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A CENTURY OF LEGAL EDUCATION

ALBERT COATES*

I

BEGINNINGS OF THE LEGAL PROFESSION IN NORTH CAROLINA

In the year 1663 Charles II granted the territory within the present limits of North Carolina to “. . . our right trusty, and right well beloved cousins and counsellors, Edward Earl of Clarendon, our high chancellor of England, and George Duke of Albemarle, master of our horse and captain general of all our forces, our right trusty and well beloved William Lord Craven, John Lord Berkley, our right trusty and well beloved counsellor, Anthony Lord Ashley, chancellor of our exchequer, Sir George Carteret, knight and baronet, vice chamberlain of our household, and our trusty and well beloved Sir William Berkley, knight, and Sir John Colleton, knight and baronet”—known to North Carolinians as the Lords Proprietors. These men, continues the charter from the Crown, “. . . being excited with a laudable and pious zeal for the propagation of the Christian faith, and the enlargement of our empire and dominions, have humbly besought leave of us, by their industry and charge, to transport and make an ample colony of our subjects, natives of our kingdom of England, and elsewhere within our dominions, unto a certain country hereafter described, in the parts of America not yet cultivated or planted, and only inhabited by some barbarous people who have no knowledge of Almighty God.” They were authorized to make laws, by and with the assent of the freemen of the province, “. . . consonant to reason, and as near as may be conveniently, agreeable to the laws and customs of this our kingdom of England.”¹

This shaping of old world laws to new world conditions called for lawyers and provided the foundations of a legal profession. But no such necessity was apparent to the brilliant twenty-nine-year-old philosopher, John Locke, who was called on by the Lords Proprietors in 1669 to write the “Fundamental Constitutions of Carolina.” In these Constitutions he provided that “. . . all manner of comments and expositions . . . on any part of the common or statute laws of Carolina are absolutely prohibited,” on the ground that “. . . multiplicity of comments, as well as of laws, have great inconveniences, and serve only to

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¹ *Colonial Records of North Carolina*, I, 20-21, 24.

obscure and perplex. . . ." He went further and provided: "It shall be a base and vile thing, to plead for money or reward." To these stigmatizing epithets he added the clinching proviso: ". . . nor shall anyone (except he be a near kinsman, nor farther off than cousin german to the party concerned) be permitted to plead another man's cause till before the judge in open court, he hath taken an oath that he doth not plead for money or reward, nor hath, nor will receive, nor directly, nor indirectly, bargained with the party whose cause he is going to plead, for money, or any other reward for pleading his cause."² The practice of law was thus put on a strictly idealistic basis. Lawyers were to live on the love of their profession and not on its monetary recompense.

The first notice of a lawyer in the colony taking part in a legal proceeding appeared twenty-four years later in the following entry: "At a Court Holden at The House of Diana F. Fosters—The First Munday in February Anno. Do. 1693-94. A Judgment confessed by Major Lillington and Mrs. Susanna Hartley as Attorneys to Capt. George Clark for £35, s. 19 with cost alias Execution; Ordered that Major Alexander Lillington and Mrs. Susanna Hartley in their capacities aforesaid do pay unto Colls. Wm. Wilkerson sum of £35, s. 19 cost aforesaid." Later records show that Major Lillington was a licensed lawyer.

Ernest H. Alderman, writing in the Sprunt Historical Publications, lists the following members of the Colonial bar in North Carolina in order of their appearance in the records: "Maj. Alexander Lillington, Capt. Henderson Walker, William Glover, Francis Tomes, John Hawkins, Edward Mayo, Richard Plater, Stephen Manwaring, Andrew Ros, Hanabell Haskins, John Porter, Francis Hendrick, John Durant, Barbary Middleton, William Duckenfield, John North Cote, Dan Akehurst, Thomas Pollock, George Durant, Callom Flynn, Jacob Peterson, Gabriel Newby, Caleb Calloway, James Long, Richard Plato, Christopher Butler, James Thigpen, Robert Fendell, Archbill Homes, John Falconer, Thomas Norcum, John Stepney, John Anderson, Thomas Snoden, Richard Burthenshall, Capt. Cole, John Heckelfield, William Wilkeson, Thomas Boyd, Sam Swann, Peter Godfrey, Hugh Campbell, James Locke, Nath Chevin, Thomas Norkam, John Winbury, Dennis Macclendon, John Foster, Isaac Wilson, Wm. White, Arnold White, John

² *State Records of North Carolina*, XV, 131-32. Brogden, J., in *Gilliam v. Saunders*, 204 N. C. 206, 208-209, 167 S. E. 799, 800 (1933), "In 1799, the General Assembly of North Carolina created an appellate court, consisting of the Superior Court judges, who, of course, heard and adjudicated appeals from their own judgments. This statute was continued in force by Chapter 12 of the Law of 1801, which expressly provided, among other things, that 'no attorney should be allowed to speak or admitted as counsel in the aforesaid court.' Doubtless it was supposed that, if attorneys were permitted to appear in the Appellate Court, by alertness of mind or smoothness of tongue, they would either lure the judgment of that high tribunal or perhaps corrupt the morals of the distinguished jurists."

Clarke, Ed. Berry, Richard Henderson, John Pettiver, Edward Moseley, Ed. Bonwicke, Lewis Cannon Marcht, John Lorricke, John Palin, Dan Guthrie, Dan Richardson, Joell Martin, Augustine Scarborough, Thomas Bray, Thomas Henneman, Will Little, Thomas Swann, Thomas Jones, John Baptists Ashe, John Culpepper, McGuire, David Osheat (Osheat), James Everard, Henry Pendleton, William Hooper, John Penn, Abner Nash, Marmaduke Jones, William Charlton, Stephen Dewey, Mr. Hodgson, Richard Neale, Edmund Fanning, John Williams, Mr. Lucas."

The 1669 prohibition of practicing law for "money or reward" was ignored, perhaps on the theory that it was "incompatible with our way of living and trade"; for the laws of 1715 provided a schedule of attorneys' fees and this schedule was expanded and clarified in the following "Act to Ascertain Attornies' Fees," passed in 1770:

"I. Whereas it is necessary to ascertain what Fees Attornies may lawfully take and receive for their trouble in conducting Causes in the respective Courts in this Province:

"II. Be it therefore enacted by the Governor, Council, and Assembly, and by the Authority of the same, That it shall and may be lawful for each and every Attorney at Law to take and receive from their respective Clients the following Fees, to-wit:

"And every Lawyer exacting, taking or demanding any greater Fee, or other Reward, for any of the above Services shall forfeit and pay Fifty Pounds for every offence; one Half to our Sovereign Lord the King towards defraying the Contingent charges of Government, and the other Half to the person who shall sue for the same; to be recovered by an Action of Debt, in any Court of Record in the Province having cognizance thereof."

License to practice law in Colonial North Carolina was granted and might be withdrawn by the governor. His power gave him a whip hand which he was not always slow to use. In 1748 Henry McCulloh filed the following remonstrances with the English authorities:

"To the Board of Trade:

"When your memorialist sent a letter of attorney to two lawyers to act for him, the answer was, that they, or any other lawyer in that province durst not attempt to act in any matter against the said Governor (Johnston) for as they had the liberty of pleading by license from him only, he in that case would withdraw the said license and so prevent them from pleading.

"The attorneys and lawyers of the courts are under such dread of having their licenses recalled, and consequently deprived of getting their Livelihood that they are unwilling to give their evidence in any matter,

which hath prevented proof being made of what was charged in the relation to the Governor's arbitrary manner of proceeding in Injunctions."

Governor Johnston made a reply to the charges of the memorialist, whereupon McCulloh defended his position in another memorial, saying: "What your memorialist charged in relation to injunctions hath to his knowledge been frequently complained of by all the lawyers in the said colony, and if the Governor had been innocent in that respect, he could have easily procured one or two of the most eminent of the lawyers there to certify to the falsity of the said charge, but that would not answer his purpose, wherefore he hath enjoined silence under the penalty of withdrawing their licenses to plead."

These memorials had no immediate effect, for Johnston kept his office until his death in 1752. They give grounds to believe, nevertheless, that Governor Dobbs—when he himself was accused of intimidating lawyers—was right in saying, "That he was not as arbitrary in his official conduct as Governor Johnston, in that he never disbarred attorneys whom he disliked, at his own sweet will, as Governor Johnston did in the cases of Mr. Hodgson, then Speaker, and Mr. Samuel Swann, afterwards, Speaker."

Acceptance of a licensing fee added to this gubernatorial intimidating power. The governor acknowledged this custom in answering a resolution of censure for accepting four "pistoles" as a licensing fee: "I must observe that it was a constant usage to take a guinea for each license, an exorbitant charge," he adds sarcastically and with a trace of malice, "upon the lawyers whose usual retaining fee in Chancery is ten pounds, sterling, instead of three pounds currency as the law allows." Tacit admission of the evils of the practice, however, is found in the governor's afterthought that his secretary accepted these particular "pistoles" without his knowledge.

This intimidating power did not always work its will. Lawyer Edwin Moseley declared that Governor Eden ". . . could raise an armed posse to arrest honest men, though he could not raise a similar force to apprehend Teach [Blackbeard] a noted pirate. . . ." Licensed practitioners, however, might be expected to notice that shortly thereafter Moseley was arrested for a misdemeanor, ". . . tried by the General Court [headed by the Governor], convicted, fined one hundred pounds, silenced as an attorney, and declared incapable of holding an office in the colony during three years."³ In 1753 members of the assembly were boldly protesting to the "Gentlemen of His Majesty's Honourable Counsel" against the admission to the bar of persons ". . . not properly qualified for that Business, . . . with no other Recommendation, Capacity or

³ Ernest H. Alderman, "The North Carolina Colonial Bar," *James Sprunt Historical Publications*, XIII, No. 1, pp. 6-7, 11-12, 18-19, 23-24, 28-29.

Ability, than that of being obsequious Tools of a bad Administration, . . . when others, ancient Practisers of good Character, known Integrity, and knowledge of the Law [have] been obstructed in their Business or Practise, for no other reason than that they or their Clients have been so unfortunate to have incurred the Displeasure of the Chief Magistrate, and at the same time new and unusual Clauses without any Warrant of Law, added in the Commissions of the Peace, to prevent the Justices admitting them to get their Livings in their Lawful Callings, and what generally rendered their Case the worse, they could not expect the Chief Justice would redress them at the risque of his Commission, we hope this may never again be the Case; but the time is still within the Memory of some of the Members of the House when it was so."⁴

In 1760 the assembly complained to the governor: "That the granting Licenses to persons to practise the Law who are ignorant even of the rudiments of that science is a reproach to Government, Disgrace to the Profession, and greatly injurious to Suitors."

These criticisms got under the governor's skin, as evidenced in the following defensive reply:

"The insinuated censure intended by this Resolve will I hope appear to be undeserved when I acquaint your Lordships that to prevent my beng teased to license persons unknown to me, I laid it down as a rule that I never departed from but in two instances, that I would never grant a license to plead either in the Supreme or County Courts until I had either a written or a verbal recommendation from the Chief Justice, which not only eased me of frequent solicitations, but wou'd take off any charge against me if any improper persons were admitted. The only two instances in which I granted licenses without such recommendations were to Colonel Ruddick, a lawyer of long standing in Virginia, who had lands on the northern frontier of this Province, and consequently had dealings here, and upon his visiting me at Newbern some time after my coming into this Government, he desired a license from me, which by his long practise in Virginia and possessions in this Province, I thought him entitled to, & without any recommendation from the Chief Justice I gave him one. The other instance was a Gentleman a long practitioner at Norfolk in Virginia, who had obtained a power of Attorney from Governor Tinker to sue for some lands he had a right to by Colonel Bladen's daughter, which lay upon the boundary line between Virginia and this Province, he therefore applied to me for a License to finish these affairs, which I thought reasonable and granted it without waiting for the Chief Justice's recommendation. I never swerved from this rule I laid down for myself in any other instance,

⁴ *Colonial Records*, V, 70.

may even since the Attorney General Mr. Child's arrival he recommended to me Mr. Lucas who came over with him for a License which I refused until I received a recommendation from the Chief Justice, Mr. Berry."⁵

The assembly took corrective action in the following law: "And whereas, as well The Dignity of the Courts as the Security of the Suitors, depends greatly upon the Capacity and Probity of Lawyers practicing in the same: Be it therefore Enacted, by the Authority aforesaid, and it is hereby Enacted, That no Person who hath not already obtained a License, shall hereafter be admitted as an Attorney to practise the Law, or a Councillor to plead in the Superior or Inferior Courts in this Province, unless he shall first have been regularly examined as to his Knowledge in Matters of Law, and the Practice of Courts, by some one of the Judges of the Superior Courts; and shall have obtained a Certificate under the Hand of such Judge, recommending him to the Governor or Commander in Chief for the Time being, as properly qualified to practise the Law, or plead as aforesaid, and shall likewise have obtained a Certificate from the Justices of the Inferior Court of the County wherein he shall reside, certifying him to be a Person of good Character; and no License shall hereafter be granted to any Person to practise the Law, or plead in any of the Courts of Law or Equity, until such Certificates shall be by him obtained. Provided, That nothing in this Act shall be construed to prevent the Governor or Commander in Chief for the Time, from granting a License to any Person who shall remove from some other Part of his Majesty's Dominions into this Province, without the Certificate of a County Court within the same, so as such Person shall bring Credentials from the Governor, or Judges of the Principal Courts of Justice of the Province, Colony, or Dominion, from which he shall have so removed, properly testifying his Character as aforesaid; any Thing herein to the contrary notwithstanding."⁶

Governor Tryon, writing to Lord Shelbourne in 1767, gives the following account of the Colonial bar on the eve of the American Revolution: "There is in this province no other class or distinction of lawyers than that of attorney at law, the same person issues the writ, draws and files declarations, pleas &c and pleads the cause at the bar, so that he is at the same time attorney and counsell for his client. None are entitled to act as lawyers in the province unless they have taken the degree of outer barrister at least in some of the inns of court in England or have license from the Governor here, and in fact the last is the most general qualification under which the attorneys in this province act, although there have been some instances to the contrary, yet the general

⁵ *Ibid.*, VI, 289-90. See also Alderman (*supra* note 3), pp. 22-23.

⁶ *State Records*, XV, 448. See also Alderman, pp. 20-21.

rule in obtaining such license is that the man who intends to apply for it shall have the Chief Justices recommendation testifying the knowledge and probity of the candidate and before obtaining such recommendation the Chief Justice did commonly examine the candidates. The recommendation and license obtained in consequence of it doth often restrict the candidates practice to the inferior courts only and such must obtain new recommendation and license before they are allowed to practise in the higher courts of judicature. The other and higher kind of license is without limitation and the party obtaining it may act as attorney and counsel in all the courts of law and as solicitor and counsel in the courts of equity in the province. These licenses have often been granted during the pleasure of the governor only but notwithstanding of this clause it has been determined in our superior court upon good deliberation that they ought not to be deprived of the exercise of their profession unless good cause is assigned and proved, since with no propriety it can be called an office, being no more than a license to follow a profession in which every man is at liberty to imploy him or not according to the opinion he entertained of the knowledge and honesty of his lawyer. It is computed that there is about forty five lawyers who practice in the several courts of judicature in this province. Out of this body the Attorney General is taken commonly, and this officer, within the province has all the powers authorities and trusts that the Attorney and the Solicitor General of England have in that kingdom."⁷

Records of applicants annually licensed to practice law for a hundred years after Governor Tryon wrote this letter are not available; but 49 were licensed in 1877,⁸ 66 in 1900,⁹ 139 in 1920,¹⁰ and 84 in 1940.¹¹ And there are around 2,500 practicing lawyers in North Carolina today.¹²

The biographer of James Iredell describes the conditions surrounding the practice of law in Colonial North Carolina: "During the course of this year [1771], with healthy but vehement ambition, Mr. Iredell prosecuted his studies, and regularly attended the Courts. The latter was no easy task, but environed with perils from which a carpet-knight would have shrunk aghast. Upon horseback, often alone, through the dense forests, and across the almost trackless savannahs, now struggling with the rage of the suddenly swollen stream, and now fevered by a burning sun, the lawyer of that day travelled his weary circuit. Accommodations, by the way, were generally despicably vile; inns or taverns, in the true sense, had no existence. After the fatigue of a long day's

⁷ *Colonial Records*, VII, 472, 485-86. See also Alderman, pp. 24-25.

⁸ *North Carolina Reports*, 76, v; 77, v.

⁹ *Ibid.*, 126, vii; 127, ix.

¹⁰ *Ibid.*, 179, vi-vii; 180, vi-vii.

¹¹ *Ibid.*, 218, x-xi.

¹² Files of the State Bar Association.

journey, the wayworn traveller was often content with a bench by the hearth of some primitive log-cabin. With frame invigorated by manly exercises, and untainted by the vices of more cultivated climes, our young lawyer bore every discouragement and annoyance, not only with an elasticity of spirits that threw a gleam of sunshine upon the gloomiest scenes, but with a vivacity and good humor that enabled him to extract from them even amusement. Books he had not, save a volume or two stuffed into his saddle-bags with a scanty supply of apparel. At this period, too, in what was then called the 'back country,' now the interior of North Carolina, the gentlemen of the Bar were objects of obloquy and denunciation to a generally poor and illiterate people, and frequently experienced at their hands the grossest outrages. It not only required, on their part, prudence, but also a courage equal to any emergency, to avoid indignity. The people justly complained of the burden of their taxes—a burden augmented by the extortion of illegal fees by the officers of the Courts; but, with a blind prejudice, many of them only saw in the profession, those who defended their oppressors, and who prosecuted them when their opposition broke out into acts of violence. Uncultivated settlers, who subdue the wilderness, are apt to look with suspicion upon the proprietor of the soil, when he demands rent for his land, or its value. Unfamiliar with those principles by which civilized communities can only be bound together, and with a wild sense of what they style natural justice, they insist that the first occupant has an indefeasible right to property that his labor has rendered productive; grants from Crown or State they regard as frauds, and the attorneys employed to bring ejectments or sue for use, as the venal instruments of tyranny, bandits, hired by gold to despoil them of the fruits of their honest industry. With the feeling of independence fostered by the peculiarity of their life in a new country, they are little disposed to render tribute where tribute is due. . . . The squatter on the frontiers of the Union, looks rather to his rifle than authenticated parchment for a title to his home; and is more prompt to pay the demand of a legitimate owner in bullets than in the current coin of the realm."¹³

II

BEGINNINGS OF LEGAL EDUCATION IN NORTH CAROLINA

Some of the lawyers in Colonial North Carolina received their legal training at the Inns of Court, including: Sir Richard Everard, Gray's, 1731; Thomas Child, Middle, 1746; Enoch Hall, Gray's, 1749; Thomas McGuire, Gray's, 1754; Josiah Martin, Inner, 1756; Henry Eustace

¹³ Griffith J. McRee, *Life and Correspondence of James Iredell* (New York, 1857), I, 96-97.

McCulloh, Middle, 1757; Gabriel Cathcart, Middle, 1763; Benjamin Smith, Middle, 1774; William Brimage, Gray's, 1786.¹⁴

The private home. Others acquired their knowledge of the law by the unaided private study at home of such books as they could buy or borrow. John Penn, born in Virginia in 1741, had full use of Edmund Pendleton's library, studied law "without teacher or other aid than his own industry," was admitted to the bar in 1762, and was one of the signers of the Declaration of Independence.¹⁵ John Louis Taylor, born in England in 1769, came to America in 1781, went to William and Mary College, read law "without preceptor or guide," was admitted to the bar in 1788, served as Superior Court Judge for twenty years and as Chief Justice of the Court of Conference for ten years.¹⁶ Edwin G. Reade, born in Person County in 1812, studied at the academy of the Rev. Alex. Wilson, read law in 1833 "under himself at home," was licensed to practice in 1835, and served as Justice of the Supreme Court.¹⁷

The difficulties as well as the determination of the student who studied law without instructors are illustrated in the following letter from a student reading law at home at a later date with the aid of instructive hints by mail from a distinguished lawyer: "Since reading the few excellent hints with which I was favoured, from you last fall I have been exclusively employed in reading Coke upon Litt. I have succeeded in *wading* through it now almost for the second time. I cannot say however that I have *touched bottom* in all places. I feel discouraged at the very small proficiency I have made. Indeed I find that the three volumes of Coke and his commentators contain such a *mass* of curious and cunning and I might add valuable learning that I find it as yet utterly impossible to keep up anything like a connected view of the whole—yet doubtless the exercise through which I have passed in reading these volumes will be very profitable to me—particularly in perusing them the third time."¹⁸

The private office. Others fitted themselves for the practice by study and schooling directly by lawyers in private law offices. Samuel Johnston, born in 1733, read law in the office and under the direction of Thomas Barker of Chowan;¹⁹ William Hooper, born in 1742, read in

¹⁴ J. G. deR. Hamilton, "Southern Members of the Inns of Court," *North Carolina Historical Review*, X, No. 4, p. 279.

¹⁵ Thomas Merritt Pittman, "John Penn," *North Carolina Booklet*, IV, No. 5, pp. 5-7, 12.

¹⁶ Walter Clark, "The Supreme Court of North Carolina," *The Green Bag*, IV, No. 10, p. 461.

¹⁷ *Ibid.*, pp. 569-70.

¹⁸ J. G. deR. Hamilton, *Papers of Thomas Ruffin* (Raleigh, 1918), II, 114, James M. Williamson to Thomas Ruffin, March 19, 1834.

¹⁹ S. A. Ashe, *Biographical History of North Carolina* (Greensboro, 1908), IV, 241.

the office of James Otis;²⁰ Alfred Moore, born in 1755, read in the office of his father, Judge Maurice Moore;²¹ Leonard Henderson, born in 1772, read in the office of Judge Williams;²² William Gaston, born in 1778, read in the office of Francis Xavier Martin;²³ Thomas Ruffin, born in 1787, read in the offices of Daniel Robertson and Archibald Murphey.²⁴

James Iredell's experience is illustrative of the more fortunately placed law students of the early years. He came from England to become Commissioner of Customs at Edenton in 1768 at the age of 17. "As soon as his familiarity with the business gave him sufficient command of time," wrote his biographer, "he commenced the study of law under Mr. Sam Johnston's direction." His diary contains numerous entries such as the following: on Saturday, August 25, 1770: "This morning up between 6 and 7—was writing a little, and reading in Littleton's Tenures till breakfast. . . ." Again: "I have not done as much as I ought to have done; read a little in Littleton's Tenures, and stopt in the middle of his Chapter on Rents; whereas if I had gone through it, it would have been better and more agreeable than losing three or four games at Billiards. N.B.—If you do play at Billiards, make it a rule not to lengthen."

According to his biographer, Iredell "was a diligent student; he copied Mr. Johnston's arguments and pleas in interesting cases. He read carefully and attentively the text-books, referring to the authorities quoted, and collating and digesting kindred passages from all the writers within his reach; he attended the courts, returned to his chamber and wrote out arguments of his own applicable to the cases he had heard stated." If unemployed in the courthouse, "he peopled his chamber with Judge, Jury, and spectators; he argued causes before his imaginary court, and reported his own arguments."

On July 31, 1771, he wrote to his father in England: "I am too often troubling you, but I will hope for your excuse of this last request, as it will be of particular, perhaps necessary, service to me. It is that you will be so obliging as to procure Dr. Blackstone's Commentaries on the Laws of England for me, and send them by the first opportunity. I have indeed read them through by the favor of Mr. Johnston who lent them to me; but it is proper I should read them frequently, and with great attention. They are books admirably calculated for a young student, and indeed, may interest the most learned. The Law there is not merely considered as a profession, but as a science. The principles are

²⁰ *Ibid.*, VII, 233-34.

²¹ Hampton L. Carson, *History of the Supreme Court of the United States* (Philadelphia, 1892), I, 189-90.

²² Clark (*supra* note 16), pp. 462-63.

²³ *Ibid.*, pp. 523-24.

²⁴ *Ibid.*, pp. 467-68.

deduced from their source, and we are not only taught in the clearest manner the general rules of law, but the reasons upon which they are founded. By this means we can more satisfactorily study, and more easily remember them, than when they are only laid down in a dictatorial, often an obscure manner. Pleasure and instruction go hand in hand, and we apply to a science, difficult indeed at best, with less reluctance, when by a well-directed application we may hope to understand it with method and satisfaction."²⁵

It was impossible to purchase books in the southern colonies but Iredell had correspondents in England who sent him books, pamphlets, and papers relating to literature as well as politics and law. "I have a great desire," he wrote, "to see a good collection of the late Parliamentary debates, provided there be any honest account of them than is contained in that partial trash, the Political Magazine. You must know I am a great admirer of Mr. Burke, and I wish you could include in my little packet everything of his that has been published, which he has wrote or spoke, since his two celebrated speeches of April, 1774, and March, 1775, which I have in good manuscripts of my own. Let me have, if you please, a Court Calendar, a Bibliotheca Legum, a Peerage, and a general catalogue of books with their prices." He had correspondents in the state of North Carolina, writes Stephen B. Weeks, who loaned or presented him with books and who received similar favors from him, while the members of the Continental and of the Federal Congress sent newspapers and public documents to their constituents in North Carolina or acted as agents for them in the purchase of books.²⁶

Samuel Johnston possessed one of the leading libraries of the colony. It was classified in eleven divisions: "(1) Law. All of the early owners were lawyers, and there are in all some 34 volumes of law books. Besides books devoted to the theory and practice of law there are various collections of colonial laws. The list includes acts and revisals of New York for 1752 and 1768; New Jersey (Burlington, 1776); Pennsylvania (Philadelphia, 1762, 1775); Virginia (Williamsburg, 1733, 1759, 1769); North Carolina (1764, 1791). (2) Science and medicine, 20 volumes. (3) Domestic affairs and agriculture, 7 volumes. (4) Theology and sermons, 6 volumes. (5) Social matters and novels, 27 volumes. . . . (6) Essays, letters, general and miscellaneous literature, 129 volumes. . . . (7) Encyclopaedias, grammars, and language, 30 volumes. . . . (8) Biography and travels, 37 volumes. . . . (9) History and politics, 153 volumes, [including] . . . The Federalist, in 2 volumes (1788); with

²⁵ McRee, I, pp. 29, 40, 55, 65, 69, 91, 98.

²⁶ Stephen B. Weeks, *Libraries and Literature in North Carolina in the Eighteenth Century* (Washington, 1896), pp. 206-7.

various pamphlets and newspapers relating to North Carolina affairs. (10) Classics, 36 volumes. . . ."²⁷

Edward Moseley was "the foremost man in North Carolina for nearly half a century. He first appears in Albemarle in 1705 as a member of the council and the vestry." His private library "was one of the largest in the province. . . . From his will we estimate that he had about 400 volumes; most of them treated of law, many were folios and were bound in sheep."

Of Moseley's library, George Davis, of Wilmington, who examined it before it had gone to pieces, said: "Many years ago I had the opportunity to examine the wreck of his library after more than 100 years of accident, neglect, and plunder had preyed upon it. Its mutilation was painfully apparent; but enough was left to excite my wonder and my admiration for the man, who, in the wilds of a new country, not shunning the activity incident to its life, but always and everywhere a leader among men, had yet the generous taste to gather around him a library which would do credit to any gentleman of our day; and every volume of which had to be brought from England with great expense and trouble."

Stephen B. Weeks writes: "I think it accurate to say that the political leaders of the colony of North Carolina at the time of the Revolution were better acquainted with the literature of their time than the leaders of political North Carolina are today with either contemporary English or American literature."²⁸

But these advantages were limited to the few—to those with relatives or friends in England who could help to keep open the lifelines of English culture, to those with parents wealthy enough to send them out of the province or to the better schools for their education: Willie and Allen Jones went to Eton²⁹ and Benjamin Smith, Gabriel Cathcart, Henry McCulloch to other English schools;³⁰ Samuel Johnston to New England;³¹ William Hooper to Harvard;³² George E. Badger³³ and William N. H. Smith to Yale;³⁴ A. J. DeRossett, Hugh Williamson and John Rust Eaton to the University of Pennsylvania;³⁵ Alexander Martin,³⁶ Waightstill Avery,³⁷ Ephriam Brevard,³⁸ Nathaniel Alex-

²⁷ *Ibid.*, pp. 198, 203-5.

