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An Era of Transformation: 1979-89

THE MODERN LAW SCHOOL COMES OF AGE: THE DEANSHIP OF KENNETH S. BROUN (1979-87)

JUDITH WELCH WEGNER

Judith Welch Wegner is the UNC Law School's fifteenth dean. She is also one of the co-editors of this symposium. Wegner was born in Windsor, Connecticut, in 1950. She received her B.A. from the University of Wisconsin and her J.D. from UCLA. She worked as an attorney with the United States Justice Department and a special assistant to United States Secretary of Education Shirley M. Hufstедler, before joining the law faculty at the University of North Carolina in 1981. She followed in Albert Coates' footsteps as a teacher of state and local government law, and in Bill Ayccock's footsteps as a property teacher. Wegner served as Associate Dean from 1986-88, during the deanships of both Kenneth S. Broun and Ronald C. Link. She also drafted the law school's 1984 self-study.

Kenneth S. Broun led the UNC School of Law during an era of rapid evolution in the nature of legal education. He embraced the challenge of enhancing student training in "practical skills." He recruited and retained a diverse faculty committed to the creation and dissemination of knowledge. He fostered a sense of mutual respect and appreciation among faculty, students and alumni. He prepared the school to address future challenges with the help of a more sophisticated administrative team equipped to enhance the school's capacity in fundraising and financial management. When Broun left the deanship, his successor, Acting Dean Ron Link, observed:

The next dean will almost certainly be a good one. Why? Because Ken Broun has positioned this school for its next step forward. Ken was truly a dean for all reasons. His intelligence, wit, foresight, leadership, and, above all, his

decency and humanity, made this Law School one of the very best.¹

As Ron Link so rightly noted, an understanding of the law school's development during this period can best begin with an understanding of Ken Broun, the man. Against this backdrop, then, it is possible to explore the important developments in the areas of skills education, faculty development, community interaction, and support structure that characterized Ken Broun's tenure as dean.

KEN BROUN: "DEAN FOR ALL REASONS"

Ken Broun was born in Chicago, Illinois, in 1939. He attended the Chicago city schools and the University of Illinois, where he received his B.S. in Journalism and Communications and served as executive editor of the *Daily Illini*. He went on to study law at the University and received his J.D. with honors in 1960. He was Associate Editor of the *University of Illinois Law Forum*, and was elected to the Order of the Coif.

Broun practiced law for the Chicago firm that is now Jenner & Block from 1963-68. It was during this period that he began his life as a legal educator. A partner at Jenner & Block invited Broun to join him as an instructor in a civil procedure course at Loyola University School of Law. Broun soon concluded that he would commit himself full-time to the life of a law teacher. He left Chicago and joined the University of North Carolina School of Law faculty in 1968.

Broun's teaching interests centered on civil procedure, evidence, professional responsibility, and trial advocacy. In the time-honored tradition, he was also called upon to teach a variety of other courses, including torts, contracts, federal jurisdiction, and admiralty. Much of his scholarship centered on the law of evidence. He became nationally known as an evidence scholar, and is now author of *Brandis & Broun on North Carolina Evidence* and co-author of *McCormick on Evidence*.

A critical influence on Broun's life and deanship was his early involvement in the National Institute of Trial Advocacy (NITA). He became involved with NITA early in its history. In 1972, he was approached by John Kaplan of Stanford, Bob Keeton of Harvard, and Prentice Marshall of Illinois to join in their initial efforts to shape a

1. RONALD C. LINK, UNC SCHOOL OF LAW ANNUAL REPORT FOR THE SCHOOL OF LAW, Aug. 1988, at 1.

mechanism for effective teaching of trial skills through partnership between legal academics and legal practitioners. In 1973, Broun set up the methodology for NITA trial advocacy training, something that has continued to be of importance ever since. He began the Southeast Regional Session of NITA in 1975. From 1976-79 he served as National Director of NITA, and was performing those duties and carrying a reduced teaching load when he was selected as dean in 1979.

