Act, *Problems and Legislative Proposals*, 14 WAYNE L.J. 1104 (1968). He served as Special Counsel to the Special subcommittee on labor of the U.S. House of Representatives; as consultant to the Kerner Commission; as a member of the Southern Regional Council; as a member of the Board of Directors of the North Carolina Civil Liberties Union; and as President of the University of North Carolina at Chapel Hill Chapter of the Association of American University Professors. He presented papers or acted as panelist at the 20th annual conference of the National Civil Liberties Clearing House in Washington, D. C.; at the annual spring meeting of the Wake Forest University AAUP Chapter; at the Duke Law School Law Day exercises; at a meeting of the Guilford College AAUP Chapter; and at the North Carolina College YMCA program on Riots and the Law.

Assistant Professor Richard H. Robinson presented a paper, *North Carolina Products Liability Law*, to the N.C. Bar Association's Institute on Recent Developments in Tort Law in November 1967; he served as consultant to the General Counsel of the National Labor Relations Board in the Regional Advice Branch during the summer of 1968.

Assistant Professor Thomas E. Schoenbaum had published an article, *Harmonization of Law Concerning Pharmaceuticals in the E.E.C.*, 15 AM. J. COMP. L. 525 (1967).

Professor John W. Scott prepared an unpublished manuscript for and delivered a series of eight lectures on Estate Planning to the New Mexico Bar Association; delivered speeches on *Recent Developments in Estate Planning* to the New Mexico Estate Planning Council, on the *Relations of State Law to Federal Taxation* to the Alumni Association of University of New Mexico Law School, and on *Current Problems in Estate Planning* to the South Carolina Banker's Association. He served as a member of the N.C. Bar Association's Committee on Taxation, and as draftsman of that committee's proposed legislation to the 1969 General Assembly.

Associate Professor Richard M. Smith had published (as co-author with Professor Clifford) a two-volume work, *North Carolina Uniform Commercial Code Forms Annotated* (West, 1968); and served as a

member of the General Statutes Commission's special drafting committee on Lien Laws.

Professor Frank R. Strong had published in this Review an article, *The Persistent Doctrine of Constitutional Fact*, 46 N.C.L. REV. 223 (1968); acted as panelist at a Southeastern Regional Meeting on the Professional School and World Affairs, sponsored by Education and World Affairs in Charlotte, N.C.; served as member of the Advisory Committee, as Interim Chairman, and as Consultant to the Orientation Program in American Law, a project of the Association of American Law Schools; has been appointed Director of a Law Teaching Clinic of the Association of American Law Schools for which he wrote the prospectus and prepared an application for federal funding; and acted as consultant to the University of Akron College of Law in connection with that institutions preparation for application for admission to the Association of American Law Schools.

Assistant Professor W. Laurens Walker had published in this Review an article, *Foreign Corporation Laws: The Loss of Reason*, 47 N.C.L. REV. 1 (1968).

Assistant Professor Dale Whitman had published in this Review an article, *Conflict of Spousal Immunity Laws: The Legislature Takes a Hand*, 46 N.C.L. REV. 506 (1968); and taught as Visiting Professor in the North Carolina College Law School during the spring semester of 1968.

Professor Seymour W. Wurfel acted as Chairman of the Law School Division at the Southeastern Regional Conference on the Professional Schools and World Affairs; delivered addresses on "Legal Problems of International Business Transactions" at the Judge Advocate General's School, Charlottesville, Virginia, and on "War Crimes" to the North Carolina College International Law Society; and was a participant in a course in Soviet Law at the College of the City of London in the summer of 1968, and in the annual meeting of the American Society of International Law in Washington, D.C., in April, 1968.

The writer of this report continued to serve as a member of the North Carolina Courts Commission; and as Chairman of the planning committee and lecturer at the N. C. Bar Association Institute on the New Rules of Civil Procedure.

In addition to the attendance at professional meetings mentioned in this summary of individual activities, the faculty was represented at the annual meeting of the Association of American Law Schools in Detroit, the annual meeting of the N.C. Bar Association in Myrtle Beach, S.C.

and the Judicial Conference of the Court of Appeals for the Fourth Circuit in White Sulphur Springs.

IV. THE LAW LIBRARY

During the year ending June 30, 1968, the Law Library added a total of 4,142 volumes to its collection, and 9,017 microform were added. Included in the added volumes were gifts from the following donors: Beta Theta Pi fraternity in memory of Cyrus Clifford Frazier (Class of 1918) and Clem Bolting Holding (Class of 1918); A. W. Sapp of Greensboro; Robert H. Schnell of New York; Wallace Murchison of Wilmington; Sidney S. Robins of Conway, New Hampshire; Kingsland Van Winkle of Asheville; Seymour Wurfel of Chapel Hill; Herbert R. Baer of Chapel Hill; and Henry Brandis, Jr. of Chapel Hill. We are pleased to express our gratitude for these gifts.