²⁸ *Ibid.*, pp. 193, 196-97, 200.

²⁹ Blackwell Pierce Robinson, "Willie Jones of Halifax," *North Carolina Historical Review*, XVIII, No. 1, p. 3.

³⁰ Hamilton, *supra* note 14.

³¹ *Ibid.*, VII, 233.

³² Ashe (*supra* note 19), IV, 241.

³³ *Ibid.*, VII, 36.

³⁴ Clark (*supra* note 16), p. 580.

³⁵ William Earle Drake, "Higher Education in North Carolina Before 1860," Ph.D. Thesis, Chapel Hill, 1930, manuscript in the University of North Carolina Library, pp. 10-11.

³⁶ Ashe, III, 274.

³⁷ *Ibid.*, VII, 2.

³⁸ *Ibid.*, I, 195.

ander,³⁹ David Stone,⁴⁰ William R. Davie,⁴¹ Frederick Nash,^{41a} William Gaston,⁴² and Thomas Ruffin to Princeton.⁴³

Pre-law study at the University of North Carolina. There were no public schools in North Carolina, the private schools were few and far between, and there was no institution of higher learning, public or private. "We cannot account for the general inattention to learning in the province, for such a length of time," wrote Hugh Williamson in 1812. "Many of the inhabitants had been well educated, and were men of respectable talents. They calculated badly, if they presumed, that by sending some of their children to England for instruction, the intellects of the community would be sufficiently cultivated."⁴⁴ In the effort to spread the advantages of education the North Carolina Constitution, adopted in convention at Halifax in November, 1776, provided: "That a school or schools be established by the Legislature, for the convenient Instruction of youth, with such Salaries to the Masters, paid by the Public as may enable them to instruct at low prices; and all useful Learning shall be duly encouraged and promoted in one or more Universities."⁴⁵ In 1784 Governor Alexander Martin called on the General Assembly to encourage "... seminaries of learning . . . where the State may draw forth men of abilities to direct her Councils and support her Government."⁴⁶ In 1789 the General Assembly chartered the University of North Carolina, on the theory stated in the preamble: "Whereas, in all well regulated governments it is the indispensable duty of every Legislature to consult the happiness of a rising generation, and endeavor to fit them for an honourable discharge of the social duties of life, by paying the strictest attention to their education: And whereas, an university supported by permanent funds and well endowed, would have the most direct tendency to answer the above purpose: I. Be it therefore enacted. . . ." This theory was stated in a more pointed fashion by William R. Davie in an article published in the *North Carolina Journal* in 1796. He began by quoting from the French Convention, "That as in every free Government, the *Law* emanates from the *People*, it is necessary that the *People* should receive an education to enable them to direct the *Law*, and the political part of this education should be consonant to the principles of the Constitution under which they live." He proceeds: "The plan of education established by the

³⁹ *Ibid.*, I, 40.

⁴⁰ *Ibid.*, IV, 423.

⁴¹ *Ibid.*, VI, 188.

^{41a} *Ibid.*, I, 406.

⁴² *Ibid.*, II, 100.

⁴³ *Ibid.*, V, 351.

⁴⁴ Hugh Williamson, *History of North Carolina* (Philadelphia, 1812), II, 82. See also Drake, p. 11.

⁴⁵ *Colonial Records*, X, 1012.

⁴⁶ *State Records*, XIX, 498. See also Drake, p. 51.

Board of Trustees appears to be predicated upon this principle, and designed to form useful and respectable members of society—citizens capable of comprehending, improving and defending the principles of our Government; citizens, who from the highest impulse, a just sense of their own and the general happiness, would be induced to practice the duties of social morality. A deep and fixed conviction that it is degrading to be tributary to other states or countries for our literary and public characters, a general and strong desire to promote education and exalt and improve our national character have given a tone to the public sentiment, and bestowed a degree of emulation upon individuals from which the most happy effects may be expected.”⁴⁷

Davie’s plan for the University curriculum included a “Professor of Moral and Political Philosophy and History,” and called for the study of the following authors: Paley’s *Moral and Political Philosophy*, Montesquieu’s *Spirit of Laws, Civil Government and Political Constitutions*, Adam’s *Defence of DeLolme, The Constitution of the United States, The Modern Constitutions of Europe, The Law of Nations*, Vattel’s *Law of Nations*, Burlamaqui’s *Principles of Natural and Political Law*, Priestly’s *Lectures on History*, Millot’s *Ancient and Modern History*, Hume’s *History of England*, with Smollett’s *Continuation and Chronology*. It called for a professor of natural philosophy, astronomy and geography; a professor of mathematics; a professor of chemistry and the philosophy of medicine, agriculture and the mechanic arts; and a professor of languages.⁴⁸

A letter written by a University student in 1811 indicates that in some minds these studies were taking root. “I have had a young man living with Me this Session by the Name of Mangum [Willie P. Mangum], possessing a Mind of a speculative turn and gifted with More than ordinary Sagacity. When we Read Authors we examine the propriety of their Reasons Sift and weigh their Arguments and the accuracy of their deductions. The excentricity and oftentimes absurdity Marks our discussion, yet we feel tolerably Confident of the benefits flowing from it. Tho our Contracted powers of Reason permit only to Skim the Surface, yet every time we have additional light. I am fond of Reading Hume, or as much of him as I understand. I am afraid of getting some of his Scepticism but better so than persue a Mode of Reasoning avowed by some bigots and Enthusiasts and Often embraced by wiser Men, who Argue against a fair discussion of popular prejudices because (Say they) tho they would be found without any reasonable Support yet the discovery Might be productive of the most danger-

⁴⁷ *The North Carolina Journal*, August 1, 1796.

⁴⁸ K. P. Battle, *History of the University of North Carolina* (Raleigh, 1907), I, 94-95.

ous Consequencies—which is as Much as to Argue, as if all happiness was not Connected with the practice of Virtue *which* necessarily depends upon the Knowledge of the truth. I can see no Reason why his productions, I mean his essays, should not Claim our attention and even admiration or why the prostitution of his talents (as is often alledged) should excite Regret. I have this Session Read Russeau, a part at least of his writings, and this woodland philosopher has had the *honor*, for he is very Seldom allowed any by those numerous dwarfs of intellect which infest every Country, of leading me into a Spirit of enquiry. I have just Received the American Review, Conducted by Mr. Walsh; it Contains a great deal of useful and entertaining matter, both literary and Political. I feel sensible that a perusal would afford you some Amusement, at any Rate give some Variety to the sameness of a dull hour.”⁴⁹

With this background of classical and scientific studies in general, and governmental studies in particular—background which students of earlier days had sought in old England, later in New England, and still later in the middle colonies—students from the University of North Carolina at Chapel Hill went to private law offices to begin the professional study of law: Archibald D. Murphey (class of 1799) to the office of William Duffy;⁵⁰ John Branch (class of 1801) to the office of John Haywood;⁵¹ Joseph J. Daniel (class of 1805) to the office of William R. Davie;⁵² William R. King (class of 1805) to the office of William Duffy;⁵³ John M. Morehead (class of 1817) to the office of Archibald D. Murphey;⁵⁴ James K. Polk (class of 1818) to the office of Felix Grundy, of Nashville, Tennessee;⁵⁵ John L. Bailey (class of 1819) to the office of James Iredell;⁵⁶ William H. Battle (class of 1820) to the office of Leonard Henderson;⁵⁷ Bartholomew F. Moore (class of 1820) to the office of Thomas N. Mann;⁵⁸ Richmond M. Pearson (class of 1823) to the office of Leonard Henderson;⁵⁹ James C. Dobbin (class of 1832) to the office of Robert Strange;⁶⁰ William B. Rodman (class of 1836) to the office of William Gaston;⁶¹ Thomas Ruffin, Jr. (class of 1844) to the office of his father;⁶² Thomas Settle (class of 1850) to the office of Richmond Pearson.⁶³

University men founders of private law schools. These men carried the University of North Carolina into the bloodstream of the legal pro-

⁴⁹ W. H. Hoyt, *Papers of Archibald D. Murphey* (Raleigh, 1914), I, 54, Archibald Haralson to Archibald D. Murphey, September 13, 1811.

⁵⁰ W. A. Graham, "Memoir of Hon. Archibald D. Murphey," *Murphey Papers*, I, xxi.

⁵¹ Ashe, VII, 52.

⁵² Ashe, V, 194.

⁵³ "James K. Polk," *N. C. U. Magazine*, 1860-61 (February), p. 323.

⁵⁴ Ashe, IV, 53.

⁵⁵ *Ibid.*, V, 275.

⁵⁶ *Ibid.*, VI, 211.

⁵⁷ *Ibid.*, V, 360.

⁵⁸ Clark (*supra* note 16), p. 521.

⁵⁹ *Ibid.*, II, 252.

⁶⁰ *Ibid.*, VI, 20.

⁶¹ *Ibid.*, V, 297.

⁶² *Ibid.*, III, 347.

⁶³ *N. C. Reports*, 139, pp. 656, 659.

fession in North Carolina, fertilized and invigorated it, and generated the next forward impulse of legal education in North Carolina—the transition from the private office to the private school. This transition from instruction of law students as an incidental purpose to instruction of law students as a parallel profession to the practice of law was illustrated in the experience of Archibald D. Murphey of the class of 1799. “Among the men who studied in his office,” wrote his biographer, “were Chief Justice Thomas Ruffin, Bartlett Yancey, Governors Morehead and Worth, James T. Morehead and John A. Gilmer, who were eminent lawyers and representatives in Congress, William J. Bingham, headmaster of the famous Bingham School, Judge Henry Y. Webb of Alabama, Charles Pendleton Gordon, of Georgia, and Judge Jesse Turner, of Arkansas. Murphey’s influence on these men was profound and far-reaching. Yancey, Governor Morehead, Worth, Gilmer, and Gordon became conspicuous advocates of his measures for public schools and internal improvements. ‘He took a deep interest in young men,’ said Paul C. Cameron, ‘sought their society to advise and instruct them. He was kind enough to address to myself a letter at the very threshold of life; a most affectionate one of advice and friendly suggestions. Such a letter should go a long way to correct the foibles and follies of young men entering life ambitious of notoriety and the promptings of vanity. Some opinion may be formed of the point and spirit of the composition and his kind interest in his young friend, when I tell you that he closed it with an earnest entreaty never to be seen wearing a ring, or walking with a gold-headed cane, or riding a pony.’ To many young men he gave a start in life.”⁸⁴

John L. Bailey of the University class of 1819 instructed a number of students in his law office in Elizabeth City, later expanded this office instruction into a school operated in connection with his office in Hillsboro, and continued this schooling at Black Mountain in connection with his duties as Superior Court Judge. This law school tradition was continued by his son, William H. Bailey, in Asheville. “Among those who studied law under Judge Bailey,” writes Archibald Henderson, “are now recalled the following names: General Theodore F. Davidson, one time Attorney General of North Carolina, William B. Martin, afterwards for many years Judge in Norfolk, Va., Captain W. E. Weaver, Alden Howell, Emory H. Merriman, Captain John Gudger, Captain W. P. Welch, Captain M. E. Carter, Captain C. M. McCloud, Jarvis Buxton, J. S. Adams, S. H. Reed, C. A. Moore, S. V. Pickens, Judge W. Norwood of Waynesville, James Robertson of Franklin, and the Hon. Kope Elias. Among Judge Bailey’s students at his law school on the North Fork of

⁸⁴ Graham (*supra* note 50), I, xxv.

Swannanoa River were William H. Bailey, J. K. Connally, Washington M. Hardy, and H. G. Halliburton."

One of the law students, who knew Judge Bailey intimately, has left this record of his experience: "The lessons were a delight, and we looked forward to the *Conversazione*, as the lecture really was, as the pleasantest experience of the day. Nothing could equal the graciousness of the Judge's manner, nor the clearness with which the principles of law were enunciated. His method was Socratic to an extent, but interspersed with a whimsical humor at times, when he would deal with specific cases that had come before him in the judicial capacity. He had almost a reverence for the law and a supreme contempt for the pettifogging lawyer. To him the law meant Justice; and he could not tolerate sharp practice from lawyers.

"The highest ideals were inculcated in his students, the utmost courtesy in handling a case, and a thorough study of the principles of law from the time of Coke and Littleton to the modern times, when statute law has materially modified the old English common law of Blackstone."⁶⁵

Richmond M. Pearson of the University class of 1823 opened a law school at Mocksville and later removed it to Richmond Hill where it continued into 1870-1875. "I have heard him say," writes Judge Dick, "that he had instructed more than a thousand law students, who are scattered throughout the State and nation. He had great skill in the act of communicating knowledge, and by his cheerful and paternal manner he won the respect, confidence and affection of 'his boys.' He had no strictly scientific arrangement or definite scholastic system of education, but he communicated instruction by frequent examination on the text-books, accompanied by familiar conversational lectures, and, like the great philosopher of Athens, he never reduced any of his lectures to writing. He was fond and proud of 'his boys' and did not confine his instruction to the class-room. He would talk to them on legal subjects whenever an opportunity was presented—at the table, on the path in the woods as they went to a neighbor's house, at the fishing place on the river, and in the Summer afternoons as they sat beneath the shades of the old oaks on the hill or down by the spring."⁶⁶

One of his students wrote the following sketch of Pearson and his school: "After his elevation to the bench he removed to Yadkin county and settled on the Yadkin river a few miles from Rockford, and established a law school. This was a quiet, secluded spot, and the nearest point to the railroad was High Point, a distance of about forty miles. He told me he selected this place so he could get away from the whirl

⁶⁵ Archibald Henderson, "John Bailey, Teacher of Law," *News and Observer* (Raleigh, N. C.), June 17, 1928.

⁶⁶ Ashe, V, 308-9.

and excitement of society, so that his students could be quiet and have nothing to withdraw their minds from their books. He would jokingly say to his boys that it was a good place to wear their old clothes. It was an ideal place for a school. The climate was delightful, the air invigorating, imparting the glow of health to the cheeks. To the west was the Blue Ridge, which in the winter was covered with snow and ice, and which looked beautiful, glistening in the clear sunlight, while the Yadkin, a clear pure, limpid mountainous stream, as it meandered through the wooded hills and the blooming meadows, looked like a stream of liquid silver. In the woods there was an abundance of hickory nuts, chinquepins and chestnuts, and after the frost had touched the forest the leaves of the trees presented a variegated hue, some green, some a russet color, some yellow, or as the poet would say, 'distained with dusty gold.' Judge John Kerr was his first law student. He was for years the leader of the Whig party, was candidate for governor, and was one of the most brilliant orators in the State. Hon. Jacob Thompson, of Mississippi, Secretary of the Interior in Mr. Buchanan's cabinet, read law with Judge Pearson. Governor Ellis was one of his students. At one time he sat upon the Supreme Court bench with three of his old students: Judges Bynum, Settle and Faircloth. Judges Avery and Furches, two of his students, were on the Supreme Court bench after he died. A number of Superior Court judges and the most prominent lawyers of the State were his students. No man in the State was ever on the bench for a longer time, for he was on the Superior Court bench for twelve years and on the Supreme Court bench for thirty-one years, twenty years of which he was Chief Justice. . . .

"In teaching law he adopted the methods of Socrates, Plato and Aristotle, by asking the student questions. He did not give lessons, but he told his students what books they must read, and then about twice a week the students would come to his office and he would examine them upon what they had read by asking them questions. When I first went to him to read law and learn his methods, I saw at once that it was the true way to teach and that it made a deeper impression upon the mind, and I wondered why everybody did not adopt the Socratic method of teaching. Judge Pearson said his system was like manuring broadcast, while the other was like manuring in the hill. That was a very apt illustration. His office was at the bottom of a hill, and before he would come in to lecture, he would walk around the hillside and he would break off a little twig from some favorite tree and come in chewing it and then he would take his seat and begin to ask questions. His lectures were about two hours in length. He had a regular system in his lectures for he would take up some subject and exhaust it, and when he concluded the student was master of the subject. He taught his

students how to think and reason. I consider myself fortunate in having read law under him. He was the greatest teacher that ever lived on the earth, and I don't believe that there will ever be such another."⁶⁷

John H. Dillard of the University class of 1841 and Robert B. Dick of the class of 1843 opened the Greensboro Law School—popularly known as the "Dick and Dillard Law School," in 1878. Archibald Henderson records the following data concerning this school: "The sessions will commence on the second Mondays in January and August. Tuition \$100, and the student may remain as long as he may desire to do so. There will be three examinations and lectures each week. Board can be obtained in private families at from \$12 to \$15 per month.

"The 'Course of Study,' in the same printed announcement, is as follows: Blackstone's Commentaries, 2nd book, diligently, Coke, Cruise or other standard work on real property, Stephen and Chitty on Pleading, Adams' Equity and 1st Greenleaf on Evidence, Some Standard Work on Executors and Administrators, Code of Civil Procedure. Later announcements gave the following additional requirements: The Constitution of this State and the United States, Smith on Contracts, Bigelow on Torts.

"For the first session of 1888, among the announcements are the following: Tuition \$50 per session, payable in advance. As Judge Dillard has retired from the Law School, there will be examinations six times each week, so that my occasional absence from home may not retard the progress of students. There will be a review course and frequent extra examinations and lectures during the month that precedes each session of the Supreme Court. This is signed 'Robert P. Dick.' It would appear that Judge Dillard severed his connection with the Greensboro Law School, about 1888.

"For information regarding the Greensboro Law School, I am indebted to Mr. R. D. Douglas and Miss Nellie M. Rowe. For the first session of 1880 there were published the names of 50 students, for the second session of 1880 62 students, first session 1881 87 students. There are names of students who at one time or another attended the school. No data are available for other years. Judge Robert M. Douglas attended the Greensboro Law School in 1885, and in the class with him were Thomas Settle and Thomas Dixon, Jr., according to Mr. R. D. Douglas.

"'Sometime before his death,' says R. D. Douglas in a recent letter to me, 'Judge Dick told me that during the life of the school it had sent to the Supreme Court more than 300 applicants for licenses, not one of whom had failed to pass; that a few others from the school had failed

⁶⁷ *N. C. Journal of Law*, II, No. 10, pp. 465-66.

to pass the bar examination, but all who failed had applied against his advice.'

"The gay young blades who attended the Greensboro Law School were the marked figures of the town. Their handsome appearance, non-chalent attitude and air of amused superiority to all about them evidently aroused the satiric attention of one who in later years was to become world famous as a humorist. Perhaps a spark of jealousy was aroused in the local swains, who saw the young ladies of Greensboro casting languishing glances at the well-groomed, fascinating strangers, these young law students with countenances, attractively marked by 'the pale cast of thought.' So Will Porter—afterward the famous 'O. Henry'—sent back to his warm friend, Dr. W. P. Beall, from Texas, not long after his arrival there the following bit of vers de société, maliciously entitled 'The Dudes'—till now, I believe, unpublished—for which I am indebted to Dr. Beall, through the courtesy of Miss Nellie M. Rowe:

THE DUDES

See the city's lovely dudes—
 Sidewalk dudes—
 What a world of broken hearts
 Their promenade precludes.
 Clerks and students of the law,
 Beauties all without a flaw,
 Let us all get off the sidewalk for the dudes
 Dudes, dudes, dudes,
 For the lady killing fascinating dudes.
 Look up there all in a row—
 Gallery dudes—
 With what grace can they assume all
 Such enticing attitudes.
 With their eyes, eyes, eyes,
 And their sentimental sighs,
 Oh, full rare and fragrant flowers are the dudes
 Are the dudes, dudes, dudes, dudes,
 Dudes, Dudes, Dudes
 Are the Greensboro fair and radiant dudes."⁶⁸

III

EVOLUTION OF LEGAL EDUCATION IN THE UNIVERSITY OF NORTH CAROLINA

At the Commencement of 1824, according to the records, a graduating senior with the name of James W. Bryan devoted his Commencement oration to the question: "Should a professorship of law be established at the University?"⁶⁹ Thereafter a Law Club was formed

⁶⁸ Archibald Henderson, "Private Law Schools in North Carolina," *News and Observer* (Raleigh, N. C.), July 1, 1928.

⁶⁹ Battle, *History*, I, 296.

among the students, and the minutes of the Dialectic Society for March 20, 1840, record permission to this Law Club to meet in the society hall.⁷⁰

This student movement for professional study within the University received faculty impetus with the coming of Governor David Lowry Swain to the campus. Swain was born in Buncombe County in 1801, went briefly to a neighborhood preparatory school, attended the University for a few months in 1821, moved to Raleigh and studied law in the office of John Louis Taylor in 1822, returned to Buncombe, having received his license in December of that year, and began the practice of law. He was elected to the General Assembly in 1824, became solicitor of the Superior Court in 1829, Judge of the Superior Court in 1830, Governor of North Carolina in 1832 for three successive terms, and came into the presidency of his Alma Mater in the year 1835 at the age of thirty-four,⁷¹ foreshadowed with the biting comment of a rival claimant: "The people of North Carolina have given Governor Swain all the offices they have to bestow and now have sent him to the University to be educated."⁷²

In addition to the presidency, the University catalogue of 1837 lists him as Professor of National and Constitutional Law;⁷³ later catalogues list him as teaching Metaphysics, Moral Philosophy and Political Economy, and finally, a course in the history of National and Constitutional Law ". . . presenting an analytical review, in chronological order, of the *Magna Charta*, . . . the Petition of Right; the Charters of Carolina; the Fundamental Constitutions of Carolina (by John Locke); the Habeas Corpus Act; the Bill of [Rights]; the Declaration of Independence; the Articles of Confederation; the Treaty of Peace with Great Britain, and the Constitution of the United States." The first volume of Kent's *Commentaries on American Law* was used throughout this course.⁷⁴

One of his students described his classroom performance: "The very first recitation in which I ever appeared before him was one . . . I shall never, never forget. . . . In 1851, I entered the University, and joined the senior class as an irregular. This first lesson was in Constitutional Law. A single general question was asked and answered as to the subject in hand, and then he began to discourse of Chancellor Kent, whose treatise we were studying; from Kent he went to Story, from Story to Marshall, repeating anecdotes of the great Americans who had framed and interpreted our organic law; and touching upon the debate between Hayne and Webster. From these, he went back and back to the men

⁷⁰ Dialectic Society Minutes, March 20, 1840, manuscript in N. C. U. Library.

⁷¹ Zebulon B. Vance, "The Life and Character of Hon. David L. Swain," *N. C. U. Magazine*, 1878 (May), pp. 76-77.

⁷² Battle, *History*, I, 424.

⁷³ *N. C. U. Catalogue*, 1837, p. 5.

⁷⁴ *Ibid.*, 1846-47, p. 25.

and the times when the great seminal principles of Anglo-Saxon liberty were eliminated from feudal chaos, and placed one by one as stones polished by the genius of the wise, and cemented by the blood of the brave, in the walls of the temple of human freedom. He told us of the eloquence of Burke, of the genius of Chatham; he took us into the prison of Eliott and went with us to the death-bed of Hampden; into the closet with Coke and Sergeant Maynard; and to the Forum where Somers spoke; to the deck of the Brill where William, the deliverer, stood as he gazed upon the shores of England; to the scaffolds of Sydney and of our own glorious Raleigh. Warming as he went with the glowing theme, walking up and down the recitation room, which was then the Library of the 'old South,' with long and awkward strides, heaving those heavy passionate sighs, which were always with him the witnesses of deep emotion, he would now and then stop, reach down from its shelf a volume of some old Poet, and read with trembling voice some grand and glowing words addressed to man's truest ambition, that thrilled our souls like a song of the chief musician. A profound silence was evidence of the deep attention of the class, and the hour passed almost before we knew it had begun."⁷⁵

Student and faculty impetus toward the study of law received assistance from the Trustees of the University at a meeting in the state capitol on December 12, 1842, when James Iredell presented the following ordinance for action: "Be it ordained . . . that the Executive Committee be & they are hereby authorized at their discretion to establish a Law Professorship and to prescribe such rules and regulations as to the duties and emoluments of such professorship, and also as to the class of Students who may attend instruction therein as (sic) may think proper."⁷⁶

William Horn Battle—Professor of Law
1845-1868, 1877-1879

Sitting in this Trustee meeting was Judge William Horne Battle, Trustee of the University and member of the Executive Committee authorized to effectuate the foregoing ordinance. In 1843 he moved to Chapel Hill for the education of his sons, opened a private law school in an office in the yard of his home, and taught law students between terms of court.⁷⁷ The minutes of the Executive Committee of the

⁷⁵ Vance (*supra* note 71), p. 83.

⁷⁶ N. C. U. Trustee Minutes, December 12, 1842.

⁷⁷ Battle, *History*, I, pp. 495, 526. A letter from W. J. Battle (grandson of W. H. Battle), to Miss Lucile Elliott (Law Librarian), June 19, 1945, states: "My grandfather taught in his office, a small two-room building in the yard of his home, the place called Senlac, where Dr. Booker now lives." This office was eventually joined to another office in the yard to make a cottage now occupied by Miss Mary L. Thornton.

Board of Trustees, meeting on October 3, 1845, record the following action: "*President Swain* attended the meeting of the Committee and presented a program embracing a Law Professorship with the Hon. William Horn Battle at its head which with some modifications was approved. Resolved unanimously that the honorary degree of Master of Arts be and the same is duly conferred on William Horn Battle, one of the Judges of the Superior Courts of this State."⁷⁸

This first Professor of Law was born in Edgecombe County on October 17, 1802, entered the University of North Carolina in 1818, graduated in 1820 as valedictorian of his class, studied law for three years in the office of Leonard Henderson, served as amanuensis to his judicial instructor during terms of the Supreme Court, and was found by the Supreme Court to be so proficient in the law at his examination for County Court license that he was granted both County and Superior Court licenses at the same time without further examination. In 1827, he settled in Louisburg for the practice of law, went to the General Assembly in 1833, became reporter of Supreme Court decisions in 1834, served for three years at this period as Commissioner with Iredell and Nash to revise the statutes of the state, served as Superior Court Judge from 1840 to 1852, served as Professor of Law in the University from 1845 to 1868, served as Supreme Court Justice from 1852 to 1868 with a slight intermission in 1865, practiced law in Raleigh with his sons from 1868 to 1876, and returned to the University in 1877 where he was again Professor of Law from 1877 to January, 1879.⁷⁹

The University catalogue for 1845-46, pursuant to his appointment announced: "A department for the study of municipal Law has been recently established and placed under the charge of the Professor of Law. This department contains two Classes, of which, the first, called the Independent Class, will consist of such Students of Law as have no connexion with any of the College Classes; and the second, called the College Class, will consist of such irregular members of College as, with the permission of the Faculty, may be desirous of joining it.

"The plan of studies comprises Blackstone's Commentaries, Kent's Commentaries, Stephen on Pleading, Chitty on Pleading, Greenleaf on Evidence, Chitty on Contracts, Cruise's Digest of Real Property, and Williamson Executors, together with Lectures on the municipal Laws of the State as modified by the Acts of the Legislature and decisions of the State Courts. A complete course will occupy two years for the Independent Class and two years and a half for the College Class, at the end of which the degree of Bachelor of Law will be conferred on

⁷⁸ N. C. U. Trustee Executive Minutes, October 3, 1845.

⁷⁹ Joseph B. Batchelor, *Judge William H. Battle* (Raleigh, 1892), *passim*. See also Battle, *History*, II, 126, 167. Judge Battle resigned in January, 1879, and died March 19th of that year.

such students as by their proficiency may be deemed to be entitled to it.

"The Independent Class will be called on for recitations three times a week. The recitations of the College Class will be only once a week, and will be so arranged as not to interfere with the ordinary studies of College.

"A Moot Court will be held occasionally by the Professor, for the discussion by the Students, of such legal questions as he may propose. The Students will also be required from time to time to draw pleadings and other legal instruments, and be instructed in the practice of the Courts.

"The Professor of Law receives no salary from the Trustees of the University, but is entitled to demand from each member of the Independent Class, fifty dollars per session for the two first sessions of the course, and twenty-five dollars per session afterwards; and from each member of the College Class twenty-five dollars per session. The sessions and vacations of this department will be same as those of College, but the Professor will give instruction during the vacations to such members of either Class as desire it without any extra charge.

