Chapter 25
J. Clay Smith, Jr.

"...formulating a vision of a more global awareness from the theoretical steps of the Houstonian School of Jurisprudence which he created and moving to the matrix of ideas"

J. Clay Smith, Jr. ¹

Cynthia R. Mabry²

I. Life before Deanship:

On April 15, 1942, John Clay Smith, Jr., was born to Emily Smith Martin and John Clay Smith, Sr. They also had two daughters-Lynette Smith Bourne and Mary Alice Smith Cowart. Smith grew up in Omaha, Nebraska. A highlight for him as a young man was that when he was eighteen years old, he became the first African American youth to represent the Governor of Nebraska at the 1960 White House Conference on Children & Youth.

Highly educated, Smith received a Bachelor of Arts degree (1964) from Creighton University and a Juris Doctor degree (1967) from Howard University School of Law. In addition, he received a Masters of Law (LL.M.) degree (1970) and a Doctor of Juridical Science (S.J.D.) degree (1977) from the George Washington University National Law Center.

As a member of the District of Columbia and Nebraska bars, Smith had an exemplary legal career from 1967 until 1982 that included presidential appointments. Also, he was the first African American to hold a few positions. He was a Captain in the Judge Advocate Generals Corp. of the United States Army. Then he became an associate with Arent, Fox, Kitner, Plotkin & Kahn where he did antitrust work. He was the first African American appointed to a staff policy position at the Federal Communications Commission (FCC). First, he was the FCC’s Deputy Chief of the Cable Television Bureau. Three years later, he was appointed Associate General Counsel of the FCC. Next, President Carter appointed Smith as United States Commissioner of the Equal Employment Opportunity Commission and President Reagan appointed him as the Acting Chairperson of the same Commission. In his last presidential appointment, he was a member of the Clinton-Gore Presidential Transition Team.

¹ This chapter was written in collaboration with Professor J. Clay Smith, Jr. whom I interviewed at his home on August 11, 2005. This is his thought. Additional information was taken from annual reports that Dean Smith prepared to President Cheek. See Annual Report: 1986-1987 of the School of Law J. Clay Smith, Jr., Dean, to the President of Howard University (July 1, 1987) and Annual Report: 1987-1988 of the School of Law J. Clay Smith, Jr., Dean, to the President of Howard University (July 29, 1988).

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A steadfast advocate for bar associations, Smith was elected President of the Washington Bar Association and the first African American elected as National President of the Federal Bar Association. In appreciation for his work, Smith received many awards including outstanding alumni awards from Howard University, Creighton University and George Washington University, the C. Francis Stradford Award from the National Bar Association, and the Ollie Mae Cooper Award from the Washington Bar Association.

Smith became a full-time law professor in 1982. He taught Administrative Law, Constitutional Law, Communications Law and Election Law. Between 1973 and 1996, he remained connected to the legal and non-legal communities by filing twelve amici briefs with the United States Supreme Court. His clients included the National Bar Association, the Congressional Black Caucus, and the National Association for Equal Opportunity in Higher Education. He has mentored thousands of students and HUSL graduates. Often, he invited HUSL students and new lawyers to assist him in writing those briefs.

Smith's family has been a very important part of his life. He was married to Patti Jones Grace Smith in June 1983. He reared four children: Stager Clay Smith, Michael Smith, Michelle Smith and Eugene Grace Smith.

II. Deanship:

On May 14, 1986, Professor John Clay Smith, Jr. became the twenty-fifth dean of the HUSL. During Smith's deanship, there were many highlights for all law school constituents. At a faculty retreat that was held on June 12 and 13, less than four weeks after he became dean, Smith heard about key issues that affected the law school. During his two-year deanship, faculty, staff, students and alumni benefited from Smith’s vision and innovations.

For faculty members, Smith replaced typewriters with several computers that had word processing capability to enhance the faculty’s ability to publish. Smith ensured that funds for research assistants, supplemental travel and registration fees were allocated so that faculty could participate in external and internal academic conferences and seminars. Library hours were extended for faculty as well as student use. As a consequence, faculty publications increased in the following year. Furthermore, faculty members received two salary raises. To increase teaching effectiveness, a course and faculty evaluation questionnaire was drafted and implemented. For the first time, the entire HUSL faculty was registered as a group with the American Bar Association (ABA). The curriculum was reviewed for improvement and Smith realized that the faculty should be enlarged. After four senior professors-Morse, Pacht, Ferman, and Cobb-retired, one visiting professor and two new professors were appointed.