Broun had learned a great deal about the School of Law and its mission during his decade on the faculty before he became dean. He shared these insights in the introduction to his first *Dean's Report to the Chancellor*:

[The School of Law] bears much in common with the law schools of other major state universities. But there are things here that make us different from all others. First, the origins of the school go back to a time long before most states were even contemplating a role in legal education. As a result, the school has dominated the legal profession in this state for longer, and perhaps with greater impact, than the schools of other states. Second, it is part of a University that has been and continues to be an intellectual leader not only in this state and region, but in the nation as a whole. Last, there is an intangible element. Anyone who has ever had contact with Chapel Hill feels caught up in an institution that is more than educational. The University and the Law School are symbols of excellence and intellectual freedom to many who cannot explain their devotion in tangible terms.²

In assuming the deanship, Broun brought to bear deep insights like these, and his own deep affection for the institution and its community of faculty, staff, students, and alumni. He brought great expertise as a lawyer and legal educator. He also brought remarkable human warmth. Broun became known for his wit and for his excellence as a jazz musician. He remained a popular teacher whose rapport with students stood him in good stead throughout these times. His insights into human nature and his training in Chicago politics helped him navigate the waters of institutional politics, and even high-profile espionage cases involving football spies. His spirit of exploration and commitment to justice took him to South Africa in

2. KENNETH S. BROUN, UNC SCHOOL OF LAW, THE DEAN'S REPORT TO THE CHANCELLOR, 1979-80, at 1.

1986. There he developed NITA-style programs conducted through the Black Lawyers Association of South Africa.

Happily, Broun's warmth and vitality remained intact despite the travails of the deanship. After stepping down as dean in December 1987, Broun practiced law full time for two years with the firm of Petree Stockton in Raleigh, North Carolina. He resumed his duties as a member of the law faculty in 1990. In 1991 he was elected as Mayor of the Town of Chapel Hill and was re-elected in 1993. His talents and enthusiasm are as great as ever, and he will continue to contribute to the evolution of the School of Law toward greater excellence for many years to come.

THE EVOLUTION OF THE LAWYERING SKILLS CURRICULUM

One of Broun's major goals during his deanship was to strengthen the law school's curriculum in the area of lawyering skills and clinical education. In his first year as dean, Broun began multiple efforts to achieve this goal. In his annual report to the Chancellor, he described the school's existing trial advocacy program with considerable pride:

This school is particularly strong in the area of trial advocacy training where seven sections of approximately twenty students each work with simulated trial situations during the year. These sections are aided by the use of video tape review of student performances and by demonstration of trial techniques by experienced trial lawyers. The school's development of this program is among the best in the nation.³

In 1981, the law school received the national Gumpert Award for excellence in the teaching of trial advocacy. In ensuing years, Broun committed the school to offering enough sections of trial advocacy to allow all interested third-year students to enroll. He worked closely with the practicing lawyers and judges who brought great skill and continuing expertise to the training of UNC students in trial advocacy, using NITA materials and teaching techniques. Before leaving the deanship in 1987, Broun worked to revise the format of the school's trial advocacy curriculum. This redesign significantly improved student learning by incorporating both an intensive period of instruction at the outset of the semester and continuing instruction on a weekly basis thereafter. The revised format also allowed the school

3. *Id.* at 7.

to invite many more practitioners and judges to assist in teaching and critiquing students enrolled in the course.

Broun also encouraged his colleagues to explore the potential applicability of simulation teaching techniques in other areas. Professor Ronald Link helped develop a course in real estate practice that was offered in 1980 and continues to this day. Other courses, such as business planning, were also added to the advanced curriculum during his tenure.