"The Professor of Law and the members of the Independent Class will not be subject to any of the ordinary College regulations."⁸⁰

The course of study outlined in this "Law Department" was substantially the same as that prescribed by the Supreme Court for admission to the bar. In 1854 Kent's *Commentaries* was dropped from the plan of studies; Smith on *Contracts* was substituted for Chitty; Iredell on *Executors* was substituted for Williams; and Selwyn's *Nisi Prius*, Featne on *Remainders*, and Adams' *Doctrine of Equity* were added.⁸¹ No other changes are listed in the curriculum from the opening of the Law Department in 1845 to its close, in the wake of the Civil War, in 1868. It was then that the University of North Carolina, in the dark period of the state's reconstruction, was compelled to close its doors.

"Without library or equipment, other than his own well stocked mind," wrote a member of the bar, "in one little room 16 by 18 feet, furnished with half dozen split bottom chairs," Battle began his professorship.⁸² Ten law students were listed in the catalogue of 1847-48;⁸³ 22 in 1855-56;⁸⁴ 28 in 1857-58;⁸⁵ 18 in 1867-68.⁸⁶

The University Law School differed little from other private law schools of the time in the content of its curriculum, in the capacity of its

⁸⁰ *Catalogue*, 1845-46, p. 16.

⁸¹ *Ibid.*, 1854-55, p. 36.

⁸² *Charlotte Observer*, February 13, 1927, address by Frank Spruill at the presentation of Judge Battle's portrait to the Law School.

⁸³ *Catalogue*, 1847-48, p. 30.

⁸⁴ *Ibid.*, 1854-55, p. 39.

⁸⁵ *Ibid.*, 1857-58, pp. 42-43.

⁸⁶ *Ibid.*, 1867-68, p. 23.

professor or in its requirements for admission. Its professor, like private law school instructors, practiced his profession for a living and supplemented his income with student fees for teaching between terms of court. Both professor and students of the Independent Class continued to be free from ". . . any of the ordinary College regulations" through this period.⁸⁷

But the coming advantages of the institutional connection cast their shadows before. For this Law School was anchored to the University of the people which had been conceived in 1776, chartered in 1789, opened in 1795, operated for fifty years with steadily growing numbers and influence. Its very location in Chapel Hill—in an educational center attracting youth from all sections of the state and the South—lent advantages no private law school offered. The very coincidence of "the sessions and vacations of this department" with "those of the College" lent further advantages which were reinforced by the offer of free instruction in vacation time to those who paid tuition fees in regular sessions.⁸⁸ The very privilege of wearing the University's mantle and sharing its prestige furnished an added incentive to lift the legal training of that day to the higher level of academic standards. Add the availability of supplementary courses in general education and professional training, of interlocking faculties and libraries and other educational facilities, and the transition from the individual to the institution in legal education was thus assured.^{88a}

These opportunities blended with Battle's talents and inclinations. He was a careful and thorough student as attested by the scholastic leadership of his University class, by the proficiency in legal studies which moved the Court to single him out from his generation of law students for the double grant of license to practice in County and Superior Courts from the start, by the fact that he had chosen to study law for three years before applying for admission to the bar at a time when the Supreme Court called for no particular period of study as evidence of proficiency. Add the further fact of his study of law in the office of the Chief Justice, his attendance on arguments before the Court when leaders of the bar fought out the legal issues of the day, his secretarial assistance to the Court in the preparation of opinions, his practical experience at the bar and on the bench of both trial and appellate courts, and his unique fitness for founding the University Law School becomes apparent. He was simply translating personal habits into institutional patterns when he set the pace and lifted the standards of legal education

⁸⁷ *Ibid.*, 1845-46, p. 28; 1867-68, p. 22.

⁸⁸ *Ibid.*

^{88a} Notwithstanding the advantages enumerated, law office study remained the preferred method of preparation for the bar in North Carolina until toward the close of the century. Both John Manning and James C. MacRae studied in a law office, not at the University.

in North Carolina by requiring for the LL.B. degree at least two years of systematic study of a prescribed course, going beyond the bare transmission of legal learning qualifying applicants for bar examinations and giving them an understanding of the underlying principles of the law.

Samuel Field Phillips assisted Professor Battle in his teaching and is listed as a member of the Law Faculty in the University catalogues from 1854 to 1859. He was born in 1824, entered the University of North Carolina at the age of thirteen, graduated in 1841 at the age of seventeen with first honors, studied law with President Swain and later with Judge Battle, 1842-44, and began the practice of law in 1845. He was a member of the state legislature in 1854, 1856, 1864, 1865 and 1871. During the war he served on the State Court of [war] Claims and thereafter as State Auditor and Supreme Court reporter. In 1872 he received the appointment as Solicitor General of the United States from President Grant and continued in this office for twelve years through successive administrations; thereafter he practiced law in State and Federal Courts. "He had a remarkable talent for imparting knowledge," wrote R. H. Battle in the *North Carolina Law Journal* in 1904, "as the Law students in the '50's, when he was associated with Judge Battle in his Law School, have always freely testified."⁸⁰

Kemp Plummer Battle, President of the University, took charge of the law class on the retirement of his father, Professor Battle, in the college year 1878-79, and continued in charge until John Manning was elected as his successor in 1881.⁸⁰ President Battle was born in Franklin County in 1831, graduated from the University of North Carolina with "first distinction at every examination in all his studies," tutored in the University, took a Master's degree and completed the law course in the years that followed. He started the practice of law in Raleigh in 1854 and continued it till 1876, becoming Director of the Bank of North Carolina in 1857, President of the Chatham Railroad Company in 1861, President of the State Agricultural Society in 1867, and President of the North Carolina Life Insurance Company in 1870. He was chosen President of the University of North Carolina in 1876.⁸¹

In 1880, President Battle reported to the trustees: "In addition to my other duties, I have been compelled to take charge of the class in law. During the year I have had 13 pupils divided into two classes, five of whom are ready to apply for license to practice. It is much to be hoped that a suitable Professor of Law will be appointed as I find my duties quite onerous enough without this burden."

Again, in 1881, he reported: "I have two classes in the study of

⁸⁰ R. H. Battle, "Hon. Samuel Field Phillips, LL.D.," *North Carolina Journal of Law*, I, No. 1, pp. 22-29.

⁸⁰ *Catalogue*, 1878-79, p. 40.

⁸¹ Ashe, VI, pp. 26-28.

the Law. . . . I am not under any obligation to instruct in this department but keep it up for the benefit of the University, the fees being paid to the University except \$100 which is retained to pay for clerical services. These classes are being prepared to obtain license to practice law in the Courts of the State."⁹¹

John Manning—Professor of Law
1881-1899

In 1881 the University Trustees filled the Law School professorship with the appointment of John Manning.⁹² He was born near Edenton on July 30, 1830, attended Edenton Academy and Norfolk Military Academy, graduated from the University of North Carolina in 1850, studied law under John H. Haughton of Pittsboro and was licensed to practice law in the courts of pleas and quarter sessions in 1852 and in the Superior and Supreme Courts in 1853. He practiced law for twenty-nine years and was recognized as leader of the bar of his circuit. He was a member of the Secession Convention in 1861, Adjutant of his regiment in the Civil War and receiver under the Sequestration Acts. He was elected to Congress in 1870, to the Constitutional Convention in 1875 and to the General Assembly in 1880. While a member of the General Assembly he took an active part in securing for the University its first annual appropriation. In this same session he was selected as one of the commissioners to revise and consolidate the public laws of the state in the Code of 1883.⁹³

Course of study. The two year course of study beginning with Battle in 1845 was continued by Manning in 1881, with the line of demarcation changing from the Independent Class and the College Class to a *first year* course covering the subjects and texts prescribed by the Supreme Court for application for license to practice law, and a *second year* course for those competing for the LL.B. degree and seeking a "broad and liberal knowledge of the law." The first year courses and texts listed in the catalogue of 1881-82 included: Blackstone's *Commentaries*, Williams on *Real Property*, Williams on *Executors*, Stephen on *Pleading*, Chitty's *Pleading*, Adams' *Doctrine of Equity*, first Greenleaf on *Evidence*, and the *Code of Civil Procedure*.

The second year courses and texts included: *Parsons on Contracts*, Pierce on *American Railroad Law*, Angell and Ames on *Corporations*, Bigelow on *Torts*, Cooley's *Constitutional Limitations*, Washburn on *Criminal Law*, and Stephen's *Law of Evidence*.⁹⁴

⁹¹ Trustee Minutes, June 3, 1880; June 2, 1881.

⁹² *Catalogue*, 1881-82, p. 33; Trustee Minutes, January 26, 1882—Manning "... entered on his duties at the beginning of last session."

⁹³ William J. Adams, "The Life and Influence of John Manning," N. C. LAW REVIEW, II, No. 4, pp. 218-24.

⁹⁴ *Catalogue*, 1881-82, p. 33.

This curriculum continued throughout Manning's professorship with occasional subtractions, additions, changes in texts and shifts in emphasis. A trustee notation in 1882 emphasized courses in Contracts, Damages, Mercantile Papers.⁹⁵ In the catalogue of 1891-92, Washburn on *Real Property* was added to Williams; Schouler on *Executors* superseded Williams; Smith on *Contracts* superseded Parsons, and Pollock on *Contracts* was added; Best's *Principles of Evidence* was added to Greenleaf; and new texts and courses included Darlington on *Personal Property*, May on *Insurance*, Russell on *Crimes*.⁹⁶ In the catalogue of 1894-95 new texts and courses included Browne on *Domestic Relations*, Bigelow on *Bills, Cheques and Notes*, Morawetz on *Private Corporations*, Dillon on *Municipal Corporations*, Browne on *Sales*, and to Russell on *Crimes* were added Wharton and Clarke.⁹⁷ Black's *Constitutional Law* was added in the catalogue of 1896-97 along with Huffcutt on *Agency*,⁹⁸ and Ewell's *Essentials* and Fishback's *Elements of Law* in 1897-98.⁹⁹

The catalogue for 1877-78 announced that "Lectures are given from time to time on such subjects as have been greatly modified by our statutes, such as Marriage, Descent, Wills, Limitations, &c."¹⁰⁰ This practice was carried forward in the catalogue of 1882-83, restated in 1890-91, and the activity of resident professors was supplemented in 1891-92 with "special lectures" by members of the bar.¹⁰¹ The Moot Court was likewise carried forward and expanded. Regular sessions lasting three hours were held every Saturday night and "every student in the Law School has frequent opportunity for practice," said the catalogue for 1894-95.¹⁰²

A growing thoroughness of instruction and intensity of application were indicated in the 1891-92 catalogue requirements of "daily lectures and recitations" for the Junior class and the writing of a thesis as a requisite for the LL.B. degree;¹⁰³ in the 1893-94 catalogue noting the formation of the Blackstone Club among law students;¹⁰⁴ in Manning's recommendation that applicants for the LL.B. degree complete two years of college work and become twenty-one years old¹⁰⁵—partially accepted by the Trustees and listed in the catalogue of 1896-97: "Applicants for the degree of Bachelor of Laws must be twenty years of age,

⁹⁵ Trustee Minutes, January 26, 1882.

⁹⁶ *Catalogue*, 1891-92, pp. 36-37.

⁹⁷ *Ibid.*, 1894-95, pp. 73-74.

⁹⁸ *Ibid.*, 1896-97, pp. 76-77.

⁹⁹ *Ibid.*, 1897-98, pp. 67-68.

¹⁰⁰ *Ibid.*, 1877-78, p. 44.

¹⁰¹ *Ibid.*, 1891-92, p. 37.

¹⁰² *Ibid.*, 1894-95, p. 74.

¹⁰³ *Ibid.*, 1891-92, pp. 36-37.

¹⁰⁴ *Ibid.*, 1893-94, p. 92.

¹⁰⁵ Trustee Minutes, January 15, 1897.

and must have completed an academic course equivalent to that of the Freshman and Sophomore years in College."¹⁰⁶ The catalogue listed among the advantages offered by this school: "Freedom from temptation and the stimulant to study found in the University regulations, and in the atmosphere of study and of books pervading Chapel Hill."¹⁰⁷

Students and faculty. Law students increased from fourteen in 1881-82, to twenty-seven in 1884-85, to fifty-five in 1891-92,¹⁰⁸ to sixty-four in 1894-95.¹⁰⁹ The visiting committee of the Board of Trustees reported in 1885: "The Law Department, under the charge of Professor Manning, is attended by a respectable number of young men, some of whom are postgraduates."¹¹⁰ In 1890 it reported progress to the point that "... there is now no need for any young man to leave this State to fit himself for the practice of that noble and elevating profession."¹¹¹ In 1892 it recommended that Manning be allowed to spend \$100 of surplus tuition fees in advertising the Law Department in other states.¹¹²

In 1894 Manning recommended that an assistant professor be employed,¹¹³ and in 1896 he reported that his need for assistance had become pressing, as the incoming class entered on January 1, while the outgoing class did not leave until February 1, thus doubling his work for the month of January. He suggested that some competent lawyer be paid \$200 to assist him during that month and the trustee visiting committee recommended that a lawyer be so employed.¹¹⁴ Again in 1897, Manning insisted on the appointment of an assistant professor;¹¹⁵ the visiting committee in the same year reported him ill from overwork.¹¹⁶ An "Instructor" at \$500 a year was recommended by the President of the University¹¹⁷ and the catalogue for 1897-98 lists Thomas Davis Warren as Instructor in Law;¹¹⁸ the next year James Crawford Biggs of Oxford was elected Assistant Professor of Law.¹¹⁹

Library and building. The first official record of efforts to build the Law School Library is found in the Trustee minutes of August 29, 1889, authorizing Professor Manning to spend up to \$150 for a set of U. S. Supreme Court Reports.¹²⁰ In 1892 Manning asked the Trustees for

¹⁰⁶ *Catalogue*, 1896-97, p. 78.

¹⁰⁷ *Ibid.*, 1881-82, p. 34.

¹⁰⁸ *Ibid.*, 1881-82, p. 13; 1884-85, pp. 42-43; 1891-92, pp. 50-52.

¹⁰⁹ Trustee Minutes, Manning Report, February 23, 1895.

¹¹⁰ Trustee Minutes, June 23, 1885.

¹¹¹ *Ibid.*, June 4, 1890.

¹¹² *Ibid.*, May 31, 1892.

¹¹³ *Ibid.*, President's Report, February 23, 1894.

¹¹⁴ *Ibid.*, Manning Report, January 29, 1896.

¹¹⁵ *Ibid.*, Manning Report, January 15, 1897.

¹¹⁶ *Ibid.*, Visiting Committee Report, June 1, 1897.

¹¹⁷ Trustee Minutes, January 27, 1898.

¹¹⁸ *Catalogue*, 1897-98, p. 67.

¹¹⁹ *Ibid.*, 1898-99, p. 69.

¹²⁰ Trustee Minutes, June 6, 1888.

permission to spend \$100 out of tuition fees for new books.¹²¹ The visiting committee approved this request in 1892.¹²² The President recommended it in 1894 and in that year the Trustees passed a resolution authorizing \$100 per year for law books.¹²³ In 1895 Manning asked that the appropriation for books be increased to \$200 per year.¹²⁴ On March 1, 1899, he reported that even the \$100 appropriation had been reduced to \$75.¹²⁵ The Trustee minutes of August 1, 1899, record his widow's gift of his personal law library to the Law School, the acceptance of this gift by the Trustees, and a resolution that a scholarship be established as a Manning Memorial.¹²⁶

The Summer Law School. At least the germ of the Summer School of Law may be discovered in the 1845-46 catalogue announcement that the Professor of Law ". . . will give instruction during the vacations to such members of either [law] Class as desire it without any extra charge."¹²⁷ The catalogue for 1883-84 announced that the "summer course will begin July first and continue until the last Thursday in August. Tuition . . . \$30."¹²⁸ The catalogue for 1891-92 lists Professor Manning and Associate Justice James E. Shepherd as teachers, the texts and courses prescribed by the Supreme Court for applicants for license as the course of study, and the term as extended from July 1st to Thursday before the last Monday in September.¹²⁹ In 1898-99 Assistant Professor Biggs replaced Associate Justice Shepherd.¹³⁰ Forty-seven summer school students were listed in 1894-95; thirty-one in 1895-96; forty in 1896-97.¹³¹ The Summer Law School succeeded all too well, according to a report to the Trustees in 1896 explaining the decline in attendance at the regular session as due in part to "superior advantages and lower cost of our Summer Law School as compared with the regular sessions of the law school."¹³²

Pre-law study. From the beginning of the Law Department in 1845 until its cessation in 1868, courses looked on as introductory to law study were taught by President Swain.¹³³ Kemp P. Battle inherited this tradition when he succeeded to the presidency of the University in 1876. The catalogue for 1876-77 announced: "The instruction in International and Constitutional Law will be conducted with the general

¹²¹ *Ibid.*, Manning Report, January 29, 1892.

¹²² *Ibid.*, Visiting Committee Report, May 31, 1892.

¹²³ Trustee Minutes, February 23, 1894—see President's Report.

¹²⁴ *Ibid.*, Manning Report, February 23, 1895.

¹²⁵ *Ibid.*, March 1, 1899—see Manning Report.

¹²⁶ Trustee Minutes, August 1, 1899.

¹²⁷ *Catalogue*, 1845-46, p. 16.

¹²⁸ *Ibid.*, 1883-84, p. 26.

¹²⁹ *Ibid.*, 1891-92, p. 38.

¹³⁰ *Ibid.*, 1898-99, p. 73.

¹³¹ *Ibid.*, 1894-95, pp. 77-79; 1895-96, pp. 74-75; 1896-97, pp. 81-82.

¹³² Trustee Minutes, February 12, 1896.

¹³³ *Catalogue*, 1845-46, p. 3; 1867-68, p. 20.

view of imparting a clear understanding of the genius of our own governments, State and National, and the relations between other countries and our own. For those who propose to pursue the legal profession, the course will constitute a valuable introduction to the general study of the law."¹³⁴ This tradition was continued by President Battle into the 1900's;¹³⁵ supplemented and enriched by Professor, later President, George T. Winston, listed in the catalogue of 1891-92 as Professor of Political and Social Science,¹³⁶ and in 1896 by Professor Alderman.¹³⁷ In the catalogue of 1893-94 these courses go beyond the status of background or introductory courses and become part and parcel of the Law School curriculum, required of all applicants for the LL.B. degree.¹³⁸

Law Department and University. In a report to the Trustees on May 31, 1882, President Battle pointed out the necessity for a more definite understanding and better adjustment of the relation between the University and the Law Department.¹³⁹ This adjustment had already begun in the field of student activities and college classes. The catalogue for 1877-78 announced that the independent law students had been given access to the libraries of the University and of the Dialectic and Philanthropic Societies, that they were permitted to join the societies and participate in their debates and related exercises, and that they were permitted "on easy terms" to attend lectures in regular University classes.¹⁴⁰

The catalogue of 1845-46 stated that "... the members of the Independent Class will not be subject to any of the ordinary College regulations"¹⁴¹ and it was not until the catalogue of 1880-81 that this statement was omitted.¹⁴²

In March of 1884 the Faculty ruled: "A law student who is a member of any other of the University classes, and rooms either in or out of the College buildings is subject in every particular to the rules established for the government of the students of the University.

"A law student who is not a member of any other University classes, but rooms in the college buildings, is subject to all the rules of the University touching the department, moral conduct, and habits of the students of the University.

"A law student who is not a member of any other of the University classes, or who rooms in the village is under the control of the Prof. of law.

¹³⁴ *Ibid.*, 1876-77, p. 29.

¹³⁵ *Ibid.*, 1899-1900, p. 63; 1906-7, p. 90.

¹³⁶ *Ibid.*, 1891-92, p. 36.

¹³⁷ *Ibid.*, 1896-97, p. 19.

¹³⁸ *Ibid.*, 1893-94, pp. 75-76.

¹³⁹ Trustee Minutes, May 31, 1882.

¹⁴⁰ *Catalogue*, 1877-78, p. 41.

¹⁴¹ *Ibid.*, 1845-46, p. 16.

¹⁴² *Ibid.*, 1880-81, pp. 34-35.

"No drunkenness or scandalous conduct will be tolerated nor will a law student be permitted to drink with a student of the University, or allow such student to drink in his room."

These by-laws were submitted by President Battle to the Trustees on June 4, 1884.¹⁴³

In 1893 President Winston reported to the Trustees: "A question has arisen in regard to the discipline of law students, medical students, students of pharmacy and others not pursuing the regular academic courses in the University. It is my understanding that all students in the University are already subject to the same system of discipline for offences against morality.

"In order to avoid further misunderstanding on this point I respectfully ask that it be so ordered."¹⁴⁴

To this order the Professor of Law filed an unavailing protest: "The students in this department are for the most part much older than the students in the other departments and should not be subjected in all respects to the discipline of the University and I therefore ask that these students be placed under my control except for such offences as affect the *morals* of the young men such as drunkenness and the like. . . . If any other course is pursued with the special schools I feel sure that all of them will fall off in numbers for young men 23 or 24 years of age pursuing a post-graduate course will not subject themselves in all respects to the discipline necessary & proper for men of less mature years."¹⁴⁵

Adjustment continued in the field of Law School financing. Manning accepted the professorship of law in 1881 without salary and with permission to charge tuition fees for his compensation and reserving the right to supplement this income by continued practice of law.¹⁴⁶ The catalogue for 1882-83 listed the authorized tuition fees at \$100 per year for the first year course, \$100 for the second year course, and \$150 for both courses.¹⁴⁷ In June, 1884, the visiting committee of the Trustees suggested that the fees of the Professor of Law ought to be supplemented and that he should be made a regular member of the Faculty with all his time devoted to the Law School.¹⁴⁸ In July, 1884, the Trustees directed that "such fees as may be paid into the University by Professor Manning's law students shall be turned over to Professor Manning as an addition to his perquisites."¹⁴⁹ In February, 1885,

¹⁴³ N. C. U. Faculty Minutes, March 7, 1884; Trustee Minutes, June 4, 1884.

¹⁴⁴ Trustee Minutes, February 8, 1893.

¹⁴⁵ *Ibid.*, Manning Report, February 7, 1893.

¹⁴⁶ Battle, "Hon. John Manning, LL.D.," *North Carolina Law Journal*, II, No. 3, p. 84.

¹⁴⁷ *Catalogue*, 1882-83, p. 25.

¹⁴⁸ Trustee Minutes, June 4, 1884.

¹⁴⁹ *Ibid.*, July 26, 1884.

President Battle reported the Law School revenues inadequate to support the Professor of Law "... who is compelled to spend a large part of his time at the courts in the practice of his profession to the detriment of the school," and recommended that he be granted a temporary salary of \$1,000, in addition to his fees, with all his time given to building up the school. This recommendation was approved by order of the Trustees in March, 1885, and Manning made a regular member of the Faculty.¹⁵⁰ The visiting committee suggested a slight but significant alteration in this arrangement in 1888—that the Law Professor's salary be fixed at \$1,000, to be paid by the University, with an added \$1,000 "contingent upon and paid out of the tuition fees of that department," with all fees collected in excess of this amount to be turned over to the bursar.¹⁵¹ In 1891 the President relayed to the Trustees a suggestion that had been made that all tuition fees go into the University treasury and the Professor of Law be placed on the same footing as the other professors and be paid a salary of \$2,000 a year; but he doubted the advisability of the suggestion because "the payment of so large a sum directly out of the Treasury for the education of lawyers might not be agreeable to the taxpayers."¹⁵² This step was taken after Manning in 1893 pointed out that the bursar was then collecting over \$1,000 in fees from law students,¹⁵³ and on recommendation of President Winston in 1894. In February of that year it was resolved by the Trustees that "after September 1st 1894 the Law Department be put upon the same footing with the other Chairs of the Institution, and that the Professor be paid a salary of \$2,000 from the Treasury and the fees of his Department belong to the University as the other fees paid by students."¹⁵⁴ In 1899 the Trustees resolved that the Summer Law School be incorporated as part of the University and the Summer School teachers paid \$250 a month.¹⁵⁵ The integration of the Law Department with the University thus became complete.

James Cameron MacRae

Dean and Professor of Common and Statute Law and Equity
1899-1909

The Board of Trustees in 1899 selected James Cameron MacRae as successor to Professor Manning. He is listed in the catalogue of 1899-1900 as Professor of Common and Statute Law and Equity and in the following year the title of Dean is added.¹⁵⁶ MacRae was born in

¹⁵⁰ *Ibid.*, February 5, 1885; March 14, 1885.

¹⁵¹ *Ibid.*, June 6, 1888.

¹⁵² *Ibid.*, February 11, 1891.

¹⁵³ *Ibid.*, Manning Report, February 7, 1893.

¹⁵⁴ *Ibid.*, February 23, 1894.

¹⁵⁵ *Ibid.*, August 19, 1899. The resolution stated that these salaries were contingent on sufficient receipts.

¹⁵⁶ *Ibid.*; *Catalogue*, 1899-1900, p. 63; 1900-1, p. 67.

Fayetteville on October 6, 1838, graduated at Donaldson Academy, taught school, clerked in a store, taught school again¹⁵⁷ and made up his mind at the age of 17 to study law, despite the advice of a half-brother to study engineering. "You ask my advice as to your future," wrote his brother, Duncan MacRae, from Paris in 1855. "To speak to you frankly I hardly feel a hope that my advice will be useful, but I freely comply with your request to give you such suggestions as occur to me, the result of observations and my own experience. The reasons why I recommended the profession of Civil Engineering were that this profession is less crowded than any other and the field is very large for its exercise. It does not require so much education as that of law. It affords *a support* from the commencement and the remuneration is much larger. But I see you have selected the *law*, and hence no advice is necessary on this point. Such being your intention I would recommend you to form it at once in your mind, and make all pleasures subordinate thereto, the sentiment of self-dependence. Consider that you have no influences to aid you, no staff to lean on, and no support to prop you. You must make your own way and that from the start. Nothing so much assures success as that confidence which necessity inspires. While I do not recommend you to forswear female society, Be Sure if you would have professional success, not to allow yourself to be involved in early entanglements. . . .

"You express regret at not completing your college course. I do not consider this a great loss if your time is properly occupied. You have had a good classical education. It is now your duty to discipline your own mind by a course of study resolved on and perfected by yourself. You have a vast field of history before you to which you may well devote three years. And if during that time you are making a support you have lost no time in the preparation for the bar. The first book to study is the 'Bible.' Study it well. It is the earliest history of the world. It contains the first rudiments of the Law, the best reductions of logic, the loftiest flights of eloquence, the purest touches of imagination. Master the Bible and you are at once skilled in that knowledge of Human Nature, so essential a weapon with the Lawyer. After the Bible, ancient history, Plutarch, Gibbon, Hallam, Sismondi, the history of Germany and France, Hume and its continuations. It is in these soils of the feudal times deep down, that you find the roots of that tree of legal science whose branches have overspread the world, bearing ripe principles for the benefit of Man. Most young men neglect all this. I tell you the profound study of history before commencing that of Law, is all essential to enable you to grasp the science, and now

¹⁵⁷ F. P. Graham, "Judge James Cameron MacRae," *N. C. U. Magazine*, 1909-10 (November), p. 3.

is your time for this. Of course the history of your own country is not to be omitted.

"Conventional and Legislative Debates, the orations and speeches of eminent men—and in this connection Blair's Lectures, The Speeches of Mr. Barker, Lord Chatham, Mr. Webster. Some work as Hedge on Logic, to frame the mind and reasoning, to the conception of ideas and their proper clothing in tasteful and persuasive language. Nor should you fail to cultivate the fancy, with a tight rein for it is a mettlesome and unruly steed, but capable of excellent service if held with a curb and directed with a skillful hand and a sure rein—read poetry sacred and profane. Milton, Pope, Allenside, Shakespeare, Campbell, Scott, Byron . . . abound with instructive teaching—and may be studied with profit. When you come to the study of the Law, take up the severest masters and never let them go till you have thoroughly read and comprehended them. Coke's Commentaries contain the whole science of the law and the man who knows and understands them is [at] once a lawyer.

"[Fearne] on Contingent Remainders, Saunders on Deeds and Trusts, Chitty on Pleading are elementary studies of first importance, and your time to master these studies is before you come to the bar. The human mind has in its employ a variety of employees. You study a book. Nothing occurs perhaps on your first reading to strike you. You take it up again and you discover a treasure. So it is especially with the severe law authors. At every reading you will find that some employee of the mind has taken up and stored away a thought unconsciously oftentimes to yourself which comes to serve you at a most useful juncture.