Our total collection is now officially reported to contain 123,593 volumes, 56,124 microcards and 213 reels of Microfilm.

V. CURRICULUM

Several changes in curriculum offerings and the sequence of course presentation were made effective with the 1968-1969 year. Those reflecting fundamental reassessments are here summarized.

In recent years we have sought ways to open up the curriculum to more practical elective opportunities in second and third year courses. One device to accomplish this is the compression of traditional blocks of related courses into single packages to which are devoted less total hours than the former aggregate. The Wills-Trust-Future Interest block has been under study for some time as a possible area for compression. As separate courses, they have involved a total of nine credit hours. By a realignment which still preserves some flexibility in election, but which does compress the total hours devoted to these subjects, we now offer two alternative packages. One, a one semester three hour course in Decedents' Estates and Trusts, which covers generally the field formerly covered by the separate three hour courses in Wills and Administration and Trusts. The other, a two semester six hour course, Property III and IV, which covers generally the field covered by the separate three hour courses above mentioned plus Future Interests. Students can thus opt for one or the other depending upon their desire for more or less treatment in depth of the Future Interests aspects of the general area.

In what is hoped to be a good solution to the continuing problem of the right repository for the traditional Agency materials since the aban-

donment of Agency—Partnership as a separate course in 1966-1967, another fundamental change—hopefully justifying permanence—was made. The vicarious liability aspects of traditional Agency materials are assigned to the basic tort course; the traditional principal-agent-partnership materials to the basic four-hour Corporations course. The Corporations course is relieved of responsibility for traditional Corporation Finance materials and these are offered in a separate two-hour Corporation Finance course.

Several new courses have been added: Creditors Rights (actually re-introduced into the regular curriculum); Law and Poverty; and Trade Regulations (re-introduced after a lapse of several years). One other new course deserves special mention, since it might also be seen as embodying the compression principle above mentioned. For years our approach to offering materials in legal remedies has been through separate courses in Equitable Remedies and (intermittently) Damages. We now have introduced a single three-hour course in Remedies. While this does involve compression, more is involved—the belief that the best manner of presentation of the Equity-Damages materials is in a comprehensive “remedies” context.

Finally it should be noted that in line with a general desire to reduce faculty-student class ratio where manpower permits, we have added additional sections in Criminal Law and Procedure (to four); Constitutional Law (to three); Evidence (to three); and Sales (to two).

VI. SUMMER SESSION

During the summer session of 1968 we had four visiting professors joining with our eight resident faculty members to offer the twelve courses making up our two-term summer school curriculum. They were: Professor Wylie Davis of the University of Illinois, Professor Richard Strecker of Vanderbilt University, Professor Leon Lebowitz of the University of Texas, and Professor John J. Cound of the University of Minnesota. They taught, respectively, the courses in Constitutional Law I, Taxation I, Corporations, and Conflict of Laws.

VII. ACADEMIC ACHIEVEMENT

The mast head of this issue lists those students who are members of our editorial board and staff of the *Law Review*.

Thirteen students, on the basis of standing in the top ten per cent of the class of 1968, were elected by the faculty to the Order of the Coif, a national honorary law society. These students were, in the order of their fi-

nal standings: Clayland Boyden Gray, Reed Johnston, Jr., Susan Haughton Ehringhaus, John Graves Aldridge, David Bryan Sentelle, William Hugh Thompson, Albert Victor Wray, Ronald Forrest Hunt, Eddie Crawford Mitchell, John McLain Massey, James Nathan Duggins, Jr., Harrell Hugh Stevens and Henry Christian McFadyen. Of this group Gray, Johnston, Ehringhaus, Aldridge and Sentelle were also winners of the Chief Justice Walter Clark Awards, made annually to the five students who, on the basis of their cumulative records after five semesters, have the highest scholastic averages in their class.

The degree of J.D. with High Honors was awarded to Clayland Boyden Gray and Reed Johnston, Jr.

The degree of J.D. with Honors was awarded to John Graves Aldridge, James Nathan Duggins, Jr., Susan Haughton Ehringhaus, John McLain Massey, Henry Christian McFadyen, Eugene Woods Purdom, Hugh Barnes Rogers, David Bryan Sentelle, Harrell Hugh Stevens, Jr., William Hugh Thompson and Albert Victor Wray.

William Hugh Thompson 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 school 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 \$300 annual cash award, was established by Mr. Norman Block of the Greensboro Bar in memory of his father.

The Lawyers Title Award, a \$100 prize given 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, Real Property, Titles, and Future Interests, was won by David Bryan Sentelle.

