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II

EVOLUTION OF LEGAL EDUCATION IN THE
UNIVERSITY OF NORTH CAROLINA

The law school idea. At the Commencement of 1824, 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?" Thereafter a Law Club was formed 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.

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, and then moved to Raleigh and studied law in the office of John Louis Taylor in 1822. He 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, and Governor of North Carolina in 1832 for three successive terms. In the year 1835, he came into the presidency of his Alma Mater at the age of thirty-four, 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."

President Swain's course. In addition to the presidency, the University catalogue of 1837 lists him as Professor of National and Constitutional Law; 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.

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 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."

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."

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

Sitting in this Trustee meeting was Judge William Horn 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. The minutes of the Executive Committee of the 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."

This first Professor of Law was born in Edgecombe County on October 17, 1802, entered the University of North Carolina in 1818, and graduated in 1820 as valedictorian of his class. He 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, and served as Professor of Law in the University from 1845 to 1868. From 1852 to 1868 he served as Supreme Court Justice with a slight intermission in 1865; he 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.

Course of study. The University catalogue for 1845-46, pursuant to Battle's 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 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."

"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. Ten law students were listed in the catalogue of 1847-48; 22 in 1855-56; 28 in 1857-58; 18 in 1867-68.

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*, Fearn's on *Remainders*, and Adams' *Doctrine of Equity* were added. 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.

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 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.

But the coming advantages of the institutional connection cast their shadows before, for this Law School was anchored to the University of the people. It had been conceived in 1776, chartered in 1789, opened in 1795, and 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. 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 private school to the institution in legal education was thus assured.

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, and 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. His unique fitness for founding the University Law School becomes even more apparent when one considers his background: 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, and his practical experience at the bar and on the bench of both trial and appellate courts. He was simply translating personal habits into institutional patterns when he set the pace and lifted the standards of legal education 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 to qualify 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."

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. 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.

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 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."

John Manning—Professor of Law
1881-1899

In 1881 the University Trustees filled the Law School professorship with the appointment of John Manning. He was born near Edenton on July 30, 1830, attended Edenton Academy and Norfolk Military Academy, and graduated from the University of North Carolina in 1850. He 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.

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* and on *Executors*, Stephen on *Pleading*, Chitty's *Pleading*, Adam's *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*.

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*, and *Mercantile Papers*. 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*, and Russell on *Crimes*. 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. Black's *Constitutional Law* was added in the catalogue of 1896-97 along with Huffcutt on *Agency*, Ewell's *Essentials*, and Fishback's *Elements of Law* in 1897-98.

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." 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. 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.

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; in the 1893-94 catalogue noting the formation of the Blackstone Club among law students; and in Manning's recommendation that applicants for the LL.B. degree complete two years of college work and become twenty-one years old—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, and must have completed an academic course equivalent to that of the Freshman and Sophomore years in College." 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."

Students and faculty. Law students increased from fourteen in 1881-82, to twenty-seven in 1884-85, to fifty-five in 1891-92, to sixty-four in 1894-95. 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." 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." In 1892 it recommended that Manning be allowed to spend \$100 of surplus tuition fees in advertising the Law Department in other states.

In 1894 Manning recommended that an assistant professor be employed, 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. Again in 1897, Manning insisted on the appointment of an assistant professor; the visiting committee in the same year reported him ill from overwork. An "Instructor" at \$500 a year was recommended by the President of the University, and the catalogue for 1897-98 lists Thomas Davis Warren as Instructor in Law; the next year James Crawford Biggs of Oxford was elected Assistant Professor of Law.

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. In 1892 Manning asked the Trustees for permission to spend \$100 out of tuition fees for new books. The visiting committee approved this request in 1892. The President recommended it in 1894, and in that year the Trustees passed a resolution authorizing \$100 per year for law books. In 1895 Manning asked that the appropriation for books be increased to \$200 per year. On March 1, 1899, he reported that even the \$100 appropriation had been reduced to \$75. 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.

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." The catalogue for 1883-84 announced that the "summer course will begin July first and continue until the last Thursday in August. Tuition . . . \$30." 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 1 to Thursday before the last Monday in September. In 1898-99, Assistant Professor Biggs replaced Associate Justice Shepherd. Forty-seven summer school students were listed in 1894-95; thirty-one in 1895-96; forty in 1896-97. 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."

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. 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 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." This tradition was continued by President Battle into the 1900's, supplemented and enriched by Professor, later President, George T. Winston, listed in the catalogue of 1891-92 as Professor of Political and Social Science, and in 1896 by Professor Alderman. 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.

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. 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.

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

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.

"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.

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 offenses against morality.

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

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."

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. 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. 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. 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." In February, 1885, 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. The visiting committee suggested a slight but significant alternation 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. 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." This step was taken after Manning in 1893 pointed out that the bursar was then collecting over \$1,000 in fees from law students, 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." In 1899 the Trustees resolved that the Summer School teachers be paid \$250 a month. 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. MacRae was born in Fayetteville on October 6, 1838, graduated at Donaldson Academy, taught school, clerked in a store, taught school again, 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 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.”

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.

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 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.”

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.”

The scope of the Summer Law School was 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. The enrollment fluctuated from forty-four in 1899, to fifty-seven in 1906, to thirty-six in 1909.