"You must also study *Man*. Mix with all classes. Study their tastes, their modes of reasoning; their means of arriving at conclusions, their language, their phrases, their prejudices & their affections. Important causes have been gained by the use of the juror's ideas. I am sure that I saved the life of some soldiers in Wilmington who were tried for murder by a well timed allusion to 'temperance societies' in which I adopted the sentiments of a leading juror whom these institutions in that particular way were a hobby. And last of all after a proper use of the means I have pointed, success at the bar is to be gained only by patience, by diligence, energy, devotion to duty, fidelity and *Strict honesty* & truth. But if you allow a few more words I am done. Too little attention is paid in America to the preservation of the health. Our lawyers travel exposed, do not clothe themselves with sufficient warmth & the result is the profits of their labor is expended in medicine and doctors. I am sure that more lawyers are eaten up by doctors than by alligators or any other wild beast. The use of liquor in America is our

worst *national folly*. Besides being injurious at the best, it is adulterated to such an extent that he who drinks the brandies, rums, [whiskey &c] in vogue *drinks poison*. I am satisfied that no better resolution so far as comfort and health are concerned, could be set than (without any dependence on societies) a resolution to adopt good water and stick to it.

"In a few words My Dear Sir, abstinence from Evil, Self Confidence, Energy and Study will insure you success in any profession. Whatever success I have attained I have reached by hard work. I am well aware that I have been regarded as an 'off hand man,' but the world has little known the hours of thought, study and exertion I have given to an expected trial, and many a night I have consumed till morning, when I have been supposed to be asleep. I write you thus confidentially and fully that you may know I appreciate your request. The advice I have given if followed will lead sure to success—and it rests with you whether it shall be worthless or valuable."¹⁵⁸

Pursuant to this advice, MacRae began reading law out of school hours. Often he would get up to read Blackstone by a pine knot. He continued his study in the law office of the brother who had suggested the course of readings outlined above and was licensed to practice law in the County Court in 1859, obtaining his full license in 1860. He fought in the Civil War and rose from private to major to assistant adjutant general. After the war's close he practiced law with Colonel Charles Broadfoot and went to the General Assembly in 1874 where he fought for the re-opening of the University in the face of bitter opposition from many of his constituents. He was appointed to the Superior Court in 1882 and became an Associate Justice of the Supreme Court in 1892. After leaving the bench in 1894 he practiced law in Raleigh until his appointment as Law Professor and Law School Dean.¹⁵⁹

Course of study. Dean MacRae continued the main pattern of the two year law course as outlined by Professor Manning, with occasional changes in texts and shifts in emphasis. This policy is described in the catalogue for 1907-8: "A good English education is essential to success at the Bar, and the completion of a full collegiate course before beginning the study of law is urged in all possible cases. No absolute requirement in scholarship, however, is prescribed for candidates for admission into the School, except that all applicants for the degree of Bachelor of Laws shall have satisfactorily completed academic courses equivalent to those prescribed for the Freshman and Sophomore Classes in the University. Other students than applicants for degrees may be

¹⁵⁸ D. K. MacRae to James Cameron MacRae, October 8, 1855—letter in private collection of Duncan MacRae.

¹⁵⁹ Graham (*supra* note 157), pp. 3-4; James E. Shepherd, "Presentation of the Portrait of Ex-Associate Justice James Cameron MacRae," *N. C. Reports*, 146, pp. 683-85.

admitted upon satisfying the Dean of their possession of such education as will enable them to make fair use of their opportunities in the School of Law."¹⁶⁰

He continued and expanded the practice of bringing in members of the bar to supplement faculty instruction with special lectures. The Moot Court was likewise continued and expanded according to announcement in the catalogue for 1907-8: "The Moot Court has become an important factor in legal educational methods, in familiarizing the student with the practical side of law. It is the purpose of the University Court to acquaint the student with the legal details so necessary to be acquired, yet so difficult of access; and, in order to facilitate this work, the Court has been formed into two divisions, Civil and Criminal, each with its own judge and other officers. Sessions of both courts are held weekly, and, through regular assignments of cases, every student of the School has frequent opportunities for practice. The work embraces preparation of cases for trial, drawing of pleadings, selection of jurors, examination of witnesses, arguments on law and facts to judge and jury, and preparation and argument of appeal,—all according to the forms of practice of the North Carolina Courts."¹⁶¹

The scope of the Summer Law School expanded to provide for students (1) beginning the study of law, (2) reviewing for the bar examination, or (3) unable to attend the regular sessions, and (4) for lawyers reviewing particular branches of the law.¹⁶² The enrollment fluctuated from forty-four in 1899,¹⁶³ to fifty-seven in 1906,¹⁶⁴ to thirty-six in 1909.¹⁶⁵

Law and pre-law courses. In 1901-2 the catalogue listed a course of lectures for law students on "Medico-legal Jurisprudence" by Doctor Charles S. Mangum and a course in economics and history by Professor Charles E. Raper, in line with the established tradition;¹⁶⁶ but the first of these courses was short lived¹⁶⁷ and the second was never integrated with the law curriculum. MacRae went a step beyond this tradition when he reported to the Trustees that he had arranged with the President and Faculty to include in the Law School curriculum ". . . an elementary course in the first principles and plain rules of business, contract and property law, open to all students of the University, which will afford a valuable addition to general education . . ." to college students as well as to law students.¹⁶⁸ In fact this notion took root to the

¹⁶⁰ *Catalogue*, 1907-8, pp. 102-3.

¹⁶¹ *Ibid.*, p. 106.

¹⁶² *Ibid.*, p. 108.

¹⁶³ *Ibid.*, 1899-1900, pp. 88-91.

¹⁶⁴ *N. C. U. Record*, 1906-7 (December), p. 21.

¹⁶⁵ *Ibid.*, 1909-10 (December), p. 26.

¹⁶⁶ *Catalogue*, 1901-2, p. 65.

¹⁶⁷ Trustee Minutes, MacRae Report, January 21, 1904; MacRae Report, December 1, 1904.

¹⁶⁸ *Ibid.*, January 23, 1901—see MacRae Report.

extent that the Executive Committee of the Board of Trustees in 1902 "resolved that the President of the University be requested to confer with the Dean of the Law Department, and if consistent with the interest of the University, an opportunity be given to the members of the Junior class beginning at the next session, to elect as part of his Senior course portions of the Law Course which constitute a part of the course prescribed for admission to the Bar."¹⁶⁹ This trend apparently caused little concern in academic circles until Dean MacRae reported the Elementary Law Course to be "popular and successful" and a useful "feeder" to the Law School.¹⁷⁰ The University Faculty was not as interested in feeding the Law School as the Law School was interested in being fed, for the Faculty minutes of September 8, 1906, "... authorized the President or Dean to refuse registration in Elementary Law until the position of this course in the curriculum should be determined." This was done in short order according to a notation in the Faculty minutes of September 14 that the Elementary Law Course had been withdrawn from all courses "for the present,"¹⁷¹ over the protest of Dean MacRae that a general education was not complete "without some indoctrination in those principles which concern the rights and duties of citizenship, especially as regards persons and property."¹⁷²

Students and faculty. Student enrollment fluctuated widely, but the course over the ten year period of MacRae's deanship was upward—from thirty-eight in 1899¹⁷³ to eighty-two in 1909.¹⁷⁴ The personnel of the Faculty likewise fluctuated: Biggs resigned in the spring of 1899, returned on the solicitation of President Alderman in the fall of the same year.¹⁷⁵ Thomas Ruffin came in as Assistant Professor of Law in 1900, was promoted to full Professor in 1903, resigned in 1904, and returned in 1907.¹⁷⁶ Lucius Polk McGehee succeeded Ruffin in 1904,¹⁷⁷ and resigned in 1909, to be succeeded by Patrick Henry Winston.¹⁷⁸ James C. MacRae, Jr., was appointed Instructor in Law in 1904, resigned in 1905, and his unexpired term was completed by Edgar D. Broadhurst.¹⁷⁹ At MacRae's death in 1909 Ruffin became Acting Dean, Walter H. Grimes of the Raleigh bar was appointed temporary Instructor to fill the vacancy, and at the end of the school year Ruffin resigned

¹⁶⁹ Trustee Minutes, February 12, 1902.

¹⁷⁰ *Ibid.*, MacRae Report, January 21, 1904.

¹⁷¹ Faculty Minutes, September 8, 1906; September 14, 1906.

¹⁷² *Record*, 1906-7 (December), p. 20.

¹⁷³ Trustee Minutes, June 23, 1901—see MacRae Report.

¹⁷⁴ *Record*, 1909-10 (December), p. 26.

¹⁷⁵ Trustee Minutes, March 21, 1899; August 19, 1899.

¹⁷⁶ *Ibid.*, June 5, 1900; June 2, 1903; May 31, 1904; August 6, 1907.

¹⁷⁷ *Ibid.*, May 31, 1904.

¹⁷⁸ *Record*, 1909-10, p. 27.

¹⁷⁹ Trustee Minutes, May 31, 1904; *Record*, 1905-6, p. 23.

again.¹⁸⁰ But again the curve was upward: a third professor was added in 1907.¹⁸¹

Library and building. In May, 1900, MacRae informed the visiting committee of the Trustees that the Library needed specifically another set of North Carolina Reports and \$200 to \$300 a year for books.¹⁸² In 1900, the President pointed out the need of "a better library" for the Law Department,¹⁸³ the committee recommended \$100 and recommended the renewal of this sum in 1901.¹⁸⁴ In 1902 MacRae stressed the need of a librarian in charge of the law books, reported that he had put through the General Assembly a resolution that "... we may from time to time replace worn volumes of N. C. Reports with new ones without cost." He requested \$500 for new texts, rebinding old ones and purchasing bookcases;¹⁸⁵ the committee recommended \$200.¹⁸⁶ In 1903 he reported 1500 volumes in the Library;¹⁸⁷ in 1904 that a law student was acting as librarian for his tuition;¹⁸⁸ in 1905 that alumni were raising funds for a "Manning Memorial Library";¹⁸⁹ in 1906 he asked that the part time student librarian be replaced by a full time librarian;¹⁹⁰ in 1907 he reported that the library had 2000 volumes.¹⁹¹ In 1909 the visiting committee recommended not less than \$5000 for law books and appropriation of \$1000 annually.¹⁹² The trustees authorized \$1000,¹⁹³ and at the end of the year 3000 volumes were reported in the Library.¹⁹⁴

In 1900 the President recognized the need of "better quarters" for the Law Department.¹⁹⁵ In 1902 MacRae reported removal to "larger and more commodious quarters" in South Building for lecture room, with the use of an adjoining room for an office and addition to the Library; he expressed the hope of a separate law building in the near future.¹⁹⁶ In 1904 he asked for a building "especially designed & built for the purpose of a law school, with its law library and reading rooms as well as professors' offices";¹⁹⁷ in 1906 he asked for South Building for the exclusive use of the Law Department, including dormitory rooms for law students;¹⁹⁸ and in 1907 he reported that the Law School

¹⁸⁰ *Record*, 1909-10, p. 77; 1910-11, p. 27.

¹⁸¹ *Ibid.*, 1907-8, p. 32.

¹⁸² Trustee Minutes, Visiting Committee Report, May 8, 1900.

¹⁸³ Trustee Minutes, 1898-1904, p. 127—President's Report for 1899-1900.

¹⁸⁴ *Ibid.*, Visiting Committee Report, May 8, 1900; June 4, 1901—see Visiting Committee Report.

¹⁸⁵ *Ibid.*, MacRae Report, January 9, 1902.

¹⁸⁶ Trustee Minutes, June 3, 1902.

¹⁸⁷ *Ibid.*, MacRae Report, January 26, 1903.

¹⁸⁸ *Ibid.*, MacRae Report, January 21, 1904.

¹⁸⁹ *Record*, 1905-6 (December), p. 24.

¹⁹⁰ *Ibid.*, 1906-7 (December), p. 22.

¹⁹¹ *Ibid.*, 1907-8 (December), p. 33.

¹⁹² Trustee Minutes, May 31, 1909.

¹⁹³ *Ibid.*, July 2, 1909.

¹⁹⁴ *Record*, 1909-10 (December), p. 27.

¹⁹⁵ Trustee Minutes, 1898-1904, p. 127—President's Report for 1899-1900.

¹⁹⁶ Trustee Minutes, MacRae Report, January 9, 1902.

¹⁹⁷ *Ibid.*, MacRae Report, December 1, 1904.

¹⁹⁸ *Record*, 1906-7 (December), p. 22.

had been moved to Smith Building vacated by the University Library and adequate to Law School needs.¹⁹⁹

Legal education and admission to the bar. Agitation of stricter requirements for admission to the bar began at the beginning of MacRae's administration of the Law School. In June, 1900, the committee on legal education and admission to the bar of the newly organized North Carolina Bar Association presented a resolution recommending that "... the period prescribed for the preparation of applicants for license to practice law should be extended to two years."²⁰⁰ This was a long step forward. The laws of 1760 had required that every applicant be examined "as to his knowledge in matters of law . . ."; the Supreme Court in 1849 prescribed its first formal course of study, in 1889 prescribed its first formal period of study—"12 months at least," in 1898 required its first written examination;²⁰¹ and this resolution of the bar in 1900 proposed the doubling of the formal period of study required for admission to the bar. Professor Biggs, of the University Law School, who had been one of the moving forces in organizing the Association, moved the adoption of the resolution, and the debate was on.

"... it may prevent . . . in some instances very deserving young men from entering the profession, and drive them to other professions," argued D. W. Robinson of Lincolnton. "It is a fact that there are men on this floor today . . . who have fitted themselves for the practice of the profession . . . in twelve months, and those men, without considerable means, would have been deprived of the privilege of entering our profession if they had been required to pursue the study for two years." Dean MacRae approved this argument: "I am very much obliged to my friend from Lincolnton, who has just spoken. He has voiced the sentiments which I was hesitating whether to express before this assembly. . . . What difference does it make how long a course is prescribed for a man, so that he is able to go before the Supreme Court and stand the examination? . . . Wherefore the necessity of building the wall closer around this profession as we see it's being drawn around every other profession."

Thomas A. Jones of Asheville spoke for the two year study period: "They argue that whenever a man can answer to the satisfaction of the Supreme Court enough of the questions he can pass. Then I ask why should there be one year? Do they mean to argue seriously that a man ought to be admitted to practice, provided he can pass the examination, if he has say only six weeks' study? . . . I think a man should not only be able to answer the questions, but he should have gone through a

¹⁹⁹ *Ibid.*, 1907-8 (December), p. 32.

²⁰⁰ *N. C. Bar Association Reports*, II, 49.

²⁰¹ Albert Coates, "Standards of the Bar," *N. C. LAW REVIEW*, VI (1927), pp. 35, 40-41.

systematic course of study. . . . I know there were a good many able lawyers admitted to practice under the old twenty dollar system,²⁰² and no one would argue that because those men have made an eminent success that we should go back to that system. There is no rule that does not work some hardship. It may keep a good many deserving young men from being admitted, but I do believe it will check the admission to the Bar of a good many who are not fit and qualified to be admitted. The argument of Judge MacRae is that they have to learn by experience. The trouble is they are learning it at the expense of the clients. . . . I think we should increase the limit from one to two years."

Mr. J. Crawford Biggs, of Durham, followed in support of the resolution: "I regret exceedingly to have to differ with the Dean of the law school with which I am now connected, but it does seem to me that we should pass the resolution now under discussion. My experience at the University Law School teaches me that we should require more training for the applicant. I speak in behalf of the applicant himself. I believe that the members of the Bar will agree with me that the reason so many young men, after having obtained their license, leave the profession, is because they enter the profession not equipped for work, and I believe it is to the interest of the young man, who in the future intends to enter the legal profession in North Carolina, that he should be trained and equipped for work. If he is prepared, when he receives a case he can manage it properly and make a success, but if he has not that training, when he receives his first case, or second case, he cannot manage it, makes a failure, becomes discouraged and leaves the profession."

E. J. Justice, of Marion, argued: "The people of North Carolina are entitled to protection against incompetent attorneys by having them study before they practice. I want to ask three questions of Judge MacRae. Whether a man who takes all of the questions which have been submitted by the Supreme Court since the written examination has been inaugurated, and learns the answers to them, cannot in all probability pass any examination that the Supreme Court will in future submit to him? The second question I want to ask him is, if this is true, if a young man cannot in sixty days learn the answers to all of them? And if he can, whether he thinks he is qualified to practice law, having learned the answers to those questions? If he then can answer a sufficient per cent of questions probably to be propounded to him in the future by the Supreme Court, is it not true that the examination is

²⁰² Public Laws of North Carolina, 1868-69, Chapter XLVI, pp. 118-19—" . . . any citizen of this State, by establishing a good moral character, and paying a license tax of twenty dollars, shall be allowed to practice law in the courts of North Carolina." This was repealed in 1870—see Public Laws of North Carolina, 1870-71, Chapter CXX, p. 189.

not sufficient? It is not a question of knowing how to answer questions like a parrot, but it is a question of understanding what the answer means."

The resolution was adopted, formally presented to the Supreme Court by a committee from the bar and adopted by the Court to take effect at the examination in February, 1901.²⁰³ "However salutary this law may be prospectively," reported Dean MacRae, to the next meeting of the Trustees, "it has much embarrassed quite a number of the students who expected to have applied for license in Feb.," and had made their financial arrangements on that basis.²⁰⁴

The President of the University was apparently in accord with Professor Biggs' position. He had said in 1899 that "the action of the Supreme Court in establishing the written examination as a text for license has given new vigor to the school, and . . . new dignity to the profession"²⁰⁵ and in 1900 he wrote in his annual report that he believed the Court would "act wisely to increase the requirements for admission to the bar to a two years course for all students. In this way alone can the [tendency] be checked to debase law schools from their high function into mere quizzing bees for obtaining license."²⁰⁶ The two year course of study adopted for admission to the bar in 1900 simply brought the Court in line with the standard set for the LL.B. degree in the University Law School in 1845 and prevented applicants from converting the "12 months study at least," prescribed in 1889, into 12 months' study, "at most." MacRae recognized this effect in his report in 1904: "On account of the more stringent requirements by the Supreme Court for applicants for license, and on the further account of our enlargement and lengthening of the course it is not probable we will have an increase in numbers immediately, but we are endeavoring to make the work more thorough than ever."²⁰⁷

Association of American Law Schools. In August, 1900, following the June meeting of the State Bar Association recommending two years of law study for admission to the bar, Assistant Professor Biggs represented the University Law School at a meeting of law school officials held in Saratoga Springs, New York,²⁰⁸ to form an Association of American Law Schools with "the object of . . . the improvement of legal education in America. . . ." The Articles of Association pro-

²⁰³ *N. C. Bar Association Reports*, II, 50-53, 58-59, 65, 71; III, 19; *N. C. Reports*, 128, p. 467.

²⁰⁴ Trustee Minutes, January 23, 1901—see MacRae Report.

²⁰⁵ *Ibid.*, March 1, 1899—see President's Report.

²⁰⁶ Trustee Minutes, 1898-1904, p. 126—President's Report for 1899-1900.

²⁰⁷ Trustee Minutes, MacRae Report, December 1, 1904.

²⁰⁸ *American Bar Association Reports*, XXIII, pp. 569-70, 575. Biggs was chosen a member of the first executive committee of the Association of American Law Schools.

vided that ". . . no Law School shall be . . . elected [to membership] unless . . . it shall require of candidates for its degree the completion of a high school course of study, or its equivalent," and "the course of study leading to its degree shall cover at least two years of thirty weeks per year, with an average of at least ten hours required class room work each week for each student; *provided*, that after the year 1905, members of this Association shall require a three years' course."²⁰⁹ Professor Biggs returned from this meeting to urge the University Law School authorities to accept these standards and join the Association. Dean MacRae balked at this proposition, and reported to the Trustees in January, 1901, that ". . . one of the conditions is an extension within a few years of the time of study for the degree of LL.B. in this University. A full course of two years is already established and no reason occurs to me for a change."²¹⁰ And in 1907 he reported the Law School was precluded from joining the Association because the rule requiring a three year course of legal study for membership had gone into effect.²¹¹

The Law Journal. At the first annual meeting of the North Carolina Bar Association, in 1899, Charles W. Tillett of the Charlotte bar urged the publication of a law journal: "I will state at the outset, that I am heartily in favor of the establishment of a Law Journal, though I am not clear as to the means by which it should be established. I will not say that it is necessary for the success of the Association, that we should have a journal, but I will say in judgment, its highest efficiency cannot be attained unless we have some publication which will act as a *quasi* organ or medium of communication. A properly conducted Law Journal will be of inestimable value to the Bar of this State. It will be a radiating center of influence, and it will also be a mirror in which the opinions of the Bar may be reflected. All organizations, political, religious and business, which have attained any great efficiency, have some publication to which its members can look for matters that will promote the interest of the organization.

"As the scope of the Journal, it seems to me, in the first place, that it should contain the opinions of our Supreme Court in full; it may be that opinions involving lengthy decisions of matters of no great interest, might be condensed and abridged. The Journal should be published, if possible, every two weeks, and we would thus be enabled to peruse the decisions of our appellate Court in a short time after they were rendered. Many of the lawyers of this State are now taking the Southeastern Reporter, at a cost of \$5.00 per year, and Mr. Seawell's

²⁰⁹ *Ibid.*, pp. 571-72.

²¹⁰ Trustee Minutes, January 23, 1901—see MacRae Report.

²¹¹ *Record*, 1907-8 (December), p. 32.

excellent Digest at a cost of \$2.00 per year. I doubt not that it would be easy to make some arrangement with Col. Kenan, the Supreme Court Clerk, and Mr. Seawell, the publisher of the Digest, whereby all opinions could be furnished to the Journal, and the lawyers of the State would thus rely upon the Journal alone, and get not only the Supreme Court opinions, but get other matter that would be useful. It should contain discussions by North Carolina lawyers of subjects of interest to the Bar, treated from the standpoint of North Carolina law. When we read a discussion in a Journal, such as the Central Law Journal, we find that the writers seldom refer to North Carolina decisions, while if these articles were written by a North Carolina lawyer, our decisions would form the source from which the authorities would be drawn. We could have, for instance, monographs on the North Carolina law of 'Executors,' or 'Municipal Corporations,' or 'Contributory Negligence' and the like. We could have discussions of Supreme Court decisions, and thus the Supreme Court might be informed as to when their opinions do not meet the approval of the profession. However, the Journal ought not to be made a Court of Appeals to which a lawyer who had lost his case might apply for relief, because the criticisms of a defeated attorney can hardly be said to emanate from an unbiased source, nor are they of general interest to the profession. The Journal should further contain editorials and editorial paragraphs relating to matters of vital interest to the Bar in this State."

This report called forth the following resolution: "*Resolved*, That a Committee of three be appointed by the President to take into consideration the establishment of the Law Journal, and with full power to act, but with the distinct understanding that this Association shall not become pecuniarily liable in any manner." The President appointed to this committee: Charles W. Tillett of Charlotte, Chairman, W. A. Guthrie of Durham, H. A. London of Pittsboro.²¹²

In 1899, Paul Jones of the Tarboro Bar had proposed the "publication of a Law Journal for North Carolina Lawyers." This publication began in 1900 as the organ of the State Bar Association, under the supervision of the bar committee and the editorship of Paul Jones. Its purposes were described by the editor: "What Should It Be.—My purpose is to publish a Journal of fifty or sixty pages, tasteful in arrangement and neat in typographical appearance. The contents of each issue is to be about as follows:

"No. I. Lives of the Chief Justices and Justices of the Supreme Court of North Carolina, and other distinguished Lawyers.

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²¹² N. C. Bar Association Reports, I, 46-47, 56.

"No. II. Original articles on subjects pertaining to North Carolina Law.

"No. III. Digests of importance from other courts.

"No. IV. Editorial Columns.

"No. V. Personal Notes Among the Bar, From the Courts, Communications.

"No. VI. Digests of important North Carolina Cases.

"No. VII. Among the Exchanges, Selections, Wit, Humor, etc.

"No. VIII. Book Reviews."²¹³

This publication ended with the second volume in 1902.

In 1904, Dean MacRae undertook anew the editorial publication of a journal at the request of the bar committee. The first issue appeared in January, 1904, under the caption: *North Carolina Journal of Law*, Organ of the State Bar Association; Edited by Jas. C. MacRae, LL.D.; J. C. MacRae, Jr., Business Manager; The Seeman Printery, Publisher; Committee on Law Journal: C. W. Tillett, Chairman, E. W. Timberlake, J. Crawford Biggs; Issued Monthly, Subscription, \$3.00 Per Year. "Issued from The University, the principal seat of learning, of free thought and of free speech, it will endeavor to present, through the medium of the lawyers of all sections of the State, free discussion of such topics as will be of interest to the profession." It contained 48 pages, with articles on The North Carolina Bar, The Burden of Proof in Certain Civil Actions, Changes Wrought by the Negotiable Instruments Law, and a biographical sketch of Samuel Field Phillips, together with editorial comments on the proceedings of the State Bar Association, the Journal of Law, the Supreme Court, Supreme Court Reports, the South Dakota Case, the Northern Securities Company Case, Admiralty Jurisdiction Over State Canals.²¹⁴

The twelve issues for 1904 totalled 624 pages; for 1905, 588. Publication ceased with the December issue in 1905 with the following comment:

"We have a mind to give up the Journal after this number; all of our obligations with regard to it have been fulfilled, and as to the Journal, we 'owe no man anything, but to love one another.' Possibly it may pass into other hands and be continued under new auspices; at any rate we take our leave of the editorial chair.

"The venture was made two years ago without the thought of making any money out of it, but more for the purpose of starting again a publication which ought not to have failed and which might be of interest and service to the profession in North Carolina. Then we pro-

²¹³ *N. C. Law Journal*, I (1900), pp. 1, 7, 9, 11.

²¹⁴ *N. C. Journal of Law*, I, No. 1, *passim*.

posed to turn it over to some one else who would make a permanent institution of it.

"We were agreeably disappointed in the financial view we took of it at first. The loss has been slight, and we feel sure it would have been entirely repaired and the Journal put upon a solid basis in another year if we had had the time to attend to it. Indeed, our small delinquent list is composed of such good material that we are sure it might be reduced to zero if we had cared to press it.

"It is a pleasure to us to have been able to contribute to the intellectual enjoyment of these subscribers for a year or two without cost to them. We trust they may have enjoyed it as well as we have, and we freely forgive to each one of them the little debt he owes us.

"Either this publication or something else has so increased the attendance upon the Law School of the University, that they demand from us the attention which we have been giving to the Journal."²¹⁵

Lucius Polk McGehee—Dean and Professor of Law
1910-1923

In 1910 the Trustees elected Lucius Polk McGehee as Dean and Professor of Law.²¹⁶ McGehee was born in Person County in 1868, attended Morson's school in Raleigh, graduated from the University of North Carolina in 1887 as valedictorian of his class, taught school in Asheville and Mebane, returned to the University to study law in 1890 and was admitted to the bar in 1891. He practiced law in Raleigh and New York City, joined the editorial staff of the Edward Thompson Company in 1895 and was associate editor-in-chief of the second edition of the American and English Encyclopedia of Law, after which he returned to the University of North Carolina, in 1904, as Associate Professor of Law. He returned to the practice in New York City in 1909 and was recalled to the Law School deanship the following year.²¹⁷ While a member of this Law Faculty he edited the *Consolidated Statutes of North Carolina*,^{217a} and wrote *Due Process of Law under the Federal Constitution*,^{217b} in addition to contributing various articles to the LAW REVIEW.

Other members of the Faculty included Atwell Campbell McIntosh and Patrick Henry Winston.²¹⁸ Professor McIntosh was born in North Carolina in 1859, graduated from Davidson College with the degrees of A.B. in 1881 and M.A. in 1887, and studied law with Judge

²¹⁵ *Ibid.*, II, No. 12, pp. 553-54.

²¹⁶ *Record*, 1910-11 (December), p. 26.

²¹⁷ N. C. LAW REVIEW, II (1923), pp. 30-32.