VIII. THE STUDENT BAR ASSOCIATION AND STUDENT ACTIVITIES

The officers of the Student Bar Association for the academic year 1968-1969 are: Edward Greene, President; Thomas C. Duncan, Vice President; Margaret Wise, Secretary; Franklin Freeman, Treasurer. Harold Bender is Chief Justice of the Honor Court, and Samuel Southern is Chief Justice of the Holderness Moot Court Bench.

The Association continued its orientation program for entering law students under the chairmanship of Thomas Duncan; is cooperating with the administration in placement activities through a committee chaired by Burley Mitchell, Jr.; continues its speakers program under the chair-

manship of Donald Carson; and conducts a program of social events for students and faculty under the chairmanship of David Meschan.

In an attempt to draw responsible student participation into appropriate areas of administration of the law school, the dean with approval of the faculty has this year appointed student members to the following law school committees: Curriculum; Library; Building Use; and Grading and Examinations. These students, all seniors, are selected by the dean from nominations submitted to him by a committee of student organization heads. Additionally, a new joint faculty-student committee has been constituted to give attention to overall operational and structural problems in the administration of the school. This committee reports directly to the dean with recommendations, which it is hoped will fairly reflect general consensus of faculty and students in areas of major concern to the school. The experience to date with this increased degree of participation by students in the ongoing life of the school has been most encouraging.

Another important development requiring greater student responsibility for a critical program of the law school involves the *Law Review*. As of July 1, 1968, the entire business operation of the *Review*, a matter formerly entrusted to the University Press, has been assumed by the student editorial board of the *Review*. Under the very able leadership of the two successive boards of editors involved in the transition, the changeover has been accomplished in good order, and with gratifying prospects for much more efficient operation. Particular tribute should be paid to the two editors-in-chief, C. Boyden Gray and Neill G. McBryde, and to the two Business Managers, James N. Duggins, Jr. and Harold Bynum, who have been primarily responsible for carrying through the important and difficult adjustment.

IX. ALUMNI ACTIVITIES

The steady annual increase in the level of alumni financial support, which has been characteristic since its formal inception, continues. For this, we at the law school are profoundly grateful. As of this writing (December 6, 1968) some 1135 alumni and friends have contributed a total of \$18,755 in annual dues, as against 1120 contributors contributing a total of \$17,685 for all of last year; and 352 contributors have increased the Foundation Principal Fund by \$15,766, as against comparable figures of 390 contributors and \$8,364 in contributions for all of last year. The general capital fund of the Foundation (exclusive of the more than \$200,000 in special funds such as the Graham Kenan and Holderness Funds) now exceeds \$82,000.

The bulk of the annual financial support provided by the generosity of alumni and friends continues to go to scholarships. The amount budgeted this past year for this purpose was \$16,000. In addition smaller sums are used to help finance the *Tar Heel Barrister* and the senior placement brochure, and to supplement the modest state appropriation of funds for faculty and staff official travel and other incidental expenses.

Between the annual meetings of 1967 and 1968, the officers of the Law Alumni Association and of the Foundation Council were as follows—*The Association*: Richmond G. Bernhardt, Jr., *President*; Robin L. Hinson, *First Vice President*; Franklin T. Dupree, Jr., *Second Vice President*; Henry Brandis, *Secretary-Treasurer*; Robert G. Byrd, *Assistant Secretary-Treasurer*—*The Foundation Council*: Paul A. Johnston, *Chairman*; Robert H. Schnell, *Vice Chairman*; John T. Manning, *Secretary*; Henry Brandis, Jr., *Treasurer and Assistant Secretary*; Robert G. Byrd, *Assistant Treasurer*.

X. INSTITUTES 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 on the various institutes conducted during the year has been reported in the section of Faculty Activities.

XI. BAR EXAMINATION RESULTS

In August of 1968, out of 118 of our 1968 graduating class taking the North Carolina Bar Examination, 116, or 99.4 per cent passed. This was considerably better than the overall passing rate, and we are of course gratified with the overall success of our graduates. An unofficial report of the results of the Georgia Bar Examination indicated that the three of our 1968 graduates taking that examination passed.

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 on the more 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 overconcentration on the particular jurisprudence and legal institutions of

the supporting State as distinguished from Anglo-American systems in general. 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 (including that of the supporting State) 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.

Given the fact that this School presently produces, and for the foreseeable future will continue to produce, a majority of persons annually entering the profession of law in the State of North Carolina, the scope of its role, and the importance to the State of the success with which the School is able to fulfill the role is obvious. On its success depends to a large extent the caliber of the bar and bench of the state, and hence of the administration of justice, the reform of legal institutions, and the shaping of policy at all levels of government. We hope most devoutly that it will be equal to the task and dedicate ourselves to that end.

DICKSON PHILLIPS, Dean