In Broun's first year as dean, he also identified the school's research and writing program as one that needed improvement. He described his concerns in his first Dean's report:

As our program is now formulated, each student is assigned to one of his or her first-year courses in a small section. The small-section professor is responsible for teaching not only the substance of the course, but also the basics of legal writing and research. Legal bibliography is taught to the students by the first-year professor with the help of members of the Moot Court Bench. We are concerned that this program has often been inadequate to provide the very important basic legal writing and research skills. . . . The school is therefore working on a plan to revise this program extensively . . . [through] creation of an additional first-year course which would focus primarily on writing and research.⁴

The resulting research and writing program called upon first-year small-section teachers to continue bearing some responsibility for training first-year students in legal writing, but established the position of Director of Research and Writing to ensure more consistent training in research skills and better coordination of instruction. During Broun's deanship, this program continued to evolve, adding a three-unit research and writing course taught by practicing lawyers in the spring semester of students' first year. Students were also required to participate in a second-year writing experience, and to enroll in a seminar requiring intensive writing (usually in their third year).

Broun also was deeply committed to the creation of a sophisticated clinical educational program that would allow students to work with real clients under the supervision of experienced attorneys who were members of the law faculty. He believed that this model was far superior to the "farm-out" or "externship" model being developed in

4. *Id.* at 7-8.

other schools. Although faculty support for the clinical program might have been described as "tenuous" at the outset, Broun's efforts led to gradual progress toward creating a UNC clinical education program that is generally viewed as among the best in the country. Broun's interests in the linkage between law school and law practice also led him to encourage the faculty to develop a more substantial program of continuing legal education specifically sponsored by UNC. By 1981, the school had implemented CLE programs dealing with various legal topics on Saturday mornings of home football games. The first annual Tax Institute was held, under the leadership of Professor J. Nelson Young. A special securities law program was established, and an intensive family law program introduced. During Broun's deanship the law school also added CLE programs in evidence, hosted several specialized NITA programs, and experimented with various other CLE offerings through the help of a knowledgeable permanent CLE staff.

DEVELOPMENT OF A MORE DIVERSE FACULTY

The Broun deanship was marked by significant change and turnover in the faculty. In Broun's first year as Dean, a number of incumbent faculty members were promoted to full professor (including Charles Daye, Joseph Kalo, Ronald Link, and William Turnier), or named to distinguished chairs (Robert Byrd, Donald Clifford, and William Murphy). Several other faculty members left the school to return to practice (John Martin and Richard Smith) or teach elsewhere (Thomas Schoenbaum). The next few years brought the addition of a number of new colleagues, many of whom form the core of the law faculty as it exists today, and many of whom contributed different forms of diverse background and thought to the school.

In 1979, Caroline Nicholson Bruckel [Brown] joined the faculty after graduating at the top of her class from the University of Miami, clerking for Justice James G. Exum of the North Carolina Supreme Court, and practicing in Raleigh. She brought the number of women on the faculty to three, and contributed great expertise in the areas of contracts and commercial law. A growing number of women joined the tenure-track faculty during the ensuing years of Broun's deanship, including Judith Wegner, Marianne Smythe, Patricia Bryan, Elizabeth Gibson, Lissa Broome, and Nancy Rhoden. Others, including Lucie White, Jean Cary, Alice Ratliff, and Michelle Robertson, served as supervising attorneys in the clinic. Shann Tracy succeeded Frank Parker as director of research and writing. Sally Sharp became the second tenured woman on the faculty in 1982.

Professor and Library Director Mary Oliver retired in 1984, and Professor Lolly Gasaway was recruited to take her place.

More African-American colleagues also joined the faculty during this period. Burnele V. Powell was appointed as an assistant professor in 1979. He had received his law degree from the University of Wisconsin and master of laws degree from Harvard. He had previously served as Associate Regional Counsel for the United States Department of Housing and Urban Development in Boston. Powell became the second African-American member of the faculty. Chauncey Brummer, who later moved to the University of Arkansas-Fayetteville, was the third. Henry P. Brandis, Jr. Professor Harry E. Groves joined the faculty in 1981, bringing great expertise in the field of comparative law, and important experience as a distinguished dean of three law schools, including North Carolina Central University, Texas Southern, and the University of Singapore. Charles Daye left the law school to become dean at North Carolina Central and returned in 1985.