^{217a} Raleigh: Commercial Printing Co., State Printers, 1919, Official revision, 2 vols.

^{217b} New York: Edward Thompson Co. (1906), pp. x, 451.

²¹⁸ *Catalogue*, 1910-11, p. 125.

David Schenck and with B. C. Cobb. He taught in high schools in North Carolina, South Carolina and Mississippi, practiced law for several years, became Professor of Law in Trinity College, in 1904, Professor of Law in the University of North Carolina in 1910, and was Acting Dean of this Law School, 1923-24, 1926-27.²¹⁹ He was appointed Kenan Professor of Law Emeritus in 1934. While a member of this Law Faculty, in addition to contributing various articles to the *LAW REVIEW*, he published *Selected Cases on Contracts*,^{219a} and *Remedies by Selected Cases, Annotated*,^{219b} and was editor of the annotations for the *Consolidated Statutes of North Carolina*.^{219c} In 1929 he published the authoritative treatise on *North Carolina Practice and Procedure in Civil Cases*.^{219d}

Professor Winston was born in 1881, attended the University of Texas in 1897-98, the University of North Carolina in 1899-1900, graduated from the U. S. Military Academy, West Point, in 1905, attended the University of North Carolina Law School in 1905 and the University of Michigan Law School in the summer of 1910. He practiced law in Asheville, 1906-9, and became Professor of Law in the University of North Carolina in 1909.²²⁰

Courses of study. The first year of McGehee's deanship records a sharp transition from the textbook to the casebook as the basis of instruction; McIntosh's *Cases on Contracts*, Woodruff's *Cases on Domestic Relations*, Godard's *Cases on Bailments*, Mechem's *Cases on Agency*, Lawson's *Cases on Personal Property*, Mordecai and McIntosh's *Cases on Remedies*, Bigelow's *Cases on Bills and Notes*, Boyd's *Cases on Constitutional Law*, Wigmore's *Cases on Evidence*, Richard's *Cases on Insurance*, Mechem's *Cases on Partnership*, Bunker's *Cases on Suretyship*, Costigans's *Cases on Wills and Administration*. Textbooks remained the basis of instruction in Elementary Law, Criminal Law, Real Property, Code Pleading, Equity, Federal Jurisdiction, Practice and Procedure;²²¹ but one by one they gave way to casebooks until cases became the basis of instruction in all courses. The catalogue records new courses in International Law in 1917-18;²²² in Public Service Corporations, History of Law, Damages, Statutes and Drafting of Statutes, Office Practice and Legal Ethics in 1918-19;²²³ in Administrative Law and Trusts in 1922-23.²²⁴

²¹⁹ *Directory, Association of American Law Schools*, 1938-39.

^{219a} Cincinnati: W. H. Anderson Co., 1915, pp. xl, 693.

^{219b} Durham, N. C., 1910, pp. xcix, 1018.

^{219c} Raleigh: 1920, 2 vols.

^{219d} St. Paul: West Publishing Co., 1929, pp. viii, 1228.

²²⁰ *Directory, Association of American Law Schools*, 1930.

²²¹ *Record*, 1910-11 (January), pp. 7-9.

²²² *Catalogue*, 1917-18, p. 155.

²²³ *Ibid.*, 1918, p. 96.

²²⁴ *Ibid.*, 1922-23, pp. 205-06.

The "case system" of legal instruction has been described by Professor Josef Redlich, an Austrian legal scholar, as "an entirely original creation of the American mind in the realm of law . . . [springing] from the thought and the individual characteristics of a single man, Christopher C. Langdell." *The Centennial History of the Harvard Law School* describes its introduction in that institution in the fall of 1870:

"The day came for its first trial. The class gathered in the old amphitheater of Dane Hall—the one lecture room of the School—and opened their strange new pamphlets, reports bereft of their only useful part, the head-notes! The lecturer opened his.

"Mr. Fox, will you state the facts in the case of *Payne v. Cave*?"

"Mr. Fox did his best with the facts of the case.

"Mr. Rawle, will you give the plaintiff's argument?"

"Mr. Rawle gave what he could of the plaintiff's argument.

"Mr. Adams, do you agree with that?"

"And the case-system of teaching law had begun. . . .

"Consider the man's courage. . . . Langdell was experimenting in darkness absolute save for his own mental illumination. . . . His attempts were met with the open hostility, if not of the other instructors, certainly of the bulk of the students. His first lectures were followed by impromptu indignation meetings.—'What do we care whether Myers agrees with the case, or what Fessenden thinks of the dissenting opinion. What we want to know is: "What's the law?"'

"A controversy at once sprang up as to the efficacy of this method of instruction. To most of the students, as well as to Langdell's colleagues, it was abomination. The students cut his lectures; only a few remained.

"It was Ames [joining the Harvard faculty in 1873] who really fixed the type of case book in American law schools. . . . He would bring out an idea, and the idea would seem entirely reasonable. He would bring out another idea, and that, too, would seem entirely reasonable. Gradually it would dawn on the student that the two ideas were quite inconsistent, and that he must decide which was right. The student was interested, stimulated, tantalized. . . . He baptized men in brain fire. . . . He aimed not so much to impart information, as to develop the analytical powers of the men, to make them think as lawyers. He questioned much; he answered little. Those who came to hear the law laid down went away to ponder what it ought to be. . . . He helped men in many ways, but most of all because he made them help themselves."²²⁵

It cannot be assumed that the mere shift from textbooks to case-books in the Law School curriculum shifted the basis of instruction

²²⁵ *Centennial History of the Harvard Law School*, pp. 26, 34-35, 81, 178, 230.

from the lecture system to the "case system." All of the University Law School teachers in 1910 and for a decade thereafter were trained in the lecture and textbook system and they tended to hold fast to that which was good while trying new things. It was, however, a definite break with the old tradition and a definite beginning of the new tradition which was strengthened by the coming in 1919 of the first Faculty member trained under the case system in a modern law school.²²⁶

With the shift from text system to case system under way, McGehee moved to lengthen and strengthen the curriculum. In his first annual report, in 1910, he wrote: ". . . a three year [law] course is desirable and is an ideal that I wish to see realized. . . . But . . . I regard it as far more desirable to cultivate in our students the habit of completing a two year course than to offer on paper a three year course which nobody completes."²²⁷ In 1911 he complained of ". . . the fact that so large a proportion of our law students leave the School without completing the course. . . . They do not appreciate the necessity or desirability of completing a carefully prepared course of study designed to present the principles of law in its various departments in their mutual relations and historical development, a course which trains and practices students in legal thinking. They regard the bar examination and not the law as the object and end of their studies."²²⁸ In 1913 he reported to the President: "I believe the time has come when an earnest effort should be made to strengthen the course and enlarge the facilities of the School. Our course should be lengthened to three years. . . ."²²⁹ In 1914 he followed up this recommendation: "For some years the catalogue of the Law School has contained an announcement to the effect that the desirability of a three years' curriculum was recognized, and that the course would be enlarged to three years as soon as possible. All the leading law schools in the country have already made this change. A number of weaker schools not able from the small size of the faculty to provide a three years' course, have divided the work in their catalogue so as to give it the appearance of a three years' course. Since the three year law course has become the general standard, the two year schools are under a serious disadvantage. To keep abreast of progress in legal education, to place our degree upon a parity with the degree which is now universally recognized as the standard, it is imperative that another year be added to our curriculum for the degree of bachelor of laws. But to do this with the present faculty is an impossibility. Each of our teachers now is covering as wide a field in his work as he profitably can—perhaps too wide to give the power and originality to his teaching which would

²²⁶ Oscar Ogburn Efrid, graduate of the Harvard Law School.

²²⁷ *Record*, 1910-11 (December), p. 28.

²²⁸ *Ibid.*, 1911-12 (December), p. 26.

²²⁹ *Ibid.*, 1913-14 (December), p. 22.

come if he had the time to concentrate his studies on a more limited number of subjects."²³⁰

In 1917 he wrote the committee on legal education and admission to the bar of the North Carolina Bar Association: "... in the larger States and in institutions greatest in number, prestige and influence, new ideals of legal education are astir. It is hard to see anything of the kind in progress here. We seem to think that the highest aim of law teaching has been achieved when a student has learned by a sort of rule of thumb answers to the minimum amount of questions which will take him through the bar examinations, and set him adrift without rule or compass on the voyage of his professional life."²³¹

At the close of the war in 1918 he pressed the issue: "Everywhere the better class of law schools has extended to three years the time required for graduation. Indeed, at this time when we are considering extension to three years, some of the leading schools and the American Bar Association are demanding four years. I believe we could make a solid beginning and provide for the present a real three-years course by the addition of one man to the faculty of the School. I say a 'real three-years course,' for I oppose absolutely offering a seemingly extended curriculum which does not provide ample work for the whole time. At present graduates of two-year schools are at a real disadvantage when seeking Government employment open only to law-school graduates, or when they wish to obtain credit for work done here, at the leading schools of the country. It seems to me that the University cannot be satisfied to have the machinery of one of its great professional schools so inadequate that its work can have no opportunity of recognition in the new system of standardized legal education.

"We are too much inclined to regard the law course solely as a means of imparting enough knowledge to students to enable them to pass the bar examination of the State. The University should provide for a more extended study of law both as a theoretical and as a practical science. The student should be made to feel, not that law consists of a certain number of dead propositions contained in 'law books,' but that it is a living, growing thing, with roots indeed deep in the past, but in vital relation with every phase of contemporary life.

"Some day there will be at the University a school which will not only ground the student fully in the fundamental elements of technical law studies, but will also guide him in courses suggesting the place of law in history and its relations to philosophy, society, and the state. With the greater demands which North Carolina is learning to make of its University, we will one day be called upon to realize such an ideal.

²³⁰ *Ibid.*, 1914-15 (December), pp. 26-27.

²³¹ *N. C. Bar Association Reports*, XIX, 80.

For the present we must be content with gradual improvement. To that end I earnestly urge at this time the extension of the course to three years and the employment of an additional instructor."²³²

Acting President Edward Kidder Graham in 1914 had endorsed Dean McGehee's proposal for a three year law course.²³³ The Chairman of the Faculty, Marvin H. Stacy, had repeated the endorsement in 1918. President Chase, then Chairman of the Faculty, steered it through the Board of Trustees in 1919, with the recommendation of two added members of the Faculty to carry it beyond the stage of a "paper plan."²³⁴

Dean McGehee in his report for 1919 records the final success of the proposal: "With the beginning of the current year, the School has . . . been able to put into operation the three year curriculum to which it has been looking forward for some years. The largely increased enrollment resulting from the end of the war has made this year a favorable time for this extension, which the development of legal education in the leading law schools of the country rendered imperative. The consequent enlargement of the curriculum has called for an increase in the Faculty. . . ." One member was added at this time.²³⁵

While the struggle for a three year law course was going on, McGehee was seeking to lift the requirements for admission to the Law School. In the first year of his administration these requirements for admission were raised to the equivalent of "graduation from a good high school," except for "special students" over twenty years old approved by the Law Faculty;²³⁶ and after 1923 to one year of college work, with the understanding that after 1925 two years of college work would be a preliminary requirement of all law students,²³⁷ thus meeting the requirements of standard law schools throughout the country as set forth by the Association of American Law Schools and the American Bar Association.²³⁸ Further efforts to persuade entering law students to improve their preliminary education appeared in 1921 when the two years of academic work required as a basis for the LL.B. degree since 1896, were raised to three years for students seeking the combined degrees of A.B.-LL.B.²³⁹

In 1922 the movement for higher standards reached out to include

²³² *Record*, 1918-19 (December), pp. 47-48.

²³³ Trustee Minutes, Visiting Committee Report, May 14-15, 1914.

²³⁴ Trustee Minutes, Chairman of Faculty to Trustee Visiting Committee, June 12, 1919.

²³⁵ *Record*, 1919 (December), p. 55.

²³⁶ *Record*, 1909-10 (December), p. 26; *Catalogue*, 1909-10, p. 128.

²³⁷ *Record*, 1922-23 (December), p. 64.

²³⁸ *Ibid.*, 1923-24 (December), p. 83; N. C. LAW REVIEW, I (1922), p. 32. In December, 1920, this Law School became a member of the Association of American Law Schools. In September, 1925, it was designated as an approved law school by the American Bar Association.

²³⁹ *Ibid.*, 1921-22 (December), p. 58.

the Summer Law School. According to the Dean's report: "Hitherto the summer law school has been confined to a review of the Supreme Court course for admission to the Bar. No credit has been given in the regular curriculum course for work in the summer school. With the summer school of 1923, it is proposed in addition to the above review to offer four courses for credit, each course to extend over a period of six weeks and to require from ten to twelve hours of work per week. It is believed that such a plan may appeal to those of our students who are desirous of shortening the time for graduation in law. . . ." ²⁴⁰

In 1918 the traditional moot court gave way to law clubs on the theory stated in Dean McGehee's report:

"The moot court has never afforded an adequate outlet for the interest and energy of the students outside the class room. This year, through the enthusiasm and energy of Assistant Professor Efird, the students have been organized in a series of law clubs on the model of the Harvard law clubs, which it is hoped will afford a much more valuable and systematic training than has been obtainable in the moot court." ²⁴¹

Library and law building. In his first report in 1910 Dean McGehee wrote: "The library is to the law student what the laboratory is to the student in science. In it he finds all his materials for original work. Without it he can only memorize textbooks and definitions. Our library, though gradually improving, is yet a very scanty basis for work such as I should like to see done here. . . . The building at present occupied by the Law School is ill adapted to its needs. We have only one lecture room and a library room. The lecture room is in use during every recitation hour of the year, and while the present conditions obtain, there is no possibility of extending the instruction offered, even were it considered desirable otherwise to enlarge the course to three years. The library room is not in its design, nor by any possible arrangement that can be devised, can it be made suitable for the demands that are made upon it.

"I hope that it will be found possible at some not distant day to give the department a suitable building of its own, with proper lecture room and a convenient library. The school will then have the opportunity for further improvement and expansion." ²⁴²

In 1911 he reported: "Substantial additions are being made to the Law Library each year, although the library funds at our disposal are inadequate to the needs of the School. Nor is the provision for the care and supervision of the library adequate. With books which could

²⁴⁰ *Ibid.*, 1922-23 (December), p. 64.

²⁴¹ *Ibid.*, 1918-19 (December), p. 56.

²⁴² *Ibid.*, 1910-11 (December), p. 29.

not be replaced at a cost of less than thirty-five hundred to forty-five hundred dollars, we are unable to keep even one attendant in the library for much of the time when it is necessarily open to the students. Thus all the valuable property belonging to the University and in constant use by the students is continually exposed to careless handling, which seriously affects the value of the books. Even worse, books may be and occasionally have been taken from the library without any possibility of tracing their whereabouts."²⁴³

In 1912: "We now have three student librarians, so that there is at all times an attendant in the library to see that order is maintained and that the books are not abused."²⁴⁴ Not till ten years later could he write: "This year for the first time in its history, the School has a secretary and librarian [Mr. Wilbur Stout]. The Library, under his supervision, is being put into systematic form so far as the present limited space permits, and is being properly catalogued. The books have been carefully gone over and repaired, so that they are now in a fine condition for consultation and research.

"Large additions have been made to our books in the last year," he was able to write in 1922. "We have added a number of textbooks at a cost of \$250, have completed sets of *The Law Quarterly Review*, *The Harvard Law Review*, *The Columbia Law Review*, *The Michigan Law Review*, and *The American Bar Association Journal*. We have also added a set of English Reports for the past sixty years, have filled in sets of reports in which volumes were lacking, and have kept up all the sets of reports, digests, and encyclopedias to which we are subscribing."²⁴⁵

In 1921 the Trustee visiting committee recommended a new law building. The recommendation was approved by the Board of Trustees and funds were provided by the General Assembly.²⁴⁶ The building was completed in the summer of 1923 and the Law School moved in at the beginning of the fall term in September. According to the Acting Dean's report in 1923:

"At the beginning of the term the Law School was removed from the old quarters which it had occupied for several years into the new Law Building, Manning Hall, which had just been prepared for occupancy. In this new and commodious building, beautifully finished and furnished, with adequate facilities for library, reading-room, classrooms and offices, we may confidently expect the fulfillment of Dean McGehee's most cherished hope, expressed in his last report. 'I hope and believe that a new

²⁴³ *Ibid.*, 1911-12 (December), pp. 26-27.

²⁴⁴ *Ibid.*, 1912-13 (December), p. 23.

²⁴⁵ *Ibid.*, 1922-23 (December), p. 65.

²⁴⁶ Trustee Minutes, Visiting Committee Report, June 14, 1921; *Record*, 1921-22 (December), p. 59.

era will begin for the School with its occupancy of its new and adequate quarters.'"²⁴⁷

Students and Faculty. Law students increased during McGehee's administration: from 66 in 1910,²⁴⁸ to 84 in 1914,²⁴⁹ to 123 in 1923.²⁵⁰ "The preliminary preparation of the students presenting themselves for the study of law is improving," said the Dean's report in 1912, "and the number of special students shows an encouraging decrease. The number of men who take the degree of Bachelor of Laws is still disproportionately small."²⁵¹ The pressure of the bar on the Court to raise bar admission requirements weighted the scales in favor of the schools, as illustrated in the Dean's report in 1922: "The very small number in the third-year class is noticeable. With better preparation, it is hoped that there will be a gradual increase in the number of third-year students. Among the influences upon which this hope is based is the interest of the profession in the statement voiced at the last meeting of the State Bar Association for higher standards of professional acquirements. The influence which the School exerts in raising its own requirements both for admission and for graduation, and in giving wider opportunities for its students will work in the same direction."²⁵²

At the end of McGehee's administration the Law School students were classified in the following report: "The number of students enrolled for the present term is 126, and of these 3 withdrew near the beginning of the term, leaving the present number 123, the largest enrollment in the history of the School. Of this number, 8 are from other states; 69 were not in this School last year; 63 are first year students, 43 second year, and 17 third year. There seems to be a continued improvement from year to year in the preliminary preparation of students admitted to the School. Of these now enrolled, 20 have a college degree, 60 have two or more years of college work, 29 have one year of college work, and 14 have had no college training. Of these special students, 8 are in the first year, 4 in the second year, and 2 in the third year. Of those now in the School, 43 have registered as applicants for the law degree; and there are several others, whose preparation will justify their taking this course, who may later decide to take the full three years work. By classes, there are 17 first year, with 7 more probable candidates, 14 second year, and 12 third year. This shows a decided increase in third year students for the degree, compared with last year when there were only four."²⁵³

²⁴⁷ *Record*, 1923-24 (December), p. 84.

²⁴⁸ *Ibid.*, 1910-11 (December), p. 27—registration in regular fall session.

²⁴⁹ *Ibid.*, 1914-15 (December), p. 26—fall session.

²⁵⁰ *Ibid.*, 1923-24 (December), p. 82—fall session.

²⁵¹ *Ibid.*, 1912-13 (December), p. 22.

²⁵² *Ibid.*, 1922-23 (December), p. 64.

²⁵³ *Ibid.*, 1923-24 (December), pp. 82-83.

The Law Faculty numbered three in 1910: Dean McGehee, Atwell Campbell McIntosh, and Patrick Henry Winston.²⁵⁴ In 1919, Oscar Ogburn Efrd was added to the faculty;²⁵⁵ in 1921, Maurice Taylor Van Hecke and Robert Hasley Wettach;²⁵⁶ in 1923 Albert Coates and Fred B. McCall.²⁵⁷ Professor Efrd resigned from the Faculty in 1921²⁵⁸ and Professor Van Hecke in 1923.²⁵⁹ The Faculty increased from three to five during McGehee's administration.²⁶⁰

IV

THE LAW SCHOOL AT THE CROSSROADS

Toward the end of his administration Dean McGehee requested relief from administrative duties, and President Chase began to look around for a suitable successor to the deanship. The quest was speeded by McGehee's death in the fall of 1923. On November 28, President Chase outlined the following declaration of Law School policy to the members of the executive committee of the University Trustees:

Chase's argument. "During the past two weeks I have visited the law schools of Chicago, Harvard, and Columbia, have talked with men prominent in the field of legal education, and have studied data put at my disposal by the Carnegie Foundation in its study of legal education.

"My conviction that the Law School stands at the cross-roads in its history has been strengthened. I beg, therefore, to submit for your consideration the following analysis of the situation. Under the conditions which now exist, the type of dean chosen must depend on the policy adopted for the school.

"I assume that we are all agreed that we desire to build up a strong law school, with the same sort of reputation that other departments of the University possess, a school that will be a credit to the University, that will be the outstanding law school of the State and of the section. I would ask your consideration of what this involves.

"First, in terms of standards. The Washington Conference on Legal Education in 1921, called by the American Bar Association, defined a standard law school. It is (a) a school which requires two years of college work as a preliminary to admission, (b) a three year course of legal training leading to a degree, (c) adequate library and faculty. The other day the Council of the American Bar Association published the first list of standard schools. These are thirty-nine in

²⁵⁴ *Catalogue*, 1910-11, p. 125.

²⁵⁵ *Record*, 1919 (December), p. 55.

²⁵⁶ *Ibid.*, 1921-22 (December), p. 58.

²⁵⁷ *Ibid.*, 1923-24 (December), p. 83.

²⁵⁸ *Supra* note 256.

²⁵⁹ *Supra* note 257.

²⁶⁰ *Ibid.*

number. In the South, these include Texas, Virginia, Washington and Lee, Emory (Atlanta), and Trinity College. (Trinity, as a matter of fact, has no third year students, but as it offers the three year course for a degree, and has two years of college work required for entrance, it was included.)

"Furthermore, the Association of American Law Schools has voted that by 1925 all its member schools must meet the two year preliminary requirements for entrance. Florida, West Virginia, Georgia, Tennessee, and Alabama, in the South, have signified their intention of so doing.

"Our Law School, at present, requires one year of college work for entrance. It must raise this to two years by 1925, or it must definitely abandon, not only any thought of leadership, but any idea of keeping up with the procession, and must make up its mind to be thought of in a class below Virginia, Trinity, Washington and Lee, Texas, Emory, Florida, Georgia, Tennessee, Alabama, and West Virginia—in other words, to assume, with South Carolina, a position at the foot of the group of Southern Law Schools.

"Putting entrance on such a basis will probably diminish somewhat for a time the number of students. This should be expected, and squarely faced. It happened with the Medical School, which soon built up again.

"Second. The Three Year Course. This is now offered by the School, but the third year classes are small, as the majority of students leave at the end of the second year. This is in large part due to the two-year requirement for admission to the bar. North Carolina is one of nineteen states which require less than three years study of law for admission to the bar, and one of five states in which examinations are still set by the Supreme Court, rather than by a board or commission appointed for that purpose, as is the general practice with other professions. (Indiana has no special requirements for admission to the bar and is in a class by itself.)

"It may be assumed that the raising of the requirements for admission to the bar to three years will be a matter of difficulty and time. For some time, at any rate, the Law School must attempt to hold students to a third year course when they can be admitted to the bar after two years. This can be done, but it calls for the development of a high morale and a strong professional spirit among the students. Other schools in states with two-year bar requirements are doing it, and it can be done here.

"Third. Faculty. Our faculty on permanent appointment consists now of four men (one being on temporary appointment in addition). I find the consensus of opinion to be that two men, in addition to the dean, should be added now, and a third man in a year or two. I find

furthermore that practically all schools are paying law teachers a higher range of salaries than is the case in the college departments. I think we shall have to adopt, for our law teachers, a maximum of at least \$5,000, and \$6,500 to \$7,500 for the dean. Such salaries are necessary because of the professional rewards which good men can receive in practice.

"Fourth. Summer Law School. The present Summer Law School is frankly a coaching class for the bar examinations. It is the only such school now conducted by any institution of standing, and should be discontinued in its present form. It tends, clearly enough, to have a tendency to make men loaf on their work during the regular session, with the expectation that they can cram up quickly—and superficially—during the summer. A regular summer quarter, with courses of the same nature as those in the regular year, might well be substituted.

"Fifth. Teaching Methods. The school must be put in a position to develop a more intense professional spirit. Our law students do not look on their work in the same spirit that, say, the medical students do. The work must be stiffened up, rather mercilessly at first, and men dropped that do not come up to proper standards. As for the methods of teaching, the case method is now universally used in reputable law schools. Whatever may have been the case in the past, it is certainly true today that the body of existing law is so vast that the emphasis must be on method, and not on information. The case method, recognizing that law in America is a matter of court decisions, attempts to train students through the study of selected cases, in the methods they will actually have to follow in practice. As opposed to the older didactic lectures, it does for law students what the study of hospital cases does for medical students.

"The method, properly used, requires great skill, and hard work on the part of both teachers and students. It is, however, a method which seems abundantly to have justified itself by results, until it has now become the basis of modern legal education.

"Conclusion. The question at the root of the whole matter is whether it is the function of the University Law School to prepare an inferior brand of lawyers for law as a trade, or whether it shall prepare men for practice and leadership in law as a profession. It cannot do both. It is no answer to say that great professional success has been attained by men with little legal training. Times have changed. Not only has the existing body of law grown enormously, but the whole social and economic life of North Carolina is rapidly undergoing a transformation which affects legal problems as it affects problems in every other sphere of life.

"I submit, therefore, that we must choose between a law school which

is frankly a coaching school for bar examinations and a real professional law school in the modern sense. To choose the former course means to abandon all thought of leadership. A strong faculty can never be secured and kept in a law school today under such conditions. Nor would the better type of students enter or remain.

"To choose the second course—that of building up a strong law school in the modern professional sense, is to choose the path of leadership, but also that of difficulty. It is a task calling for an administrative head who knows legal education, who has been trained in modern methods, and who has the youth and vigor to give himself to a grinding task—to a task of building, not of perpetuating a condition which exists. I cannot emphasize this too strongly. To put at the head of our Law School at the present moment any man who is unfamiliar with modern methods of teaching, who does not know law school problems, standards, and administrative problems, and who will not understand how to build up a strong and well-trained faculty, would be, in my judgment, a tragic mistake. No man past vigorous middle age who lacks these things can well acquire them. The job is one for a builder in full strength and vigor. I know of no more difficult one, nor one that ought to bring better rewards.

"It is my firm conviction, therefore, that we should, for our dean, go to some other law school and pick a man familiar with the type of administrative problems he will have to solve here, and of demonstrated capacity in such problems, and then that we should leave him free, precisely as any other department head at the University is free, to make such appointments as he chooses, and hold him responsible for results—and that we should give him at least five years to show results. We must build a law school with an eye to the future, not merely to meet the exigencies of the present moment."²⁸¹

Battle lines in the Board of Trustees were quickly drawn on three issues: entrance requirements, method of instruction, and the deanship. The Governor led the opposition to the requirement of two years of college training for admission. The *News and Observer* reported his argument: "The Governor had one impressive reason and a thousand examples to lend it weight. It would disbar ability from competent training. He could point out from his seat lawyer after lawyer who had been trained at the University, and who, if the proposed plan had been in effect when they entered, they could not have attended that school. He himself had never had college training. He called over the names of scores of great lawyers who had never attended college."²⁸²

²⁸¹ Correspondence of President Chase, manuscript in N. C. U. Library—President Chase to the Executive Committee of the Board of Trustees, November 28, 1923.

²⁸² *News and Observer*, January 31, 1924.

This argument was all the more effective in coming from a man who, as the *Raleigh Times* of the same date wrote, "has been the friend of higher education and took it in out of the wet and gave it a prominent place in his platform, a place on his program. He has wrought manfully for the University maintenance and championed its right to take rank with the leading Universities of the land."