Law and pre-law courses. In 1901-2 the catalogue listed a course of lectures for law students of “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, but the first of these courses was short lived 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. In fact this notion took root to the 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.” 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. 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," 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."

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 1899 to eighty-two in 1909. 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. 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. Lucius Polk McGehee succeeded Ruffin in 1904, and resigned in 1909, to be succeeded by Patrick Henry Winston. James C. MacRae, Jr., was appointed Instructor in Law in 1904, resigned in 1905, and his unexpired term was completed by Edgar D. Broadhurst. 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 again. But again the curve was upward: a third professor was added in 1907.

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. In 1900, the President pointed out the need of "a better library" for the Law Department; the committee recommended \$100 and recommended the renewal of this sum in 1901. In 1902 MacRae stressed the need of a librarian in charge of the law books, reporting 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 texts and purchasing book-cases; the committee recommended \$200. In 1903 he reported 1,500 volumes in the Library; in 1904 that a law student was acting as librarian for his tuition; in 1905 that alumni were raising funds for a "Manning Memorial Library"; in 1906 he asked that the part time student librarian be replaced by a full time librarian; in 1907 he reported that the library had 2,000 volumes. In 1909 the visiting committee recommended not less than \$5,000 for law books and appropriation of \$1,000 annually. The trustees authorized \$1,000, and at the end of the year 3,000 volumes were reported in the Library.

In 1900 the President recognized the need of "better quarters" for the Law Department. 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. 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"; in 1906 he asked for South Building for the exclusive use of the Law Department, including dormitory rooms for law students; and in 1907 he reported that the Law School had been moved to Smith Building, vacated by the University Library and adequate for Law School needs.

Legal education and admission to the bar. Agitation for 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." 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 it prescribed its first formal period of study—"12 months at least"; in 1898 it required its first written examination; 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.

"[I]t 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 systematic course of study. . . . I know there were a good many able lawyers admitted to practice under the old twenty dollar system, and no one would argue that because those men have made an eminent success that he 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 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. "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.

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," 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." 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."

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, to form an Association of American Law Schools with "the object of . . . the improvement of legal education in America. . . ." The Articles of Association provided 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." 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." 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.

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”

This recommendation 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; and H. A. London of Pittsboro.

Paul Jones of the Tarboro Bar, who in 1899 had advocated the “publication of a Law Journal for North Carolina Lawyers,” edited the first volume of this publication in 1900 as the organ of the State Bar Association, under the supervision of the bar committee. This journal ended with the second volume in 1902.

In 1904, Dean MacRae undertook anew the editorship of the 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. The twelve issues for 1904 totalled 624 pages, and for 1905, 588. Publication ceased with the December issue in 1905.

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

In 1910, the Trustees elected Lucius Polk McGehee as Dean and Professor of Law. 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, and taught school in Asheville and Mebane. He 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. While a member of this Law Faculty he edited the *Consolidated Statutes*

of *North Carolina* and wrote *Due Process of Law under the Federal Constitution*, in addition to contributing various articles to the *Law Review*.

Other members of the Faculty included Atwell Campbell McIntosh and Patrick Henry Winston. 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 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. 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 and Remedies by Selected Cases, Annotated*, and was editor of the annotations for the *Consolidated Statutes of North Carolina*. In 1929 he published the authoritative treatise on *North Carolina Practice and Procedure in Civil Cases*.

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, and 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.

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*, and 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, and Practice and Procedure; 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; in Public Service Corporations, His-

tory of Law, Damages, Statutes and Drafting of Statutes, Office Practice and Legal Ethics in 1918-19; in Administrative Law and Trusts in 1922-23.

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 Fessendon 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 law-

yers. 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."

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

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

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.”

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. 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."

Acting President Edward Kidder Graham in 1914 had endorsed Dean McGehee's proposal for a three year law course. 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."

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.

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; 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, 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. 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.

In 1922 the movement for higher standards reached out to include 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. . . ."

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 Efrid, 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."

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 where it is 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."

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 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 opened 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."

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." Not till ten years later however 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."

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

Students and Faculty. Law students increased during McGehee's administration: from 66 in 1910, to 84 in 1914, to 123 in 1923. "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." 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 requirements. 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."

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."

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

Atwell Campbell McIntosh was instrumental throughout this period in developing the Law School. He was born in 1859, graduated from Davidson College in 1881 with Phi Beta Kappa standing, and studied law with Judge David Schenck. Professor McIntosh taught in the public schools for ten years, before his appointment as Professor of Law in Trinity College Law School from 1904 to 1910. From 1910 to 1938, he was Professor of Law at the University of North Carolina, serving as Acting Dean in 1923-1924 and in 1926-1927. As a legal scholar, he was author of *Cases in Contracts*, co-author of *Selected Remedies*, and author of the outstanding treatise on *North Carolina Civil Procedure*. Professor McIntosh also associated with Dean McGehee in compiling the Consolidated Statutes. Moreover, as a public servant, he served as City Attorney, member of the North Carolina General Assembly, and member of the County Government Study Commission. He was one of the most highly respected and best loved members of this faculty and belongs in that honored group of law school deans, including Mordecai of Trinity, Talley of Wake Forest, and McGehee of North Carolina.

III

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.

President Chase takes his stand. "During the past two weeks I have visited the law schools of Chicago, Harvard, and Columbia, have talked