Smith advocated for a substantial increase in financial aid and academic support for students. Consequently, several students received merit scholarships of $5000, 6500, 7500, or 10,000 during his deanship. Initially, President Cheek, the President of Howard
University, awarded Smith $500,000 for merit scholarships and promised a total of $1.5 million for scholarships. Additional support came from outside sources such as Judith D. and D.F. Antonelli, Jr. who funded an endowed scholarship award of $100,000 for "worthy students . . . who demonstrate the need for funds to continue or complete their legal studies." The Civil Litigation Clinic received a grant so that more students could receive practical experience; the Labor law Clinic obtained its first budget; and the Criminal Justice Clinic received a $25,000 grant. The JD/MBA program was reinvigorated with a written agreement between Smith as the dean of HUSL and the Dean of the School of Business. A new bulletin, JD/MBA Bulletin, was produced and distributed. For the first time, moot court teams received a budget to enable them to receive oral advocacy training and to compete successfully in law school competitions. Students won competitions during Smith's deanship. The Covington and Burling Foundation contributed $12,000 for law journal scholarships that were administered to law journal members who worked full-time (twelve months) on law journal projects.

Smith often used his dean’s discretionary fund to fortify services for HUSL students. The student handbook was revised substantially. The Board of Trustees approved it in March 1988. Because he believed that it was important for the students to have a voice, Smith also used the dean’s discretionary fund to resume publication of the Barrister-the student newspaper.

Recognizing that some enrolled students and some applicants needed remedial support for successful matriculation and law practice, Smith and the faculty designed the Early Enrollment Program. This was a six-week pre-enrollment program designed to assist students "who needed a grounding in reasoning and logic . . . before the commencement of classes . . . and [ ] to provide an opportunity for a select group of students who might otherwise be denied admission to be given a chance to prove that they are admission-worthy." Ten students successfully completed the first pre-enrollment program. A separate agenda was organized and implemented for incoming admitted students. A concentrated ten-day Legal Methods course was created to teach them case briefing, synthesizing, note-taking and study skills before their classes began. For graduating students, to enhance bar passage, bar examiners were invited to the law school to speak with faculty as well as students.

Placement services for students were improved. The first recruitment bulletin was completed. Also, the placement office director received a budget for travel, computer equipment and publishing an alumni magazine.

Furthermore, Smith believed that the academic curriculum at HUSL should be enriched. More courses were offered. Smith hired more professors to teach at HUSL so that students could develop a broader vision of HUSL’s mission that would include the

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3 Annual Report: 1987-1988 of the School of Law J. Clay Smith, Jr., Dean, to the President of Howard University (July 29, 1988) at 244.
4 Annual Report: 1986-1987 of the School of Law J. Clay Smith, Jr., Dean, to the President of Howard University (July 1, 1987) at 59.
changing community of persons whom HUSL lawyers would represent such as corporate clients.

Sections of the law school facility were renovated for the students’ and faculty’s comfort. Three new air-conditioned classrooms were completed in 1987. The amphitheater-styled classrooms seated 75, 87, and 97 students respectively. Additionally, installation of elevators was completed in March 1987. Air conditioning, new lighting and carpeting were installed in the faculty meeting room. New furnishings were purchased for several offices. Staff members were hired to relieve the burden on the existing staff. Computer equipment and book and serial acquisitions were purchased for the library. A proposal to build a new law school facility on main campus was vetted thoroughly and approved. There was a concern that the law school should be closer to the main campus for involvement with the business professionals and professionals from other disciplines.

Special programs, which HUSL sponsored during this period, included celebration of the two hundredth anniversary of the United States Constitution in collaboration with the District of Columbia Bar Association. This celebration included prominent professors such as Harvard University’s Derrick Bell and judges such as Judge Aubrey Robinson who were panelists. Ossie Davis, the distinguished actor, presented a lecture on “Blacks and the Constitution” in April 13, 1987. In October 1986, the United States Congress designated HUSL as one of four national law schools to receive $800,000 for a Constitutional Law Chair. Afterward, Shell Oil Foundation donated an additional $10,000 for a research assistant’s graduate scholarship to support the Chair. In April 1986, Judge Earl C. Broady and his wife Anna Broady awarded the first endowed chair. Judge Broady made the $1 million award in recognition of his mentor-Charles Cavielle Taylor, a 1926 graduate of HUSL, who coached Broady while he worked in his office.