On the issue of instruction methods one prominent lawyer argued: "... I know that most of the law schools follow the case system. This, I think, is due not so much to any merit in the system as to the fact that it is a system adopted by Harvard University. I understand that the University of Virginia does not follow the system, and the law school of the University of Virginia, I believe, is generally regarded as the foremost law school of the South. I think you are correct in saying that practicing lawyers prefer men trained under the case system, and if the function of a law school is to produce law clerks, then the case system is the system to follow. The trouble with the case system is that its applicants have pushed it to the extreme, just as the advocates of the old text book system pushed that to the extreme. It seems to me that the ideal system of instruction is the lecture system based upon a standard text, with parallel reading of important cases. Of course, no system of legal instruction is worth the name which does not give the student a familiarity with the leading decisions on the various branches of the law, but a system which bases its hope of success upon the ability of the average law student to form correct legal conclusions from the reading of reported cases, expects too much of human nature. To make a good lawyer under such a system would require not three years, but ten years of study, and after the ten years the student would not have as clear a concept of legal principles as a student who had read legal history and studied the writings of eminent lawyers. The case system is essentially an inductive system, whereas the practice of law is essentially a deductive process. The advocates of the case system are talking pure foolishness when they say that legal principles are not sufficiently crystallized to be embodied in a text. As a matter of fact all legal principles have become crystallized to such an extent that a great per cent of them have been enacted into statutes. For instance, the law student now studies the uniform negotiable instruments law which has been enacted into statute by 47 of the 48 states of the union. Before the enactment of the negotiable instruments law he studied the same law in Norton on Bills and Notes. I am informed that the law schools are no longer teaching Blackstone. I hope that the students are reading Blackstone whether it is taught or not, but a system of legal instruction which omits all instruction in one of the greatest legal classics of all

time, because, forsooth, it is in the form of a text book, is theory run to 'seed.'

"I can readily understand that an able law teacher can supply the defects of the case system through his lectures, just as an able law teacher can supplement the text book system with reference to leading cases, but I have no doubt that the system of legal instruction which will eventually be adopted in all first class schools will be a combination of the case and text system, such as I understand, is really the system of the University of Virginia."²⁶³

On the issue of the deanship one point of view favored the selection of a man who had spent his life "in the thick of things"—in the office and the courthouse, at the bar and on the bench. "Coming to the question as to who is to be Dean of the law school, I want to say that I am less interested in individuals than I am in securing the proper type of man for this place," an alumnus reasoned. "I suggested Judge ——— because I thought that he would be an ideal man. I have heard Judge ——— suggested, and I think that he also would make an admirable man. The point is, that the law student is being trained for the most practical of all professions, and to my mind it is the gravest sort of mistake to entrust his training to a purely theoretical teacher. In medicine the last two years of the course are given under the instruction of men who have learned medicine not as a theory, but who have made a success of the practice of the profession themselves. A practical man in charge of the law school will give to the law students a practical out-look on the profession. As an illustration, there is all the difference in the world between the point of view of the men who write the opinions of the Supreme Court and the men who write the articles appearing in the *Carolina Law Review*, and the difference is, that the constructive work of the Supreme Court is not only building up the profession, but building up the state, whereas the critical point of view of the *Law Review* gets nowhere. . . . I know in my own case that I learned from Judge MacRae many, many things which were not written in the books, nor expressed by him on his lectures. The fact that he had been a successful lawyer, a Judge of the Supreme Court, gave to his way of looking at things a value in my eyes which I did not ascribe to the teachings of the ordinary instructor. I think that you will agree with me that most men teach more by what they are than what they say, and the very presence of an able Judge at the head of a law school, a man who has been a vital factor in the life of the state, will mean more in the building up of the law school and in the life of the various students who will come in con-

²⁶³ Correspondence of President Chase, manuscript in N. C. U. Library—letter to President Chase, December 4, 1923.

tact with such a character than any one subject, or any dozen subjects, that will be taught in the school."²⁶⁴

Many lawyers rallied to this point of view with a variety of illustrative candidates—many of them citing the University of Virginia to prove their case. Whereupon President Chase wrote the President of the University of Virginia for information, and received the following reply: "Do not permit yourself to be driven into putting any lawyer in your faculty because he is a practitioner, however eminent. Teaching law and practicing law are two different professions.

"The University of Virginia has never had a great teacher who was a practitioner of any long standing. The thing to do is to catch them young, regardless of whether they have had any practice at the bar, and make teachers of them. Their job is to teach law, not to practice it. The technique of the practice is easily learned.

"John B. Minor came here at thirty-two, having practiced law in microscopic villages for six or seven years. Our greatest law teacher today, Prof. Graves, never entered a courtroom. Prof. Lile, a very great teacher also, practiced briefly. Raleigh Minor not at all. Our successes have not been practitioners—our failures have been, or rather our mediocrities, as teachers. There isn't but one side to this question. Of course, if perchance a great lawyer is inherently a great teacher, praise be to God. Get him at any cost, but teaching is a distinct profession, as much so as practicing law.

"Intelligent procedure in great American law schools picks out young promising scholarly men and makes teachers of them. I hope Carolina will follow this precedent."²⁶⁵ This letter carried weight, for President Alderman was a native of North Carolina, a graduate of the University of North Carolina, and for some years its President.

There was solid support for Chase's position among the University alumni at the bar and on the bench. One of them wrote: "Is there no way in which we can get a live constructive modern law teacher as the Dean of the Law Department of the University? I want one who knows not only the fundamentals, but one who knows the call for the application, use and expansion of the fundamentals to the needs of industrialism and commerce! To get one who has only had four years of judicial experience, or one [who] has been on some General's Staff during the war, or who has heretofore taught six years or had ten years' office experience, is simply to continue to keep the Law Department second to Yale or Harvard or Columbia, or tenth to these Universities, and sixtieth to the prestige of the University of Virginia.

"I propose that we get Dean Richards of the University of Wis-

²⁶⁴ *Ibid.*

²⁶⁵ *Ibid.*, President E. A. Alderman to President Chase, March 10, 1924.

consin, or some other man who can and will advance his men in their preparation so that they can fill positions on the commercial firing line of the United States in its new place in the domestic and world trade which the war conditions gave it.

"The University Law Department has been hide-bound for 100 years by aristocratic and family and political ties. Because someone's grandfather has been Chief Justice, or a member of the Cabinet or a distinguished North Carolinian, such men have been put into positions where they taught well but where they missed the vision necessary in preparing their students for the different business eras in the growth of this country. We have graduated political lawyers.

"For the present please consider this confidential. Some have been proposed for the Deanship who are as slow in gait and initiative as they would be in outlook for their students and the place they are to take in the world. The Dean of the Law Department should be alive to world conditions, and should wish his men to have a knowledge and training in law as would immediately fit them for great commercial positions."²⁶⁶

Another alumnus wrote: "It is needless for me to tell you that the law school has for years been lagging behind the balance of the University, that now it is for the first time housed in adequate physical quarters, and therefore, at what may be the turning point of its history. It may be made a great school, the compeer of the great law schools of the country, or it may continue to lag.

"The answer to this question depends upon the correctness of your decision in the selection of a Dean.

"I would have the Dean of the University Law School to be a man, first of all, who possesses character and scholarship, as all of the faculty should. He should be a man who is not only learned in the law, in the strict sense of the term, but also one who has had experience, and been successful, in its practice, and is, therefore, familiar with the questions which arise in the Court House, which are so different from the ones which [arose] in the classroom when I was a student. The practicing lawyers will all tell you that when they left the law school they were as helpless, so far as knowing how to practice was concerned, as if they had never seen the inside of a law book. There ought to be some way to correct this condition. There should be practical as well as theoretical learning.

"The Dean should be a man also who will be abreast of the best thought of the great law schools of the country, and of the best methods known to those who are engaged in the field of legal education. He should be a man who can assimilate those ideas from elsewhere, who

²⁶⁶ *Ibid.*, letter to President Chase, December 3, 1923.

will study them and be able to sort out the good from the bad, without prejudice and without too much preconception of his own.

"It is extremely important that the dean be a man who will think more of building a great school than of advancing his own personal distinction. You know the type of man to be avoided, in this respect. We cannot afford to consider a man who desires the job just for the sake of rounding out a life of what he may think has been prominence in the profession, by wearing the honors of scholarship as a mere adornment of himself."²⁶⁷

Another wrote: "I agree with you that a teacher of law and not a practitioner of law should be placed at the head of the law school. We should go to some high grade law school and get the best man we can. Five years of active work in the Courts as now conducted will 'diffuse' any mind to such an extent that exact principles escape it. This is our golden chance to start a fine law school. We have had and have now good teachers. We need a commanding head. Count on my cooperation."²⁶⁸

In June, 1924, President Chase won overwhelmingly on all three issues, and on his recommendation the Trustees elected Merton Leroy Ferson, former Dean of the Law School of George Washington University, as Dean of the Law School of the University of North Carolina. "... I believe that under his direction," said President Chase in his report to the Trustees in the fall of 1924, "we can look confidently forward to the building here of a law school which should be outstanding in its work and service . . . it is the business of a university law school to develop men who will regard law, not as a trade, but as a profession; whose training has been directed, not toward immediate objectives of passing bar examinations, or the acquisition of a superficial facility in the routine details of practice, but toward precisely those ends which any professional school of university character must seek, and among which capacity for growth, based on a large knowledge of fundamentals, must always rank higher than mere technique."²⁶⁹

V

THE MODERN LAW SCHOOL

The story of the Law School since the end of McGehee's administration in 1923 is the story of policies outlined by Chase in 1923, approved by the Board of Trustees in 1924, materializing in a succession of Law School deans with modern Law School training, supplemented with a growing Law School Faculty; in a gradual evolution of the Law School

²⁶⁷ *Ibid.*, letter to President Chase, October 24, 1923.

²⁶⁸ *Ibid.*, letter to President Chase, October 24, 1923.

²⁶⁹ *Record*, 1924-25 (December), pp. 10-11.

curriculum in regular session and in summer school; in steadily raising Law School standards and bar admission requirements; in the allied development of the Library, the NORTH CAROLINA LAW REVIEW and the Law School Association. The Law School deans for this period include Merton Leroy Ferson, 1924-26; Abner Leon Green, absent on leave, 1926-27; Charles Tilford McCormick, 1927-31; Maurice Taylor Van Hecke, 1931-41; Robert Hasley Wettach, 1941—.

LAW SCHOOL CURRICULUM

The case method of instruction inaugurated by McGehee was further developed under Ferson and his successors; and whereas at the end of McGehee's administration only two of the Faculty had been trained in this method, a decade later all had been trained in it. "The relative advantages of this method of instruction are no longer debated," said the Law School catalogue of 1925-26. "More than 90 per cent of the members of the Association of American Law Schools have adopted it. This method discloses the common law principles, not as mere sequences of words—but as living forces. The analysis and interpretation of cases under a fire of Socratic questioning tends to develop in a student the mental accuracy and acuteness which mark a real lawyer. The case method provides an education of ideas rather than words, establishes an active and critical rather than a passive attitude, and produces real mental power rather than facility in repeating definitions, maxims and high sounding phrases."²⁷⁰

New courses were added in a gradual process of curriculum revision including: Taxation in 1924;²⁷¹ Trial and Appellate Practice in 1926;²⁷² Trade Regulation, Criminal Procedure, Office Practice, a Reading Course and Faculty Seminars in 1927;²⁷³ Administration of Justice in 1929;²⁷⁴ Corporation Finance, Legislation and Credit Transactions in 1931;²⁷⁵ Public Utilities and Administration of Debtors' Estates in 1932;²⁷⁶ Vendor and Purchaser, Future Interests, Labor Law, Statutory Construction, and Jurisprudence in 1934.²⁷⁷ Old courses were reorganized and grouped under new names, as in Credit Transactions;²⁷⁸ new courses were developed as offshoots from old ones, as in Corporation Finance and Municipal Taxation and Finance; Problems Courses appeared for small groups of advanced students; curricular experimentation and expansion continued to the eve of World War II.

Ideas motivating the curricular revision process are apparent from the description of specific courses. To illustrate: The Law School an-

²⁷⁰ *Catalogue*, 1925-26, p. 264.

²⁷² *Ibid.*, 1926-27, p. 267.

²⁷⁴ *Ibid.*, 1929-30, p. 290.

²⁷⁶ *Ibid.*, 1932-33, pp. 244, 246.

²⁷⁸ *Ibid.*, 1931-32, p. 228—"A consolidation of the problems heretofore dealt with in the courses in mortgages, suretyship, and bankruptcy, and a part of sales."

²⁷¹ *Ibid.*, 1924-25, p. 260.

²⁷³ *Ibid.*, 1927-28, pp. 260-61.

²⁷⁵ *Ibid.*, 1931-32, pp. 229-30.

²⁷⁷ *Ibid.*, 1934-35, pp. 247-48.

nouncement phrased by Dean McCormick for 1927-28 gave the following description of the Reading Course, which, however, after a two year trial period, was abandoned: ". . . it is the aim of the school to develop the habit among the students of frequent informal conferences with faculty members, over the difficulties and problems which are encountered in their studies. It is believed that this personal contact between student and teacher, which is no longer possible in the larger schools, is of inestimable value and will foster some of the professional spirit which was engendered by the former association between lawyer and student in the days when legal instruction was secured in law offices. To this end a Reading Course has been introduced for first year students. This course will consist solely of the reading of books designed to acquaint the student at the outset with some of the history, general ideas, outstanding personalities and rich literature of the law. The students will be divided into small groups, each of which will be assigned to a different professor as adviser, with whom individual conferences on the readings will be held. The books selected for 1927-28, to which additions may be made in the discretion of each instructor, are: Vinogradoff: *Common Sense in Law*; Morgan: *Introduction to the Study of Law*; Jenks: *Short History of English Law*; Legal Biography: (a) Vol. I, Part V, *Select Essays in Anglo-American Legal History*, 'Bench and Bar from Norman Times to the Nineteenth Century' (b) Lives of Pinkney, Marshall, Webster and Benjamin, and Judges Pearson, Ruffin, and Gaston in 'Great American Lawyers'; Pound: *The Spirit of the Common Law*; Gray: *The Nature and Sources of the Law*; Hohfeld: *Fundamental Legal Conceptions* (introduction and first two essays); Cardozo: *The Nature of the Judicial Process*; Holmes: *Collected Papers*."²⁷⁹

In the same year Dean McCormick gave the following description of the Faculty seminars: "The faculty this fall has initiated the plan of weekly faculty conferences of several hours each, devoted to the group discussion of papers prepared by its members on legal subjects incidental to the work of the School. It brings an interchange and comparison of knowledge and ideas among the members of the groups, which makes the whole result greater than the sum of its parts, and may be likened to the firm conferences on current business which are systematically held by some law firms. This has already proved to be a powerful influence towards coordinating the courses, and increasing the effectiveness of the instruction in the School."²⁸⁰

In 1929-30 he outlined the purpose of the newly inaugurated course in the Administration of Justice. "The purpose of this course is to

²⁷⁹ *Catalogue*, 1927-28, p. 261.

²⁸⁰ *Record*, 1927-28 (December), p. 46.

stimulate the interest of the students in the proposals which are being urged all over the country for changes in methods of judicial administration, and to give them some knowledge of the argument for and against these proposals. The public is looking to the legal profession for guidance and leadership on this subject, and this can only be forthcoming if the younger generation of lawyers is fully informed of modern ideas about procedural reform. The course will be conducted by the entire faculty in cooperation with visiting members of the profession. Seven conferences will be held during the year to deal with important subjects which are now in the forefront of public and professional interest. At these conferences carefully prepared reports will be read by certain students assigned to lead the discussion, and these will be followed by a general discussion by faculty and students and visiting lawyers. Any lawyer who may be interested in any of the subjects is invited to attend the conferences. The schedule of conferences for the present year and the faculty members responsible for each conference, are as follows: October 17, Mr. McCormick, Incorporation of the Bar; November 14, Mr. Breckenridge, Arbitration and Conciliation; December 12, Mr. McCall, The Rule-Making Power; January 16, Mr. Wetach, A Ministry of Justice; February 13, Mr. McIntosh, New Ideas in Pleading; March 13, Mr. Van Hecke, Statute Law-Making; April 17, Mr. Winston, The Jury System."²⁸¹

The course in Administration of Justice continued in the curriculum for two years, with different subjects for discussion for the second year. Both the Reading and Administration of Justice courses served a real purpose in the process of broadening student and faculty interests, in raising standards of class-room accomplishment and student scholarship and in bringing about a professional attitude toward the study of law which has continued to the present.

The expanding purpose of the school is further indicated by Dean Van Hecke in 1933: "Outside of the regular teaching duties of the faculty, we have been engaged as follows: We have been consulted frequently by lawyers and judges as to questions of law lying within our respective specialties. No member of the faculty practices law. Memoranda, however, are written in answer to these requests and furnished to the lawyers and to the judges without charge. We furnished several hundred pages of research reports, during 1931-1932, to the North Carolina Constitutional Commission, whose revision of the state constitution will be voted upon by the people in November, 1934. A list of these reports . . . follows: . . . The Judicial System of North Carolina as Affected by Certain Constitutional Provisions; The Commonwealth Attorney Plan of Virginia as Compared with the Solicitorial

²⁸¹ *Ibid.*, 1929-30, p. 56.

System of North Carolina; . . . Constitutional Provisions Relating to Private Corporations; . . . [Analysis of Constitutional Tax Provisions]; . . . Supreme Court Sitting in Divisions; . . . The Veto Power of the Governor; Unified Judicial Systems; The Short Ballot; The Executive Department; . . . Constitutional Provisions Dealing with the Financing of the Public School System; Constitutional Limitations on State Income Taxes; Substitutes for Justices of the Peace."²⁸²

THE SUMMER LAW SCHOOL

In 1922 McGehee had suggested the giving of credit courses toward the law degree during the summer months, paralleling the review course for the bar examination.²⁸³ A full schedule of credit courses for twelve weeks was added to the review course in the summer of 1925;²⁸⁴ and in the years that followed the review course was abandoned altogether.²⁸⁵

The Summer Law School from its beginning has brought distinguished lawyers to the teaching staff: Chief Justices James E. Shepherd, Walter Clark, Walter P. Stacy and Associate Justices William R. Allen, George W. Connor, Willis J. Brogden of the North Carolina Supreme Court; Judge Henry G. Connor of the U. S. District Court; Richard G. Stockton of the Winston-Salem bar and Kemp D. Battle of the Rocky Mount bar. The new summer program brought such lawyers as Judge Percy W. Phillips of the U. S. Board of Tax Appeals; Arthur H. Kent, Acting General Counsel of the U. S. Bureau of Internal Revenue; Chairman J. Warren Madden of the National Labor Relations Board, later Judge of the U. S. Court of Claims; and such law school teachers as George J. Thompson of Cornell, George G. Bogert and Willard J. Graham of Chicago, William E. Britton of Illinois, Henry Rottschaeffer of Minnesota, Julian S. Waterman of Arkansas, Bryant Smith of Texas, Walter Wheeler Cook, Harold Havighurst and former Dean Charles T. McCormick of Northwestern, Philip Mechem of Iowa, Edson R. Sunderland of Michigan, Alexander H. Frey of Pennsylvania, J. L. Parks of Missouri, Ralph Fuchs of Washington, Armistead Dobie of Virginia, James A. Spruill, Jr., of Georgia, William H. Moreland of Washington and Lee, Lon Fuller, E. R. Latty, Douglass Poteat, Douglas B. Maggs of Duke, Young B. Smith, Albert C. Jacobs, Richard R. Powell of Columbia, Charles E. Clark, Wesley Sturges, Leon Green, Roscoe Turner Steffen, William R. Vance, Harry Shulman of Yale, and James M.

²⁸² Law School files—Report of the Dean for two-year period ending October 31, 1933.

²⁸³ *Record*, 1922-23, p. 65.

²⁸⁴ *Ibid.*, 1925-26, p. 54.

²⁸⁵ *Ibid.*, 1926-27, pp. 50-51; 1927-28, p. 45; *Catalogue*, 1927-28, p. 262. Review courses are found in the summer of 1926, but not thereafter.

Landis, Edmund M. Morgan, William E. McCurdy and Thomas Reed Powell of Harvard.²⁸⁶

"We regard this summer work as among the most significant features of our educational program," wrote Dean Van Hecke in 1933.

"We are able to offer courses in the summer in specialized fields which no member of our resident faculty is competent to give in the regular year, thus greatly enriching our curriculum. Most of these visitors are among the distinguished authorities in the country in their respective fields. Not only do our students profit from their visits but the library and the educational thought of our regular faculty reflect their stimulation."²⁸⁷

Their influence reached out to the bar as conferences and institutes for lawyers were organized around individual specialists—such as the conference on federal tax problems, with Judge Phillips and Mr. Kent; on social security taxes with Mr. Evan Clague of the Social Security Board; on federal rules with Messrs. Sunderland, Shulman and U. S. Judges John J. Parker and Johnson J. Hayes. Messrs. Thomas Reed Powell, Morgan, Cook, Sturges and Judge Phillips spoke to the North Carolina Bar Association, Mr. Landis to the annual conference of the Fourth Judicial Circuit, and Mr. Steffen to a conference of bank officials during the summer sessions.

RAISING LAW SCHOOL STANDARDS

Entrance requirements. Efforts to improve the quality of entering students are reflected in the annual reports of the Deans: "The argument in favor of college training as a prerequisite of law study is generally directed to the need a lawyer has for it in his practice," wrote Dean Ferson in 1924. The records ". . . indicate that he needs it also in his study of law. It appears for example that 79 per cent of the college graduates passed all their work while only 36 per cent of the men without college work passed in all their work. It appears that 50 per cent of the college graduates made an average of B. or better, while only 9 per cent of the non-college men attained a B. average. The men with part of a college course fall between these extremes."²⁸⁸

This situation was gradually corrected. In 1925 two years of college work, urged by McGehee in 1922 and pushed by Ferson in 1924, were required of entering students who were not degree candidates, as well as those who were.²⁸⁹ In 1932 three years of college work were

²⁸⁶ The names of these teachers in the Law School summer courses are found in the pages of the N. C. LAW REVIEW, in Law School announcements, in Law School Faculty minutes, and in successive Deans' reports.

²⁸⁷ Law School files—Report of the Dean for the two-year period ending October 31, 1933.

²⁸⁸ *Record*, 1924-25 (December), p. 50.

²⁸⁹ *Ibid.*, 1926-27 (December), p. 50.

required of all entering students.²⁹⁰ These efforts to extend pre-law training had been strengthened in 1921 by the requirement of a "six year course—three years of undergraduate studies strictly prescribed . . . and the three-year law course" for the combined degrees of A.B.-LL.B.—instead of the five-year course previously required.²⁹¹ In 1926 the B.S. degree in commerce was offered at the end of the first year in law, to those who had completed three years in commerce, and the LL.B. was offered on the completion of the third year in law. Thereafter the A.B.-LL.B. was revised to accord with this pattern.²⁹²

As a consequence of developments such as these, Dean McCormick could write in 1929: "Of the present entering class of 43, 22 have had four years of college work, 14 have had three years, and only 7 have only the minimum entrance requirement of two years of college preparation."²⁹³ This picture was confirmed by Dean Van Hecke in 1931: "Ninety-nine of the total of 113 have had three years or more of college preparation. Forty-six have received a college degree, two a master's degree, and 10 have had four years of undergraduate work. Of the entering class of 52, only five have barely complied with the present entrance requirement of two years of college work. The new trustee regulation requiring three years of college preparation for entrance to the Law School which will take effect in September, 1932, will, therefore, merely confirm a situation already voluntarily created."²⁹⁴

Graduation requirements. It was one thing to get well equipped students into the Law School, but it was another thing to keep them there until the completion of the course. "It will be observed," wrote Dean Ferson in 1924, "that only 35 per cent of the second year class returned. . . . It apparently indicates that men are using the school as a means of getting to the bar and that when the school has served this purpose they are through with it. This practice is unfortunate for the student who resorts to it and prejudicial to the public good."²⁹⁵ In 1925 he reiterated this complaint: "The shrinkage in the second year class appears . . . [as] a precipitate drop in February. . . . The drop occurs, it will be noted, just after the winter examinations for admission to the bar. Nearly one-half of the second year class took the bar examination last winter, and, with one exception, all passed it. A few of the men who took the examination returned to the school, but most of them did not. . . . It will be a bright letter day in the history of legal education when this State elects to safeguard her law students and her administration of

²⁹⁰ *Catalogue*, 1932-33, p. 237.

²⁹¹ *Record*, 1921-22 (December), p. 58.

²⁹² *Catalogue*, 1926-27, p. 263; 1927-28, p. 256.

²⁹³ *Record*, 1929-30 (December), p. 55.

²⁹⁴ Law School files—Report of the Dean for the year ending October 31, 1931.

²⁹⁵ *Record*, 1924-25 (December), p. 50.

justice by requiring that each person admitted to the bar shall have had a thorough three-year law course. This school will be hampered in the fulfillment of its mission, to adequately prepare men for the bar, so long as present conditions prevail."²⁹⁶

Efforts to correct this condition gradually succeeded. In 1929 Dean McCormick could write: "Our Senior class numbers 39 as compared with 15 last year. . . . The great majority have already taken and passed the Bar examinations, and their return evidences the more clearly, therefore, the realization of the value to them of a complete legal education."²⁹⁷ In 1938 the State Bar requirement of three years of law study of all applicants for admission to the bar turned this educational tendency into a legal obligation.²⁹⁸

Other evidences of stiffening Law School standards may be found in the limitation of the number of "special students," who were not degree candidates and who did not comply with the normal admission requirement, to "ten per cent of the average number of students first entering the school during each of the preceding years,"²⁹⁹ as required by the Association of American Law Schools, and in lifting the age requirement of "special students" from 21 to 23;³⁰⁰ in the 1935 requirement that "all regular applicants for admission . . . must have received a grade of C or better in at least 50 *per cent* of their undergraduate courses"³⁰¹ and in the later extension of this standard to all undergraduate work for degree candidates;³⁰² in the requirement of personal interviews of applicants with the committee on admissions;³⁰³ in barring from participation in major extracurricular activities all students with less than a B average;³⁰⁴ in the deduction of credit given for D grade work³⁰⁵ and absences from class,³⁰⁶ in the requirement of a higher than passing average on all Law School work;³⁰⁷ in the offer-

²⁹⁶ *Ibid.*, 1925-26 (December), pp. 56-57.

²⁹⁷ *Ibid.*, 1929-30 (December), p. 55.

²⁹⁸ *Journal and Proceedings, N. C. State Bar*, VII (1940), p. 44.

²⁹⁹ *Catalogue*, 1925-26, p. 262.

³⁰⁰ *Ibid.*, 1927-28, p. 56.

³⁰¹ *N. C. U. Law School Catalogue*, 1935-36, p. 6.

³⁰² *Ibid.*, 1939-40 (April 15, 1940), p. 6. This statement appeared also in the *Law School Catalogue* for 1940-41, but not thereafter. On account of the war it was not enforced until 1946.

³⁰³ *Ibid.*, 1939-40 (April 15, 1940), p. 6.

³⁰⁴ *Ibid.*, 1938-39 (April 15, 1939), p. 14.

³⁰⁵ *N. C. U. Catalogue*, 1928-29, p. 268.

³⁰⁶ *Ibid.*, 1921-22, p. 185—"A failure in regular attendance may prevent his receiving credit for the course"; 1924-25, p. 258—"A student who is absent more than 10% of the total class hours in any subject will be denied credit in that subject unless his absences are excused by the Dean"; *Law School Catalogue*, 1945-46, p. 17—"Any instructor, with the concurrence of the Dean, may drop a student from a course at any time for unsatisfactory work, poor attendance, or other good cause."

³⁰⁷ *Ibid.*, 1935-36, p. 12—"Beginning with the class entering in the fall of 1936. . . . In order to be eligible to receive a law degree each student will be required to attain a cumulative composite weighted average for the entire three

ing of the J.D. degree in 1924 to students with the A.B. degree, or its equivalent, who attain a B average in three years of Law School work and write a ten-page note or eight pages of case comments for the *LAW REVIEW*,³⁰⁸ in the offering of the LL.B. degree with honors to the highest tenth of the class.³⁰⁹ In 1928 the Law School received a chapter of the honorary law school society, the Order of the Coif.