The school also increased its diversity by hiring both experienced teacher-scholars who had cut their teeth as law faculty members at other institutions, and entry-level faculty members early in their careers. Professor Thomas Lee Hazen came to the law school from the University of Nebraska, where he had already distinguished himself in the areas of corporate law and securities regulation. Professor Larry Lawrence joined the faculty after service at the University of Missouri at Columbia. He further strengthened the school's commercial offerings. Professor J. Nelson Young joined the faculty as a senior tax teacher after serving at the University of Illinois for more than thirty-five years. More junior faculty colleagues who joined the law school during Broun's deanship included Mark Weisburd, Ted Haas, John Conley, Adam Broome, and Larry Zelenak, as well as those noted above. Tom Andrews and David Rudolf left the faculty to return to practice. John Scott, Frank Strong, and Bill Aycock reached mandatory retirement age and assumed emeritus status after many years of active and productive service to the law school. Chancellor N. Ferebee Taylor joined the law faculty upon his retirement from the chancellorship, bringing substantial experience in corporate law and outstanding gifts as a teacher.

A number of clinical supervising attorneys also joined the faculty as others left to return to practice. Richard Rosen began his service as a clinic supervisor, and soon succeeded David Rudolf as clinic director. Bill Larimer and Walter Bennett joined the faculty and

continue to serve as supervising attorneys. Patricia Lemley resigned. Mark Olive joined the clinical faculty but subsequently departed to return to practice, as did Jean Cary. Lucie White departed to assume a position on the faculty of the UCLA School of Law.

During this period, the faculty devoted itself not only to teaching, but also to significant and changing forms of scholarship. Many members of the faculty continued to contribute significant articles on matters of interest to legal practitioners and judges, while others explored new approaches and emphases, in keeping with emerging trends in national scholarship. The faculty came to focus more intensively on the importance of legal scholarship as a way of maintaining the flame of learning in their own lives, enhancing their teaching, and contributing to the school's prominence within the university, state, and nation. Faculty members accordingly contributed a growing number of major articles in the school's own journals, as well as others around the country.

AN EVOLVING SENSE OF COMMUNITY

Reflecting Ken Broun's personal style and interpersonal skills, his deanship was marked by efforts to increase the sense of community between students and faculty and to enhance law alumni relations. As his successor, Acting Dean Ronald Link observed:

Under Ken the faculty continued to be a group diverse in its interests but singular in its civility and respect for each other. By maintaining this great faculty tradition of goodwill and lack of factionalism, Ken kept this a very attractive place to work. . . . He reached out to our alumni. Students always recognized him as an honest administrator with their interests at heart.⁵

During his deanship, Ken and Margie Broun made special efforts to reach out to students. They began to hold parties for incoming students and receptions for graduates and their parents. Broun recognized that placement success played a significant role in how students perceived the school and sought to strengthen the law school's career services and placement support for students. He worked well with student organizations. He respected the Student Bar Association as an important partner in the school's success. Working with the Student Bar Association, and Assistant Dean for Development Beverly Cutter [Modlin], he initiated the school's first

5. Link, *supra* note 1, at 1-2.

“Law Family Day,” in order to help students and their families become more comfortable with the law school experience and its various challenges.

Broun also sought to work closely with the school’s alumni, to involve them in the life of the school, and to help them understand how their support could assist the school in attaining greater excellence. He observed that he had always enjoyed working with lawyers as peers in connection with his trial advocacy initiatives, but nonetheless felt a bit uncertain about how he would be viewed. As a “Jewish guy from the North,” he wondered how he would be accepted in the new role as dean. In the end, he found his interaction with law alumni to be among the most rewarding parts of the deanship.

Broun’s warm relations and partnership with law alumni have left permanent benefits to the law school, as well as warm memories. Broun recalled his initial meeting with Paul Johnston, his first “big donor,” who generously endowed distinguished professorships at the law school and Institute of Government. Johnston became a fast friend, ultimately working to make Broun play a better jazz piano. Law Alumni Association leaders such as John Allred exercised sound stewardship of the school’s developing private funding base. When faced with one of the chronic financial emergencies to which subsequent deans have become accustomed, Broun had to decide how to maintain telephones in faculty offices notwithstanding state funding cuts. A compromise was reached which resulted in the University’s continuation of base service, while law alumni donations helped cover long-distance costs.