Students and faculty members worked together to plan academic programs that Smith supported. The Kenya Exchange Project was an exchange program that allowed Kenyan attorneys to visit Howard and exchange ideas about lawyering in Kenya, East Africa with students and faculty while HUSL students visited Kenya for one month to learn about practicing law in Kenya. The American Patent Lawyers Association and the law school sponsored a seminar on Intellectual Property Law. Professor Goler Butcher led a conference on the Legal Aspects of the Hunger Problem.

In 1986, Smith wrote a grant proposal that produced the first annual lecture at HUSL-the Clarence Clyde Ferguson Lecture series. The lecture was named for former dean Clarence Clyde Ferguson, Jr. to support scholarly lectures by visiting lecturers who would share their views with students and faculty. Through alumnus Sanford Cloud, Jr., the lecture was endowed with a monetary gift from Aetna Life and Casualty Corp.

Additionally, Smith focused on renewing a relationship with and engaging HUSL alumni. Alumni were favored with the Jurist-HUSL’s first alumni magazine. Smith designed the magazine to notify alumni about news and events at HUSL as well as to
highlight faculty and alumni accomplishments and student achievement. The first volume was published in December 1986. Alumni responded to Smith’s call for their financial support. In response to the first fundraising telethon, fifty-three percent of alumni pledged contributions. Class graduation photographs were duplicated, reframed and preserved. Three hundred lost alumni were identified through a survey and the first alumni directory was published. Alumni were invited to recruit new students and to make presentations to students. In turn, alumni established a mentor program to match students with lawyers who shared the same interests.

As a result of Smith’s hard work, with the faculty’s and staff’s assistance, public and alumni confidence in HUSL was restored after several months of negative press and student unrest concerning a comprehensive examination requirement. Several years before Smith became dean, the faculty had adopted a policy that students must pass a comprehensive examination before they graduated from HUSL. The purpose of the examination was to identify a student’s deficiencies in analysis and reasoning for correction before graduation so that deficiencies could be rectified before graduation and before the bar examination. Moreover, this enhancement would enable graduates to become better lawyers. When the examination was first administered to graduating students in October 1986 and February 1987, thirteen students either refused to take or failed the examination. Former dean John Thomas Baker, who proceeded Smith, and the faculty decided that those students were not qualified for graduation. When the students appealed to President Cheek, President Cheek declared that nine of the thirteen students were qualified for graduation.

One student filed a complaint with the ABA alleging that the law school had violated ABA standards because the examination was the equivalent of a bar review course. After an extensive investigation, the ABA dismissed the complaint and upheld the examination as “educationally sound.” When Baker started a public debate about academic standards at the law school, the public received the impression that HUSL was graduating students who were not qualified to practice law and that its accreditation was in jeopardy. On the contrary, these students had fulfilled all fundamental requirements.

To allay concerns about the law schools’ accreditation status, Smith wrote letters and editorials that were published in local and national newspapers and magazines to provide an accurate account of events surrounding the comprehensive examination and to highlight positive undertakings at the law school. As a result, enrollment that had dropped to 73 in the fall of 1986, had doubled to approximately 125 by 1988. More importantly, after many long hours and long nights of work by Smith and his staff, the American Bar Association and the Association of American Law Schools conducted its site inspection in January 1987. In its August 1987 report, the site team concluded that HUSL would continue to maintain its accreditation status.

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III. Life after Deanship:

Smith resigned as dean in 1988. At that time, he believed that he had completed several of the goals he had set for his deanship. More specifically, he knew that he had helped to restore the public's confidence in HUSL. He also knew that as a result of his efforts, it was easier for faculty members to express their ideas in a written form that would be memorialized in law review articles and books.

After he stepped down, Smith continued to teach at HUSL. He also continued his prolific writing schedule. He published many articles on a variety of issues and three acclaimed books that chronicled the history and successes of African American lawyers. In 1993, Smith published Emancipation: The Making of the Black Lawyer 1844-1944 with a foreword by Justice Thurgood Marshall. Emancipation won the Political Science Book Award. Rebels in Law: Voices in History of Black Women Lawyers was published in 1998; and in 2003, Supreme Justice: The Writings and Speeches of Thurgood Marshall was published. In 2000, Smith initiated the Footsteps of Giants - a web series of essays that included several historical perspectives of HUSL alumni including Charlotte Ray-the first African American woman lawyer. Smith also continued to lecture at several educational venues including Harvard Law School and Paine College in Augusta, Georgia. He resigned as a law professor in December 2004.

As much as Smith liked to write, he liked to photograph events at HUSL. His favorite medium was black and white film. He also collects original art from Haitian and African American artists. His favorite artist is Samuel Brown-a noted African American artist who died in 2000.