LAW SCHOOL LIBRARY

When the Law School moved into its new building in the fall of 1923, the Library contained a little less than 7,000 volumes.³¹⁰ "It would require the expenditure of \$20,000 to bring our library up to a par with the libraries of other schools that otherwise stand in about our class," wrote Dean Ferson in 1924.³¹¹ "All plans for placing this school on a parity with [other comparable schools]," wrote Dean McCormick in 1927, "are conditioned upon the rapid expansion of the present law library to at least twice its present size, and the subsequent expenditure of sufficient funds annually to keep it abreast of the rapidly expanding literature of the law."³¹² Under the stimulus of these pressures the Library grew: from 7,000 volumes in 1923 to 14,000 in 1927,³¹³ to 27,000 in 1932,³¹⁴ to 52,000 in 1946. This growth was made possible by a \$20,000 appropriation by the state in the biennium of 1926-28, supplemented by a \$10,000 gift by Junius Parker in 1929, and by other gifts including the libraries of Chief Justices Richmond Pearson and William A. Hoke, Judge A. C. Avery, Judge W. D. Pruden, Dean Lucius Polk McGehee, Professor A. C. McIntosh, James H. Pou and Z. V. Walser, together with numerous volumes from the libraries of Thomas H. Battle, A. B. Andrews, George M. Rose and a multiplicity of others.³¹⁵

In 1933 Dean Van Hecke wrote: "During the last twelve months, 1,514 volumes have been added. This steady growth has been made possible by appropriations for continuations, periodicals and new books from the University Library budget, by a number of valuable gifts, by the enterprise of the Librarian in selling various duplicate sets, and by two appropriations from the \$30,000 gift to the University by the General Education Board for bibliographical materials.

years' work of 67." [The passing grade is 60.] The catalogue for 1945-46 provides (p. 16), "Each student is required, in order to remain in the school and to receive a degree in law, to attain a weighted average of 65 on the first year's work, and a separate weighted average of 66 on the second year's work and of 67 on the third year's work.

³⁰⁸ *Ibid.*, 1924-25, p. 227. The requirements for admission to candidates for the J.D. degree have remained the same to date.

³⁰⁹ *Ibid.*, 1927-28, p. 256.

³¹⁰ Lucile M. Elliott, "History of the Law Library," *infra* p. 402.

³¹¹ *Record*, 1924-25 (December), p. 50.

³¹² *Ibid.*, 1927-28 (December), p. 45.

³¹³ *Record*, 1927-28 (December), p. 44.

³¹⁴ Law School files—Report of the Dean for the period ending October 31, 1933.

³¹⁵ Elliott, *supra* note 310.

"The present collection is hardly more than an ordinary working law library. It is not yet adequate for research and investigation of University calibre. No University Law School comparable with ours has a library so narrowly restricted. To the end that these minimum facilities may be adequately expanded, an endowment is required which, in addition to state appropriations for maintenance, will yield \$2,500 a year for new books.

"The Library now faces a serious shortage of available space for expansion. When the Law Building was constructed ten years ago, arrangements were made for the housing of 25,000 volumes. We are now 2,000 volumes in excess of our capacity. We face the immediate necessity of converting a room in the basement, not connected with the present Library, into special library service with special supervision. In the very near future we must plan for an addition to the building to house not only the expanding Library but to furnish also much needed seminar rooms and additional office space for research workers."³¹⁶

The continued growth and development of the Law Library since 1923 has been due in great measure to the Law Librarian, Lucile Elliott. Around her painstaking devotion and unflagging efforts Law School deans, University administrations, and library friends have built the library from the 7,000 volumes of 1923 to the 52,000 volumes of 1946. She has told part of this story in 7 NORTH CAROLINA LAW REVIEW 37; in a paper presented to a round table of the Association of American Law Schools and the Association of American Law Librarians in Chicago in 1931;³¹⁷ in the proceedings of the Carolina Law Librarians which she initiated in 1938; in *Resources of the University of North Carolina Law Library*, published by the University Press in 1945; in the "History of the Law Library" published in this sesquicentennial issue of the LAW REVIEW.

To her this Library is "more than a collection of books. It is a living creature. It is an organism of strong frame work, filled out with meat and muscle, capable of being clothed and even adorned with frilly habiliments. It has its place and carries its responsibilities. Heavy and increasing demands are made on it by students, faculty, law review editors, research workers, university scholars, lawyers, and even the State. They expect to find in this law library:

- (a) What the law is today and what it should be in our state, in all other states and in our nation.
- (b) Where the law comes from and where it is going.
- (c) Who administers the law and how, and why it is administered as it is. The outside pressure makes a steady development imperative.

³¹⁶ *Supra* note 314.

³¹⁷ Elliott, "How to Build a Law Library Without an Appropriation," *Law Library Journal*, XXVIII (1935), pp. 64-65.

Like a growing child, a library cannot know lean years. Its needs must be cared for. It cannot mark time. Particularly is this true when all law and order have been in a state of flux and upheaval and new courses added to the curriculum based on this new law have made it imperative to keep abreast of the available material.

"With a plan of development on a big scale under way, with the system of law revolutionized and a clientele champing the bit for a new mental diet—there was only one course to pursue—to go right ahead. We have begged, borrowed and bartered for our library. I assure you, however, that in spite of our intense desire for accretions we have kept within the law."³¹⁷

"What the future of the 52,000 volume law library will be is uncertain," she has recently written. "What the future *should be*, if the School is to train good lawyers, satisfy research students and hold a scholarly faculty is clear. The trend of 'things to come' is apparent from the activities of the law schools and professional groups. The American Law School Association and the American Association of Law Libraries are formulating new and higher standards for law libraries. Research librarians are thinking in terms of libraries stocked with material produced by microphotography for a two-way economy of time and space. Both individual law schools and the American Law School Association are earnestly studying the problem of curriculum adjustments to meet the needs of students in a world where political, social, economic changes are taking place under their very eyes. Vast fields of law hitherto lightly touched or entirely neglected, are opening and demanding specialized training in such subjects as labor law, industrial accidents, administrative law, taxation. And more urgently, the lawyer's viewpoint on all law needs to be informed and shaped with understanding of the other social sciences. Inevitably the Law Library must be accessory before the fact of these changes, and in pursuit of that idea, the faculty and staff of this Library are planning."³¹⁸

NORTH CAROLINA LAW REVIEW

In 1921, Dean McGehee called attention "to the desirability of a journal or periodical publication which may represent the School and the work it is doing. It would serve as a link between the legal profession and the School, and would be a most valuable tool for improving our instruction, and an incentive to faculty and students alike."³¹⁹

In June, 1922, the first issue of the NORTH CAROLINA LAW REVIEW appeared, and announced the LAW REVIEW objective: "It is hoped that this REVIEW may be of service to the law students, the law teachers, the

^{317a} *Ibid.*

³¹⁸ From a report by the Law Librarian to the faculty in 1946.

³¹⁹ *Record*, 1921-22 (December), p. 59.

members of the bar, and to the judges upon the bench, and, through them, to the people of the state.

"As a supplement to the routine daily class work of the School, it will afford to the second and third year students, a means of intensive training in legal writing. To them, the independent experience, under faculty supervision, in the analysis, investigation and critical discussion of current problems in North Carolina law will be invaluable. As the REVIEW goes into volumes year by year, it will constitute a collection of reference materials on the local law, of definite value as collateral readings in connection with class discussions.

"To the faculty of the School, the REVIEW will be an added incentive to systematic research in the state law and a medium for the publication of the results achieved. To the members of the bar and the judges upon the bench, the REVIEW will make available, in the form of leading articles, editorial notes and comments, discussions of important legal problems, statements of the significance of outstanding recent state and federal decisions, and historical accounts of the development of distinctive topics and doctrines of North Carolina law. In other words, the REVIEW will carry to the active members of the legal profession, the work the School is doing in tracing the development of law in North Carolina and in the country at large.

"Of equal importance to the law student and to the law teacher, will be the opportunity afforded by the REVIEW to learn of the attitude, the needs, and the problems of the attorneys and judges in active practice. It is hoped that those who are daily carrying on the litigation and the legal work of the state may find in the REVIEW a means of expressing their reactions to, and their constructive suggestions for dealing with, the difficulties encountered in the practical administration of the law. Only through this closer contact and understanding can the lawyer, the judge, the law student, and the law teacher effectively unite in what should be a common effort for the solution of modern legal problems. In this latter connection, namely, that of the public service of the legal profession as a whole, particular attention will be given in the pages of the REVIEW to the influence upon legal problems of matters of legislation, government, business and social and economic conditions."³²⁰

In 1922 Dean McGehee commented: "The foundation of the NORTH CAROLINA LAW REVIEW last June is a notable event in the history of the School. Two numbers of the REVIEW have been issued, which have enlisted much approving comment from the profession in and outside of the State. The influence of the REVIEW upon the work of the students is already making itself felt for good. The editorship of the REVIEW has been committed to Mr. Van Hecke, who is devoting untiring energy

³²⁰ N. C. LAW REVIEW, I (1922), pp. 31-32.

and enthusiasm to the task, and is making it a credit to the law department and the University. It is one of the chief means by which we hope to extend the influence of the School and to increase its usefulness."³²¹

THE NORTH CAROLINA LAW REVIEW has developed under the successive editorships of Professors Van Hecke, 1922-23; Wettach, 1923-32 and 1943-45; Chadbourn, 1932-36; Hanft, 1936-43; Brandis, 1946—. In the early years the Faculty took the lead in planning the LAW REVIEW and in supervising the preparation of its contents. In 1936 the LAW REVIEW announced that "a new policy, in accord with that of the better law reviews of other universities, has been established whereby the student members of the LAW REVIEW staff are assuming a larger responsibility for the work of the REVIEW."³²² Under this policy the student editors took the lead in planning and preparation, with faculty assistance. In addition to articles, notes and comments, the LAW REVIEW in 1923 began a critical review of the more significant statutes passed in successive sessions of the North Carolina General Assembly.^{322a} In the nearly twenty-five years of its existence,³²³ the LAW REVIEW has discussed hundreds of legal problems of local, state, regional, and national significance. It has been cited by the United States Supreme Court, the North Carolina Supreme Court, and the courts of many states and in a multiplicity of scholarly articles and texts.

LAW SCHOOL ASSOCIATION

In 1919-20 Professor Efrid, the first law teacher coming to this Law School with a modern law school training, turned the more or less spasmodic moot courts with their mock trials too often degenerating into a mockery, into law clubs, organized in the form of appellate courts for the investigation of authorities, the preparation of briefs, and the argument of cases on appeal.³²⁴

The work of these law clubs gradually crystallized into the pattern described in the Law School announcement for 1927-28: "... first year students investigate authorities, prepare briefs and argue cases involving questions of law arising in their courses of study. These cases are framed by members of the faculty and the arguments are presided over by a court consisting of one faculty member acting as Chief Justice and two third-year students acting as Associate Justices. At the end of each year the winners of these preliminary arguments argue the final case of the year before members of the Bar. Membership in these Clubs

³²¹ *Record*, 1922-23 (December), pp. 64-65.

³²² N. C. LAW REVIEW, XV (1936), p. 42.

^{322a} N. C. LAW REVIEW, I (1923), pp. 263-316. The entire June issue was devoted to "Statutory Changes in North Carolina Law in 1923."

³²³ In June, 1947, the LAW REVIEW will celebrate its twenty-fifth anniversary.

³²⁴ *Record*, 1919 (December), p. 56.

is voluntary. Last year fifty-four students out of sixty joined the clubs, filed briefs, and made arguments."³²⁵

It was perhaps natural that the newest and youngest member of the Law Faculty who fell heir to the law clubs in 1923,³²⁶ with less practical experience than any of his colleagues, should feel a poignant need of bridging "the gap between the classroom and the courtroom, the law school and the law office, the law teacher and the lawyer"—words of eloquence or grandiloquence according to the point of view, and that he should organize the students into a Law School Association in the effort to achieve these objectives.³²⁷

These efforts have been outlined in the following words: "In 1923 the Law School Association [revived] . . . efforts at instruction in the technique of practice with the idea of acquainting law students with the present day organization of law practice, the types of problems lawyers are called upon to solve, and their ways of solving them. With this idea in mind a number of lawyers were asked to come to Chapel Hill [in successive years] to talk to law students on such topics as: Establishing a Law Practice, Preparation of a Case for Trial, Examination and Cross Examination of Witnesses, Production of Proof, Trial of a Law Suit, Preparation of Briefs, Argument of Cases on Appeal, Abstracts of Title, Some Problems of Federal Practice, the Jury Trial, North Carolina's Judicial System." Chief Justice Walter Clark of the Supreme Court of North Carolina started this series of lectures and was followed by Associate Justices Stacy, Adams and Clarkson; by James H. Pou of the Raleigh bar, L. P. McLendon of the Durham bar, A. L. Brooks of the Greensboro bar, Kenneth C. Royall of the Goldsboro bar, L. R. Varser of the Lumberton bar, J. C. B. Ehringhaus of the Elizabeth City bar, W. B. Umstead of the Durham bar, W. T. Polk of the Warrenton bar, R. W. Winston of Chapel Hill.³²⁸

Law office work. The single lecture proved inadequate to its purpose and was expanded to a series. Practicing lawyers were asked to come to Chapel Hill for two or three days to present a thorough analysis of current types of law practice with illustrative problems. Lawyers participating in this intensive series included: Kemp D. Battle of the Rocky Mount bar, Charles W. Tillett, Jr., of the Charlotte bar, William T. Joyner of the Raleigh bar, Charles T. Boyd of the Greensboro bar, R. G. Stockton of the Winston-Salem bar, H. F. Janda of the University Engineering School, Judge John J. Parker of the United States Circuit Court of Appeals.

"This series of [group lectures] was transformed into a series of

³²⁵ *Catalogue*, 1927-28, p. 263.

³²⁶ *Record*, 1923-24 (December), p. 84.

³²⁷ *Catalogue*, 1927-28, p. 263.

³²⁸ Albert Coates, *A Task of Legal Education in North Carolina*, pp. 25-26.

clinics conducted through a law office, a trial court and an appellate court organized and operated in the Law School. Lawyers were invited to send in for use in these clinics actual problems confronting them in their practice and later to come to Chapel Hill to discuss with the students the various ways and means of dealing with the problems and to compare the results they had reached with the results reached by the students."³²⁹ Lawyers participating in this trial practice work included John M. Robinson of the Charlotte bar, L. P. McLendon of the Durham bar, and Percy W. McMullan of the Elizabeth City bar.³³⁰ The law clubs federated in the Supreme Court of the Law School Association where winning students prepared briefs and argued cases on appeal. Judges sitting on these cases included: Judge H. G. Connor of the U. S. District Court; Chief Justice Stacy, and Associate Justices George W. Connor, W. J. Adams, W. J. Brogden of the Supreme Court of North Carolina; Judges J. Lloyd Horton, N. A. Sinclair, G. E. Midyette, W. C. Harris and R. W. Winston of the Superior Court; J. S. Manning of the Raleigh bar and John H. McRae of the Charlotte bar.³³¹

From three Law School classes to one Law School Association. From the beginning, student body organization had followed the curricular pattern, and extracurricular activities had been *class* activities directed by *class* officers. For a long time these class ties were next to non-existent—with many students trying to cram a two-year course into one year or less, with many men coming for one term only, or a summer term, in the effort to learn enough to pass the bar examination, and with a short-lived and floating student body cramped for time and space. There was barely enough cohesion to respond to outside pressures for even a Law School voting block in college elections.

The basis for cohesion gradually appeared in the extending requirements of one year, two years and three years of full-time study of law from all applicants for admission to the bar as well as for the Law School degree; in the extending requirements of one year, two years and three years of pre-law college work—first for all students applying for the law degree and later for all students entering the Law School with no thought of the degree; in the acquisition of a separate building, Smith Hall in 1907, and Manning Hall in 1923; and in the professional spirit growing out of student studies and associations in this environment.

Thus the basis was laid for federating the first, second and third year classes in the all inclusive Law School Association; integrating student activities involving the student body as a whole; initiating a Law School convocation of students and Faculty for introductory and

³²⁹ *Ibid.*, pp. 26-27.

³³⁰ *Ibid.*, p. 30.

³³¹ *Ibid.*, p. 31.

orienting purposes at the beginning of the year; fusing the three separate class banquets hanging over from former days into one Law School Association gathering at the end of the year; organizing and directing the law office, trial court and appellate court activities; securing portraits for the law building, securing a dormitory for the housing of law students, organizing the Law School dances and a variety of undertakings; and growing into the accepted instrument of co-ordinated student action.

TRANSITION

By the early 1940's the transition from the ancient to the modern Law School was complete. The earlier Faculties emphasized the practitioner and judge, the values of practical experience, and looked on teaching as a professional sideline or as the capstone of a lifetime career. The later Faculties emphasized the professional teacher, the values of scientific training and research, and looked on teaching as a lifetime career, with practical experience as an attendant circumstance. McGehee and McIntosh may be looked on as the last of the old School, or the first of the new—as bridging the gap between the old and the new. For though they practiced law before they taught it, they were primarily students rather than practitioners and started teaching toward the beginning rather than the end of their careers. Whereas the old practitioner with his career behind him withdrew from the thick of things to take up teaching and carried the Law School with him to the sidelines, the professional teacher with his career before him carried the Law School with him from the sidelines into the thick of things. Certainly the modern Deans and their Faculties, with the techniques and skills of scholarship and research, have brought this Law School into closer relationship with the life of this state and section than ever before in the one hundred years of its history—from 1845 to 1945.

This shift in trends is apparent in the records of successive Deans beginning with Lucius Polk McGehee, 1910-23, and Atwell Campbell McIntosh, Acting Dean, 1923-24 and 1926-27, set forth earlier in this story; it continued through Merton Leroy Ferson, 1924-26; Abner Leon Green, 1926-27; Charles Tilford McCormick, 1927-31; Maurice Taylor Van Hecke, 1931-41; Robert Hasley Wettach, 1941—.

Dean Ferson was born in Iowa in 1876, graduated from the University of Iowa with the degrees of Ph.B. in 1900, LL.B. in 1901, M.A. in 1905. He practiced law for three years, taught Constitutional Law and Jurisprudence in the Political Science Department of the University of Iowa, 1904-5, became Assistant Professor of Law in George Washington University in 1911 and Dean in 1917, Professor of Law in the

University of Missouri in 1923 and Dean of the University of North Carolina Law School in 1924 at the age of 56.³³²

Dean McCormick was born in Texas in 1889, graduated from the University of Texas with the degree of A.B. in 1909 and from the Harvard Law School with the degree of LL.B. (cum laude) in 1912, and practiced law in Dallas, Texas, 1912-17 and 1919-22. He became Professor of Law in the University of Texas, 1922-26, Professor of Law in the University of North Carolina in 1926, and Dean in 1927 at the age of 38.

Dean Van Hecke was born in Wisconsin in 1892, graduated from the University of Chicago with the degree of Ph.B. in 1916 and from the University of Chicago Law School with the degree of J.D. in 1917, practiced law in Chicago and served in the Illinois Legislative Reference Bureau, 1917-20. He became Assistant Professor of Law in the University of West Virginia in 1920, Associate Professor of Law in the University of North Carolina in 1921, Associate Professor of Law in the University of Kansas in 1923 and Professor in 1924, Visiting Professor of Law in the Yale Law School in 1927, Professor of Law in the University of North Carolina Law School in 1928, and Dean in 1931 at the age of 39. It was during his administration that the Law School, in 1939, was requested to organize the recently authorized Law School of the North Carolina College for Negroes in Durham. Dean Van Hecke became Acting Dean, Miss Lucile Elliott the Librarian, and various members of the Faculty took over the work of instruction. By 1942, the new Law School for Negroes was in independent operation with its own Dean, Faculty and Librarian.

Dean Wettach was born in Pennsylvania in 1891, graduated from the University of Pittsburgh with the degree of A.B. in 1913, M.A. in 1914, LL.B. in 1917, practiced law in 1919-20 and took the graduate degree of S.J.D. from the Harvard Law School in 1921. He became Assistant Professor of Law in the University of North Carolina in 1921, Associate Professor of Law in 1923, Professor of Law in 1926, Assistant Attorney General of North Carolina in 1938-39, and Dean of the University of North Carolina Law School in 1941 at the age of 49.

Other members of the present Law Faculty include Albert Coates and Frederick B. McCall, who came in 1923, Millard S. Breckenridge, who came in 1927, Frank W. Hanft in 1931, John P. Dalzell in 1937, Henry P. Brandis, Jr., in 1940, Herbert R. Baer in 1945.

Albert Coates was born in North Carolina in 1896, graduated from the University of North Carolina with the degree of A.B. in 1918 and was Instructor in English in the University of North Carolina in 1919-

³³² Biographical data regarding Dean Ferson and subsequent Law School teachers are taken from issues of the *Directory of Teachers in Member Schools*, published periodically by the Association of American Law Schools.

20. He graduated from the Harvard Law School with the degree of LL.B. in 1923, became Associate Professor of Law at the University of North Carolina in 1923, Professor of Law in 1927, and has been Director of the Institute of Government since 1931.

Frederick B. McCall was born in North Carolina in 1893, graduated from the University of North Carolina with the degree of A.B. in 1915, taught in the Charlotte High School, 1915-18, and served as principal, 1918-20. He was instructor in Latin in the University of North Carolina in 1922, studied in the University Law School, was Assistant Professor of Law in 1923-24, practiced in Charlotte, 1924-26, and was again Assistant Professor of Law in the University, 1926-27. He graduated from the Yale University Law School with the degree of LL.B. in 1928, became Associate Professor in the University of North Carolina Law School in the same year and Professor of Law in 1933.

Millard S. Breckenridge was born in Illinois in 1891, graduated from the University of Chicago with the Ph.B. degree in 1917, from the Yale University Law School with the degree of LL.B. in 1918 and practiced in New York, 1919-22. He became Assistant Professor of Law in Iowa State University Law School in 1922, Associate Professor of Law in Western Reserve University Law School in 1924, and Professor of Law in the University of North Carolina in 1927.

Frank W. Hanft was born in Minnesota in 1899, graduated from the University of Minnesota Law School with the degree of LL.B. in 1924, received the degrees of A.B. and LL.M. from that institution in 1929, and the graduate degree of S.J.D. from the Harvard Law School in 1931. He practiced law in Minnesota, 1924-29, served as Staff Attorney for the League of Minnesota Municipalities, 1929-30, and as part-time Instructor in Law in the University of Minnesota Law School, 1929-30. He became Associate Professor of Law in the University of North Carolina Law School in 1931 and Professor of Law in 1937. He was Associate Utilities Commissioner of North Carolina, part-time, 1934-41.

John P. Dalzell was born in Nebraska in 1896, graduated from the University of Minnesota with the degrees of A.B. in 1922 and LL.B. in 1924. He practiced in Minneapolis, 1924-37, serving as part-time lecturer in Business Law at the University of Minnesota Law School, and became Associate Professor of Law in the University of North Carolina in 1937.

Henry P. Brandis, Jr., was born in North Carolina in 1909, graduated from the University of North Carolina with the degree of A.B. in 1928 and from the Columbia University Law School with the degree of LL.B. in 1931, and practiced law in New York City, 1931-33. He was Associate Director of the Institute of Government, 1933-37, In-

structor in Tax Administration in the University of North Carolina, 1936-37, Secretary to the State Tax Classification Commission, 1937-39, and Chief of the Research Division in the State Department of Revenue, 1939-40. He became Assistant Professor of Law in the University of North Carolina in 1940 and Associate Professor in 1941.

Herbert R. Baer was born in New Jersey in 1901, graduated from Cornell University with the degree of A.B. in 1923 and from the Harvard Law School with the degree of LL.B. in 1926, and practiced law 1927-28. He became a Teaching Fellow in the Cornell University Law School in 1939, Associate Professor of Law in Wake Forest College in 1940, Professor of Law in 1941, and was Acting Dean in 1944-45. He was North Carolina State Price Attorney in the Office of Price Administration, 1942-44, and became Professor of Law in the University of North Carolina in 1945.

Former Faculty members who have taught for periods ranging from one term to several years include: George L. Clark, spring semester, 1924; Frank S. Rowley, 1924-26; Leland S. Forrest, 1926-27; W. Ney Evans, 1927-28; Eugene K. McGinnis, 1927-28; James H. Chadbourn, 1932-36; John E. Mulder, 1934-37; Donald W. Markham, 1936-39; Edwin M. Perkins, 1934-35; Breck P. McAllister, 1938-39; Robert A. McPheeters, 1925-26; Benjamin F. Small, 1944-45; Peyton B. Abbott, spring semester, 1946.

VI

THE LAW SCHOOL FACES THE FUTURE

The war years. Coming events were already foreshadowed when Dean Wettach came into the deanship in June, 1941. During depression years, the student body had fluctuated from 95 to 131, with an average attendance of 110 from 1931 to 1941. During the school year 1941-1942, many students volunteered or were called for active military service and enrollment dropped to 21 in 1942 and to 13 in 1943. Professor Brandis enlisted in the Navy in 1942, completing his service with the rank of Lieutenant-Commander. Professor Hanft enlisted in the Army in 1943, was assigned to military government, and completed his service with the rank of Lieutenant-Colonel. Professor Van Hecke became Chairman of the Fourth Regional War Labor Board in 1942, and Professor Dalzell, Assistant to the Solicitor of the United States Department of the Interior in 1943. Professor Coates was given part-time leave to act as Director of Training for the Office of Civilian Defense in North Carolina. Dean Wettach was left with three associates to keep the Law School in operation, to maintain a standard three-year curriculum, involving heavier teaching loads for all, to handle the

administrative duties of his office, to serve as faculty editor of the LAW REVIEW and to make plans for post-war expansion.³³³

The student body increased from 13 in 1943 to 16 in the fall of 1944, to 42 in the fall of 1945, to 113 in the spring of 1946, to 149 in the summer of 1946, to 221 in the fall of 1946.³³⁴

Corresponding down and upward swings occurred in World War I. In 1916 the Law School registered 76 students.³³⁵ In 1917 Dean McGehee reported: "The war has affected the school more than any single department, and the attendance has fallen to 40 per cent of that of last year."³³⁶ In 1918 "... the School of Law was reduced temporarily to bare existence with an enrollment of only seventeen students." In February, 1919, registration increased to 52, and in September of that year to 104—the largest registration to that date in the history of the school.³³⁷

SUCCESSIVE TASKS OF LEGAL EDUCATION

Before and after the American Revolution. The charter from the Crown in 1663 said and the Colonial Assembly in 1715 repeated: "The laws of England are the laws of this government as far as they are compatible with our way of living and trade." When North Carolina declared her independence of Great Britain, wrote her own Constitution at Halifax, and ratified the Federal Constitution at Fayetteville in 1789, she shifted her center of gravity but did not throw away her legal traditions or cut the lifeline of her basic governmental institutions. The content of legal education in the days after the American Revolution as in the days before was English to the core. The shift from an English to an American emphasis was described by a member of this Law School in a pamphlet written in 1928: "In the course of study prescribed in 1845 only two American books are listed: Kent's Commentaries and Greenleaf on Evidence. The English books listed were: Blackstone's Commentaries; Stephen on Pleading; Chitty on Pleading; Chitty on Contracts; Cruise's Digest of Real Property; Williams on Executors. These books were supplemented by 'lectures on the municipal laws of the state as modified by the acts of the legislature and decisions of the state courts.' By 1881 the tide had turned and the American authors are in the majority: Parsons on Contracts; Prince on American Railroad Law; Angell and Ames on Corporations; Bigelow on Torts; Washburn on Criminal Law; Cooley's Constitutional Limitations. Blackstone's Commentaries, the longest lived English book, continued in the law school curriculum until 1906." The essentials of Blackstone in Ewell's

³³³ Data from Law School files.

³³⁴ *Ibid.*

³³⁵ *Record*, 1916-17 (December), p. 49.

³³⁶ *Ibid.*, 1917-18 (December), p. 36.

³³⁷ *Ibid.*, 1919 (December), p. 54.

name continued in the Supreme Court book list required of applicants for admission to the bar through the late 1920's.

"But from the beginning of colonial life there was a steadily growing body of American Law. By 1803 the decisions of the courts in American jurisdictions were available in 16 volumes; by 1910 in 8,000 volumes; and all the time increasing in geometrical progression. In 1871 the important cases of general interest from all jurisdictions were made more easily available in the annotated reports, and the availability of all decisions was increased by the beginning of the National Reporter System in 1885. By this time American cases were supplanting English cases in the briefs of lawyers, in the decisions of the courts, in the curricular of the schools. American treatises, steadily increasing, were gradually weaving these scattered materials into an American legal tradition.