Law alumni and other members of the law school community were also charmed by Broun’s emerging status as a folk hero during this period. The most memorable event contributing to this legacy was Broun’s famous encounter with the East Carolina University “football spy” who was caught monitoring UNC practice out the law library window. Broun was called to the scene, reviewed the evidence (in the form of “X”s and “O”s rather than law briefs scribbled on lined paper), confronted the culprit, tracked the suspect’s car, identified him in a photo directory, then cooperated with Coach Dick Crum in giving the incident maximum publicity to deter such activity in the future. He emerged a hero to his sons, the University, and the alumni community, and left a legacy of good will that other deans have strived to build upon.

THE EVOLUTION OF THE DEANSHIP

A final theme evident during the period of Ken Broun's administration was the growing complexity of the deanship in American schools of law. During Broun's tenure, the administrative structure of the law school was significantly reconfigured to address this phenomenon.

Among the most notable developments was his hiring of the law school's first Assistant Dean for Development, Beverly Cutter Modlin (who subsequently left UNC to become Vice Chancellor for Development at UNC-Asheville). With the aid of her enormous talent and energy, Broun began more sophisticated efforts to increase the school's private funding base. As recounted in more detail elsewhere in this history,⁶ annual giving more than trebled in the following decade, and the school subsequently embarked on a successful \$12 million capital campaign, building upon the strengthened base created during Broun's time as dean.

The school's administrative structure also evolved in a number of other important ways. At the start of his deanship, Broun was assisted by only two principal administrators—Morris "Maury" Gelblum (whose responsibilities included admissions and other special projects), and Robert Mellot (who performed staff functions on a half-time basis). In time, Dick Baddour joined the administrative team and assumed admissions duties as well as other administrative responsibilities. In subsequent years, applications to the law school mushroomed, recruitment efforts became more sophisticated, and efforts to diversify the student applicant pool increased. Enrolled students also desired more extensive advising, placement assistance, and support for student organizations. Registration became more complex with an ever-more-sophisticated curriculum and the advent of computers. Responsibilities for oversight of the school's financial status became more extensive as private giving increased, and management of state funds and personnel became more sophisticated. The dean by necessity had to become a more versatile leader and had to make strategic judgments about how best to ensure the effective administration of the school. Throughout his tenure, Broun continued his efforts to fine-tune staffing arrangements so that all critical functions could be performed in a cost-efficient manner. In

6. See Todd T. Lindsley, *The History of the UNC Law Alumni Association and UNC Law Foundation*, 73 N.C. L. REV. 942 (1995).

this endeavor he was assisted by a series of talented administrative personnel.

In the end, the changing nature of the deanship contributed to Broun's decision to conclude his deanship after eight and one-half years of service. He found that he was called upon to participate in a growing number of meetings, planning efforts, and other management initiatives at the University level. Growing demands for time to be spent on administrative responsibilities left less time for other concerns. While he had stayed the course with the assistance of individuals like Dick Baddour, Beverly Cutter, and Director of Administration Kay Wijnberg, it seemed time for a change. A trip to South Africa to assist in a trial advocacy program for black lawyers gave him time for reflection about what he most wanted to do. He concluded that it was time to step away from academia for a period and to refresh his own trial skills before returning to teaching. Through his skill as a manager, he had brought together a strong administrative team that could help carry the burdens of the ever-more-demanding office of the deanship, and assist Acting Dean Ron Link during his service in that position from 1988-89.

CONCLUSION

As dean, Ken Broun set out to build and transform the traditional strengths of the UNC School of Law. He led the school to increase dramatically its commitment to clinical and practical skills education. He hired first-rate faculty members who have made long-term commitments to the school. He worked well with alumni in building a stronger tradition of private financial support and establishing closer relationships between students, faculty, and alumni of the school. He created a stronger administrative structure capable of assisting future deans in bearing the responsibilities of an ever more complex and demanding office. Through his stewardship, the school moved ahead on many fronts and emerged ready to face the challenges of its evolving mission in the era of scarce resources that lay ahead.