"Throughout this period North Carolina was adapting these English and American materials to her own life. The early enactments of her Colonial Assembly were issued in manuscript form, sent to the judges and clerks and directed to be read annually in open court. The first reported decisions of the court appeared in 1797. A study of the citations of lawyers and judges in the early volumes of the reports shows the North Carolina decisions and statutes gradually building up North Carolina's legal tradition. It became a part of the curriculum of this Law School in 1845 and a part of the course of study prescribed by the Supreme Court in 1849, and is now contained in around 200 volumes of reports and in over 5,000 pages of statutes."³³⁸

It was the task of the lawyers of that generation to continue the adaptation of these inherited laws to "our way of living and trade," to fit the laws of a closely knit England to the needs of scattered pioneer settlements. It was not impossible for lawyers to acquire the facilities for this task through their studies in the private home, the private office and the private school ". . . as long as those settlements were simply organized around people who made their living and lived at home—as long as the activities of these people were neighborhood activities starting in sight and stopping in hearing."³³⁹

Before and after the American Civil War. New tasks confronted the lawyers of later generations. A program of internal development in the 1830's, speeded by the completion of North Carolina's first railroad in 1840 and others that followed, began to tie these separated settlements together and to offer landlocked inland farmers an incentive to raise goods for foreign sale as well as for home consumption; activities *within* settlements expanded into activities *between* settlements and

³³⁸ Coates, *A Task of Legal Education in North Carolina*, pp. 8-9, 17-18.

³³⁹ *Ibid.*, pp. 32-33.

began to weave scattered communities into a connected commonwealth; life ceased to be local and simply organized and within any individual's native orbit, and it became difficult for anyone to acquire from the normal experiences of life in his locality a sufficient knowledge of the structure of the society in which he lived to enable him to understand and interpret its laws. The impact of this transition on legal education was pointed out by this writer in the 1920's: ". . . Perhaps it was a realization of this fact which moved William Horn Battle in 1843 to establish his private law school near the University campus, where his law students might supplement their study of statutes, decisions, and treatises with a study of 'our way of living and trade'—the structure of our society in so far as it could be found in college courses. Certainly, this came to be a consistent policy of legal education, for by 1881 the authorities were advertising that 'the advantages offered by this school are: the use of the University and society libraries amounting in the aggregate to near 20,000 volumes . . . the opportunities offered on easy terms of attending the lectures of the President and such other lectures as they may desire. . . .'

"Manning carried this policy farther than it had been carried before . . . by introducing into this Law School's curriculum: in 1887 a course in Political Economy; in 1894 a course in Social Science; in 1897 courses in Anthropology and Sociology; in 1901 [MacRae extended the policy to include] courses in General Economics and Medico-Legal Jurisprudence; in 1903 courses in Economics including Insurance, Trusts, Tariff, Railroad Transportation, Foreign Commerce, Labor Unions. Thus, Political Science was studied along with railroad law, the business of insurance along with the law of insurance, general economics and social science along with law courses relating to business organizations and practices."³⁴⁰

Educational progress in North Carolina and the south was interrupted in 1861 as "our way of living and trade" found itself tangled in our economic and social system which proved uneconomic and unsocial to the point of giving business assets and moral advantages to competing sectional interests; as energies finding release in the building of the cities, the counties and the state of North Carolina were diverted into a corroding war which pulled down the pillars of the temple on the heads of those who had built it. The University of North Carolina and its Law School provide an index to the catastrophic consequences of this internal strife. The University opened its doors in 1795 with Hinton James of Wilmington as the first student. In 1804 the student body had grown to 60; in 1825 to 122; in 1850 to 230; in 1858 to 456. In 1860 the number dropped to 376; in 1861 to 129; in 1864 to 60;³⁴¹ in

³⁴⁰ *Ibid.*, pp. 33-34.

³⁴¹ *Catalogue*, 1867-68, p. 14.

1869 to 35;³⁴² in 1870 to 0;³⁴³ and on the blackboard in a classroom some realistic individual chalked the legend: "This old University has busted and gone to hell today."³⁴⁴

Two years later the grand jury for Orange County reported that "only one member of the Faculty the President remains and that the wood land of the College is being badly plundered and the College Campus one of the most beautiful in the United States is depredated upon and that cattle wander through the college buildings. . . . The Libraries which belonged to the Literary Societies formed by the students are often invaded and valuable books abstracted. The Grand Jury present these matters to your Honor in the hope that some steps can be taken to preserve the property from ruin and some means devised by which as intended by the Constitution 'the Benefits of the University be extended to the Youth of the State.'"³⁴⁵

In 1875 the University reopened with 69 students.³⁴⁶ In 1880 the student body had grown to 191;³⁴⁷ in 1885 to 204;³⁴⁸ in 1893 to 388;³⁴⁹ and not until 1897 did it recover and surpass the pre-war peak of its enrollment with 485 students³⁵⁰ as compared with 456 in 1858.³⁵¹

The Law School paralleled this story. In 1858 it had 23 students³⁵² and this number dwindled to the vanishing point as the Law School closed in 1868.³⁵³ In 1877, two years after the reopening of the University, the Law School reopened with 4 students,³⁵⁴ grew to 14 in 1880,³⁵⁵ 21 in 1882,³⁵⁶ and not until 1883 with 28 students³⁵⁷ did it recover and surpass the enrollment of 1858.

In this middle period of development, dissolution and reconstruction, it was the task of the Law School to train lawyers equal to the problems of weaving a series of scattered settlements into a unified state, of laying the foundations of the new south among the ruins of the old, of guiding the new south into the flowing currents of national life.

Before and after World War II. In the 1920's against the background of World War I and in the industrial upswing preceding the depression of the 1930's a member of this Law Faculty wrote: "Today

³⁴² *Ibid.*, 1869-70, p. 11.

³⁴³ Battle, *History*, II, p. 41. The trustees suspended exercises, December 1, 1870.

³⁴⁴ *Record*, 1901-2, No. 2, p. 33.

³⁴⁵ Minutes of the Superior Court of Orange County, spring term, 1872; see also Frederick H. Harris, "The Role of the Grand Jury in North Carolina Local Government," pp. 164, 170—Master of Arts thesis (1942), manuscript in N. C. U. Library.

³⁴⁶ *Catalogue*, 1875-76, p. 10.

³⁴⁷ *Ibid.*, 1880-81, p. 15.

³⁴⁸ *Ibid.*, 1885-86, p. 62.

³⁴⁹ *Ibid.*, 1893-94, p. 27.

³⁵⁰ *Ibid.*, 1897-98, p. 129—this is exclusive of 185 summer school students.

³⁵¹ *Ibid.*, 1867-68, p. 14.

³⁵² *Ibid.*, 1858-59, p. 41.

³⁵³ *Ibid.*, 1867-68, p. 23—there are 18 law students listed. The catalogue for 1868-69 lists neither law professor nor law students.

³⁵⁴ *Ibid.*, 1877-78, pp. 12-15.

³⁵⁵ *Ibid.*, 1880-81, p. 15.

³⁵⁶ *Ibid.*, 1882-83, p. 37.

³⁵⁷ *Ibid.*, 1883-84, p. 37.

economic, social and political horizons are rapidly extending as little local businesses are forced to grow or combine or perish, as long established practices, customs and beliefs are stretching in the ever lengthening currents and cross currents playing through our life, as counties and states and sections are brought by rapid transit and instant communication into competition or cooperation. It is the Law School's business now to train lawyers equal to the task of guiding human relationship through these difficult and delicate transition days, lawyers who in the transaction of every day's routine are mindful of the fact that not merely an agriculture and an industry, [not merely] a superstructure of . . . transportation, commerce and finance, but a civilization is in the making. . . . It is our task, on the foundations laid by Battle, Manning, MacRae, McGehee, McIntosh and those who labored with them to build a Law School which is no less nation-wide or world-wide in its grasp of living issues because it is flavored with the traditions of a single state and section."³⁵⁸

Since those days the modern deans have done their work. Ferson, McCormick, Van Hecke, Wettach and their Faculties have stimulated habits of work, shifted methods of teaching, stiffened standards of scholarship, oriented the aims and objectives of legal education and through these activities made over the Law School of their inheritance to the point it can be said that students in this Law School today are getting a better legal education than any previous generation in its history. This conclusion is stated with the consciousness that this generation of law teachers and law students is not stepping on the toes of Battle, Manning, MacRae, McGehee, McIntosh and the students who studied with them; it is standing on their shoulders.

The story of Manning Hall reaches back through Smith Hall and South Building to the "one little room 16 by 18 feet, furnished with a half dozen split-bottom chairs" in which William Horn Battle began his professorship. The story of the Law School Library of 52,000 volumes overflowing its shelves reaches back through the struggles of McGehee, the legislative resolution of 1902 procured by MacRae authorizing the "replacing of old books with new ones without cost," the note in the Trustee minutes of 1889 authorizing "Professor Manning to spend up to \$150 for a set of U. S. Supreme Court Reports," to the personal library and the "well stocked mind" of Professor Battle.

The story of the Summer Law School, now integrated with the regular sessions, reaches back through the administration of intervening Deans and the first formal Summer School started by Manning in the 1880's to the informal announcement in the catalogue of 1845 that the Professor of Law ". . . will give instruction during the vacations to

³⁵⁸ *Supra*, note 338, pp. 54-55.

such members of either [law] class as desire it without any extra charge." The story of the NORTH CAROLINA LAW REVIEW reaches back through its founding in 1922-23 to the *Law Journal* of MacRae in 1903; the story of the supplemental lectures of members of the bar reaches back through the founding of the Law School Association in 1923 to the "special lectures" of practicing lawyers announced by Manning in 1891; and the story of the present office, trial and appellate practice work reaches back through various phraseologies to the Blackstone Law Club of 1893, and the catalogue announcement in 1845 of "a Moot court . . . held occasionally by the Professor" and of "pleadings and other legal instruments" to be drawn "from time to time" by the students. The story of the three year law course preceded by three years of college study reaches back through the recommendations of McGehee in 1920, to the struggle of Biggs for American Law School Association standards in 1899, to Manning's recommendation in 1896 that "applicants for the LL.B. degree be 20 years old and complete an academic course equivalent to that of the Freshman and Sophomore years in college," to the requirement of two years of study for the LL.B. degree in 1845, to Battle's acquisition of a college degree before beginning the study of law followed by his three years of voluntary legal study before applying for admission to the bar. The story of Law Faculty assistance to state and local officials and commissions reaches back through McGehee and McIntosh as editors of the *Consolidated Statutes*, to Manning's work on *The Code* of 1883, to *Battle's Revisal* of 1870, to Swain's advisory relations with state officials throughout his presidency of the University from 1835 to 1868.

This Law School, therefore, is the product of no one dean, no one set of professors, and no one generation of students; it is the resultant of a hundred years of the hopes and dreams and efforts and activities of them all. Thus it provides a solid foundation for the projection of legal education into a future where fresh footing must be found in the swiftly moving realms of telegraph, telephone and radio, railway, highway and airway; in a society of industrial revolution—starting with steam, speeding up with electricity and in danger of shaking to pieces under the prospect of atomic power; in a world of political evolution speeded to the point of revolution as the rights of Englishmen have been claimed as the rights of Man, where the rights of Man in great segments of the globe have been swallowed by the totalitarian state, where the totalitarian state itself splits into the dictatorship of the modern despot and the dictatorship of the modern proletariat, and these two struggle for mastery; in the United States of America where internal discords strain inherited legal and governmental institutions to the breaking point, and this resulting strain is aggravated by interna-

tional tensions increasing as fascists and communists alike misuse the constitutional guaranties of free speech to undermine in this land the very freedoms which are denied them in their own; in a south and a state all too slowly freeing themselves from historic prejudice, racial bias, and economic vassalage reinforced by freight rate differentials feeding the wealth of some sections and draining the wealth of others.

Law schools, lawyers and bar examination in 1946. It may be fairly said that modern standards of legal education in North Carolina have been set by Law School leadership. In 1845 William Horn Battle required two years study of the law for the LL.B. degree from this Law School; in 1919 this requirement was raised to three years; before and after 1919 the quality and content of the two and three year law course was steadily and rapidly improving. In 1910 a high school education was required for admission to the Law School; in 1923 one year of college work was required; in 1925 two years; in 1932 three years. And this record is all the more impressive when put against the background of standards for admission to the bar. In 1849 a rule of the Supreme Court prescribed a list of law books of applicants for admission to the bar; later a list of subjects—to be studied through textbooks or case books of the students' choice. In 1889 the Court required that this prescribed law course be studied for "one year"; in 1901 for two years—omitting any requirements of preliminary education. Even these half-hearted hurdles were not aggressively enforced.³⁵⁹

But no one can read the proceedings of the North Carolina Bar Association since its organization in 1899 without feeling its keen and enthusiastic interest in standards of admission to the bar. Particular reference may be made to discussions in 1900, 1903, and 1930, without detracting from discussions of the quality and content of legal education in the years between.

In 1903 R. W. Winston rose in open meeting and argued that "Blackstone ought to be restored to the [prescribed] course. . . . When I look back over my course of study I think I derived more benefit from Blackstone than any book which I studied. . . . Now, Mr. President, I am interested in this matter. I have a son who is about to enter upon the study of law, and while I was willing for other people's sons to study the present course, Ewell's Essentials included, I am positively opposed to my boy studying law with Blackstone left out. . . . What are the essentials? The essentials are Coke and Blackstone, that is what they are, and the Great Masters of the Law. . . . This is a very business and a very practical age, but my observation is that unless a man has a legal mind, he might just as well quit the law. If he thinks he can make

³⁵⁹ Coates, "Standards of the Bar," N. C. LAW REVIEW, VI (1927), pp. 39-41, 46.

a lawyer unless he has a legal mind, he is very much mistaken, and cramming his mind, or rather his memory with disjointed facts, will not supply the deficiency. Young men ought to be required to study the old books of the profession, they ought to go back to first principles and learn them. . . . We must get away from the idea that a boy must be examined on the Code of North Carolina which changes every second year. I think studying The Code is really a hardship to a boy. He will come into that quick enough when he gets into the law. What he wants to do is to train his mind, he wants to become a hard headed old fashion lawyer; careful, painstaking, obstinate and stubborn. Such a man holds by first principles. Let the human mind be well trained first of all and then all of this little trash as to when you have got to file your complaint, or when you have got to issue your summons, or how many extraordinary remedies or judgments there are—all of those little matters will come in the practice of the law afterwards. The statute law of a State changes with each changing wind, to teach it to the young aspiring law student, lowers his ideals and makes of him a mere clerk. You might as well ask a boy how many trees there are between South Building and Pickard's Hotel, as to ask him how many legal holidays there are in North Carolina."³⁶⁰

To this exordium F. H. Busbee responded: "I desire to suggest, though I will not make an amendment to the motion of my learned friend, that we add Granville, and Fleta and Braxton, and also add that no report or other text book shall be used by the profession subsequent to 1830." "Mr. Busbee spoke briefly in opposition to the suggestion of requesting the Supreme Court to alter its course. He also objected to the suggested elimination of the Code and thought that the course of study should be one calculated to prepare the lawyer for the actual practice of his profession, to advise clients who [come] to him concerning their affairs, and to conduct litigation successfully. He heartily concurred in the eloquent eulogy upon Blackstone, and stated that when his son was a law student at the University he had sent Blackstone and Adams' Equity and Stephens on Pleading, to be read and studied in connection with the condensed statement of the law in these volumes which is contained in Ewell's Essentials. The great names in the history of North Carolina jurisprudence had read and studied the volumes then accessible. It is not to be supposed that Gaston and Badger would have omitted to study the modern text books and decisions if they had been accessible, and unless the lawyers of this age should rival that of Methuselah, time would fail him to study minutely both old landmarks and the modern treatises and decisions."³⁶¹

³⁶⁰ *N. C. Bar Association Reports*, V (1903), pp. 20-23.

³⁶¹ *Ibid.*, pp. 24-25.

In 1930, Bar Association officers appeared with Law School Deans before the Supreme Court of North Carolina to urge higher standards of legal education for admission to the bar.³⁰² It suited action to its words after the shifting of the bar admission responsibilities from the Supreme Court to the newly incorporated and self-governing bar in 1933.³⁰³ This organization forthwith prescribed rules, raising by degrees the requirements for admission to the bar: requiring a "standard four-year high school education, or its equivalent . . ." of all applicants in 1938, and two years of college work in 1940; requiring a prescribed three-year course of study in legal subjects in 1938,³⁰⁴ and requiring as proof of this study the "certificate of the dean of an approved law school . . . or the affidavit of a member of the North Carolina State Bar engaged in active practice of law, who has been a licensed practitioner in North Carolina for five years prior to the beginning of instruction, that the applicant has studied law under his personal instruction for three years and that he has passed written examinations given by him in the entire minimum course of study above prescribed, and on each subject contained therein; which affidavit shall be made on the form prescribed by the Board of Law Examiners, and the originals of which written examination, and the answers thereto shall be attached to such affidavit."³⁰⁵ These regulations put teeth into the requirements for admission to the bar and the administrators have given them a bite. Seventy-five out of 173 applicants passed the bar examination in 1934; 91 out of 215 in 1935; 105 out of 273 in 1936; 119 out of 188 in 1937. After the new rules took effect: 53 out of 94 passed the bar examination in 1938; 62 out of 100 in 1939; 84 out of 103 in 1940.³⁰⁶

Against this background it is perhaps natural that Law School Deans should begin to wonder if they are not getting more than they asked for. Current academic prayers for judgment call not so much for *higher* standards as for *different* standards of admission to the bar. The Dean of one of the approved law schools in North Carolina recently set forth the present law school dilemma:

"A few years ago almost everyone interested in better legal education was demanding that bar examinations should be more severe in order to eliminate candidates of poor preparation. It was pointed out, with seeming logic that with more difficult examinations the graduate of the better law school would pass with flying colors while the office-

³⁰² *Ibid.*, XXXII (1930), pp. 66-100.

³⁰³ *N. C. Bar Association Reports*, XXXV (1933), p. 130.

³⁰⁴ *Journal and Proceedings, N. C. State Bar*, VII (1940), p. 44.

³⁰⁵ *Rules Governing Admission to the Practice of Law in the State of North Carolina* (1940), pp. 5-6.

³⁰⁶ *Supra* note 364, p. 46.

trained man and the graduate of poor quality or of a commercialized law school would fail.

"We may well ask whether the law student, graduating with a satisfactory record from a school of good standing and who has taken substantial courses such as the bar examination should cover, finds himself prepared by his law school training to stand the type of examination generally given. Unfortunately the answer for most states is most decidedly NO.

"Wherever there has been a serious effort to stiffen up the bar examinations there will be found thriving coaching schools where men from the best as well as from the worst law schools go—not to increase their legal information but to learn how to get over this particular hurdle. Many of these cram schools are able to show such a high percentage of success for those who have registered with them as to convince the student that no matter how sound his legal education may have been he is taking a big chance to try the bar examinations without a special coaching course based, not on what a legal education should be, but on a careful study of what the examiners will ask. . . .

"Is it fair to the student to train him in the manner which the law schools have developed and then to test him according to an entirely different or haphazard standard?"³⁸⁷

This genuinely felt and frankly stated complaint tends to call forth the following sort of no less genuinely felt and frankly stated answer.

"Law examiners frequently complain that law as taught is too far removed from law as practiced. They desire a better blending of the theoretical and the practical in legal education. Too many applicants have never seen and handled a promissory note, the charter of a corporation, a bill of lading, a summons, a complaint, an answer, a demurrer, a judgment, a case on appeal, a will, a simple written contract, a deed, an account book, or a complicated tax return. . . . All too frequently the examiner is told by the applicant that the solution to a given legal problem might be this but also it could be that. . . .

"To protect the public and the profession, the unfit and the unqualified must be eliminated, and in the main that can be done more fairly and more effectively by the Law School than by the Board of Bar Examiners. . . . The law professors are fully conscious of their duty in this respect, but the matter is not as simple as it sounds. We of the bar must give to them at all times our earnest support in their efforts to maintain and enforce high standards of scholarship among their students. . . .

³⁸⁷ H. Claude Horack, "Admission to the Bar: Many Are Chosen (A Symposium)—Securing Proper Bar Examinations," *Illinois Law Review*, XXXIII, pp. 891, 893.

"The curriculum in the law school is a matter of vital concern to the public and to the bar. A frank recognition of this mutual interest and a working together upon the scope of legal study and examination for admission to the bar by law school men and the members of the bar is essential . . . neither the professors nor the examiners should dictate to the other and each should respect the efforts of the other in the discharge of their separate responsibilities."³⁶⁸

The question raised by this reported exchange of views between a law school dean and a bar association president is not new to legal education in North Carolina. The same basic issue in a different form was raised on the floor of the North Carolina Bar Association in 1900 when E. J. Justice queried: "Whether a man who takes all of the questions which have been submitted by the Supreme Court since the written examination has been inaugurated, and learns the answers to them, cannot in all probability pass any examination that the Supreme Court will in the future submit to him?" To this query Professor Biggs replied: "About one-half of the third examination was taken from the first and second examinations. On equity I think there were nine or ten questions asked, and about eight of them were the identical questions asked on the first examination, and so it was with other questions. One could probably pass the third examination by getting up the first and second."³⁶⁹

As late as the 1920's forty-four out of sixty-six questions were repeated from former examinations. Quizzers with all previous questions and answers to them were published and superseded all other legal studies as law students sniffed the bar examination from afar. Walking down the streets of Raleigh behind two aspiring applicants on the eve of the February examination in 1923, the writer heard one of them ask a question and the other reply: "That is the twenty-first question in the nineteenth examination." This sort of procedure could and did for years exercise a demoralizing influence on legal education, law schools and the bar. Year after year the records show Law School studies disrupted as the mid-winter bar examination drew near and classes depleted with the departure of successful applicants. Year after year the records show the profession and the public flooded with incompetents who were far from being lawyers but who carried with them the parchment evidence that they were members of the bar. Year after year this enervating struggle between the standards of the Law School and the standards of the bar reduced legal education to a caricature of its aspirations. It was the union of the law schools and the organized bar, beginning in 1900, that lifted legal education in North Carolina out of this paralyzing

³⁶⁸ From a speech by Irving Carlyle, President, North Carolina Bar Association (1945)—manuscript in N. C. Bar Association files.

³⁶⁹ *N. C. Bar Association Reports*, II (1900), pp. 65-66.

impasse. It was this union of forces that lifted the Supreme Court's requirement of legal study from twelve months to two years for admission to the bar. It was this union of forces that brought about the incorporation of the self-governing bar, with power to admit and to disbar, and the consequent lifting of bar admission standards in the years that followed 1933. That union of forces is needed now to preserve the positive advantages so hardly won since the turn of the century; to rid the legal profession of the dilemma which sends increasing numbers of prospective lawyers to law schools for a legal education and to cram schools for admission to the bar; to give to law schools and to lawyers all that they can teach each other and thus lift the level of legal education to new heights which must be reached if the lawyers of tomorrow are to grapple successfully with the problems that are in the offing now.

The President of the North Carolina Bar Association and Chairman of the Board of Law Examiners in 1945 acknowledged the dilemma and pointed the way to its solution when he said: "The relations between the law school men of our state and the bar and all of its agencies have been more satisfactory. Without any difficulty the scope of our bar examinations was extended a few years ago at the request of the law school representatives to include fifteen optional subjects with answers to questions on any five being required. This step represented a definite advance in legal education."³⁷⁰ This technique of consultation on objectives, the interchange of ideas and formulation of plans for achieving these objectives, and collaboration in the execution of these plans can clear the hurdles of the present as they have cleared the hurdles of the past, and turn the bar examinations themselves into incentives for the most effective legal education.

FACULTY, STUDENTS AND ALUMNI IN 1946

Faculty. The Law School Faculty today includes most of the men who have carried the school through the transition days since 1923—trained in modern law schools, matured by practical experience, seasoned in teaching and skilled in research. In Dean Wettach it has a leader who joined its ranks in 1921 and has spent twenty-five years in its service. Starting with McGehee and McIntosh and working through the administrations of successive Deans, acquainting himself with the problems of legal education in North Carolina and throughout the country, he unites today in his experience the old Law School traditions with the new. His work with Bar Association committees, with state commissions such as the Commission to Revise the Insurance Laws of which he was Chairman, with the Attorney General's office where he served as Assistant Attorney General, with the National Textile Labor Relations Board and the National War Labor Board, gives him a practical aware-

³⁷⁰ *Supra* note 368.

ness of the problems of the legal profession. He has guided the Law School through the difficulties of the war years, as the number of students fell to the lowest point since 1880, and, with his associates, is facing confidently the problems of the post-war years, as student attendance multiplies.

Students. The Law School student body today includes the largest number of students with the best academic training and the greatest maturity and variety of experience of any student body in the Law School's history. The records show that ninety per cent of them have spent from one to five years in the military services: in the Army, the Navy, the Air Corps, the Marines; in North Africa, Egypt, Syria, Palestine, Sicily, Italy, Austria; in Britain, Ireland, Scotland, France, Belgium, Luxembourg, Germany; in New Britain, Australia, India, Burma, China, Buna, Bougainville; in the Philippines, Guadalcanal, Saipan, the Marshall Islands, Iwo Jima and Okinawa.

They have come out of service with ranks ranging from Private First Class, Seaman First Class, Electrician's Mate, Technician and Aviation Machinist through intervening grades to Ensign, Lieutenant, Captain, Lieutenant-Commander, Major and Lieutenant-Colonel.

They brought with them arrowheads from ever major invasion, service ribbons and battle stars from every major theatre of operations, Combat Infantryman's Badges and Presidential Citations, the Air Medal, Purple Heart, Bronze Star, Distinguished Flying Cross, Legion of Merit, Silver Star, Distinguished Service Cross, Navy Cross, clusters and clusters of clusters, foreign decorations including the Order de Nassau, Croix de Guerre, Belgian Fourragere.³⁷¹

They have brought to this Law School a spirit and purpose which was expressed by a member of the Faculty to the class in Criminal Law at the close of the first term of the academic year just ending: "Many people anticipated difficulties of returning veterans in getting down to work. Those difficulties have not appeared in this group. In twenty years of teaching I have never experienced a class of harder working students. To efforts to make the most of your time you have added efforts to make up for lost time. If you hold to the pace you have set, you will get a proportionately better legal education than any class that has preceded you. You are already setting new standards of performance for future classes and adding new values to Law School traditions of painstaking effort and distinctive workmanship."

Alumni. Both faculty and students face the challenge and feel the lifting power of a great tradition. In a memorial to the General Assembly, written in 1830, Chief Justice Ruffin said: "In North Carolina every person who is old enough to remember when the University was not,

³⁷¹ Data from the Law School files.

must have observed, and cannot but testify to the efforts most salutary, of its establishment." The memorial then showed that the University had graduated more than 460 of her sons, and about the same number had attended her instruction without waiting to obtain degrees. "These Seven or Eight hundred of the Alumni of Chapel Hill, now fill with honor to themselves and to the College and with usefulness to their country most of her posts of distinction, trust, labor and responsibility in her Legislatures, her Judiciary, her professions, her schools, besides adding greatly to the mass of general information caught from them in the intercourse of Society and diffused through the body of our Citizens. Many who have sought employments and homes in distant sections of the Union make us favorably known in Sister States. . . ."³⁷²

The University of North Carolina was thirty-five years old when Ruffin wrote this statement; the Law School was not born for fifteen years thereafter. The Law School is one hundred years old as this outline of its history is written in 1945; and the University is a hundred and fifty years old. The Law School of 1845 was heir of the University tradition which Ruffin described in 1830. It has played its part in making the University tradition since 1845. The first University alumnus to become Governor of North Carolina was William Miller, in 1814; since that time University alumni have furnished twenty-six of forty-two governors. There has been a steadily growing number of University men at the bar, on the bench, in legislative halls, in administrative agencies, and in other fields of the public service. A recent analysis reveals University men holding seven of the seven places on the Supreme Court of North Carolina, twenty-two out of thirty places on the Superior Court, three out of four places on the Federal Courts in this state; sixty-five out of one hundred seventy seats in the General Assembly; nine out of fourteen places in the National Congress; and a variety of significant posts in the State and Federal Governments. In the historic record of these men, the Faculty and students of today feel the lifting power of a great tradition.

³⁷² Hamilton, *Papers of Thomas Ruffin*, IV, 267.