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THE POSTWAR YEARS:
THE DEANSHIP OF HENRY BRANDIS, JR. (1949-64)[†]

ALBERT COATES
(1968)

Henry Brandis came to this Law School Faculty by way of Salisbury, North Carolina, where he was born; the Salisbury Public Schools; the University of North Carolina and its Law School; Columbia University Law School; law practice in New York City; the Institute of Government; and the Division of Tax Research in the State Department of Revenue. He became Assistant Professor of Law in 1940, Associate Professor in 1941, and Professor in 1947. He started his career as Dean of this Law School on July 1, 1949, and stopped it fifteen years later—on June 30, 1964. This writing touches the joints in the backbone of his record in the years between.

Dean Brandis' first report discussed the elemental factors in the building of the Law School itself: the students, the faculty, the curriculum, the library, the law review, the alumni, and the law building. It went on to discuss the Law School in its setting: in the life of the University, the State, the United States, and in the processes of legal education in this country. It plugged the Law School into the sockets of these surrounding relationships and described a going concern. Later reports with the same framework followed a similar pattern. The points of emphasis represent his sense of values and continues through all the reports. The difference is not in the values; it is in the voltage, growing to the last report. It gives one the feel of a man who knew his business from the start and went about it without lost time or motion.

The unifying theme of all these values is in the dedication paragraph, written as the climax to his first report in 1949, and reprinted in the same words as the be-all and end-all of every one of his reports for fifteen years: "It is our devout ambition that the School, through its library, its student body, its faculty and its graduates, may not only occupy, but may truly deserve a place of

[†] Reprinted from Albert Coates, *The Story of the Law School at the University of North Carolina*, 47 N.C. L. REV., Oct. 1968 Special Issue, ch. VI.

steadily growing importance in the field of legal education and in the life of our state."

The Students

There were 288 students in the Law School when Brandis took over the deanship in 1949. This number dropped year by year to 250 with the decreasing backlog of veterans from World War II. It steadily climbed again to 376 by 1963—the highest peak in Law School history. The graduating class climbed from seventy-three in 1949 to ninety-nine in 1964. In that year applications for admission to the school were running forty-two percent ahead of the number applying the year before. The quality of the student body, as measured by academic standards, was steadily improving throughout these fifteen years. Fifty-five percent of entering students came with college degrees—A.B. or B.S.—in 1951 and eighty-seven percent in 1963.

The School held its character as a state university law school with eighty-five percent of its students coming from North Carolina. "Our objective," wrote the Dean in one of his reports, "is not to become a second or third rate national law school. Rather it is to remain a first line state university law school."

The school outgrew inbreeding as it drew a steadily increasing percentage of students with all, or part, of their undergraduate work at institutions other than the University of North Carolina at Chapel Hill. The number of colleges and universities represented in the student body grew through the years to 104 in 1963, coming from fourteen states and three foreign countries.

During Brandis' administration, these students converted the Law School Association into the Student Bar Association, continuing old activities and adding new ones. They expanded student participation in the work of the Law School and its administration in many ways: by introducing new students to the life and work of the school, through orientation programs commencing before registration in September and lasting for three days, and providing a handbook describing procedures and personnel; by organized greeting of the Alumni at a reception in the Law Building after the homecoming game in October; by organizing the annual reunion dinner meeting of former editors of the *Law Review* which later expanded into the annual meeting of all former students on Law Alumni Day; by bringing prominent lawyers to speak to the Law School as a whole; by publishing *The Tar Heel Barrister* as a connecting link between

students and alumni; by operating liaison committees to work with the Law Librarian and with the Dean and Faculty on day to day problems of the school; by arranging weekend picnics in the fall and spring for students and faculty and their families; by establishing the Honor Court to handle problems of discipline and set standards of conduct; by coordinating a student legislature which collects fees, appropriates money to finance student undertakings, and appoints student committees to operate student activities of all sorts and sizes; by publishing a brochure giving the pictures and records of graduating students and operating a placement service as an aid to getting jobs; by conducting the moot court competition—which was mandatory for all first year students, voluntary for all second year students, with the second year winners competing in the national moot court competition in their third year.

The Law Wives Association is included in law student activities on the common law theory that man and wife are one and the man is the one. These law wives meet every other week to talk things over among themselves, hear visiting speakers on topics interesting to themselves, conduct an annual fashion show, engage in cultural activities adding to the context of their lives and education in Chapel Hill, serve coffee and cookies in the student lounge to students going through the ten-day ordeal of examinations in January and May—in addition to holding full- and part-time jobs to put their husbands through school.

The Faculty

There were eleven members of the faculty in 1949, including the Librarian. It held together without a break for fourteen years until retirement took one member in 1962 and death took another in 1963—despite offers and opportunities inviting many of them to go to other places for higher salaries. Mary Oliver was added as Librarian and given faculty status in 1955; Dan Pollitt and George Hardy came to the Law School in 1957.

In his report for the year 1957-58, Dean Brandis said: "For the past several decades our faculty has been the most remarkably stable law faculty in the United States. At present, excluding the Dean and Law Librarian, we have eleven full-time teachers."

This number was made up of Mr. Wettach, who had been brought to the faculty by Dean McGehee in 1921 and had served for thirty-seven years; Mr. Van Hecke, brought first by Dean McGehee and later by Dean McCormick, for thirty-two years; Mr. Coates,

brought by Dean McGehee in 1923, for thirty-five years; Mr. McCall, brought by Dean McGehee, for thirty-one years; Mr. Breckenridge, brought by Dean McCormick, for thirty-one years; Mr. Hanft, brought by Dean Van Hecke, for twenty-seven years; Mr. Dalzell, brought by Dean Van Hecke, for twenty-one years; Mr. Baer, brought by Dean Wettach, for thirteen years; Mr. Pollitt, brought by Dean Brandis, for one year. Mr. Aycock had been brought by Dean Wettach and had served for eight years before becoming Chancellor in 1956. Dean Brandis himself had been brought by Dean Van Hecke and had served for nine years before becoming Dean in 1949.

"Assuming that all continue in good health," continued Dean Brandis in his report, "in the period beginning in 1961 and ending in 1966 a majority of our full-time teachers will reach mandatory retirement age." To prepare for these departures new men were added: Robin Hinson in 1958; Seymour Wurfel, Dickson Phillips, Dan B. Dobbs, Richard Day, and John W. Scott in 1960; Thomas W. Christopher and Kenneth L. Penegar in 1961; Ernest L. Folk, III and Robert G. Byrd in 1962.

During these fifteen years fifteen members of the faculty contributed thirty-two articles to the *North Carolina Law Review*, and fourteen articles to law reviews and other publications throughout the country. Mr. Van Hecke published a *Casebook on Equitable Remedies*, which became the leading casebook in the field of Equity, wrote chapters in a treatise on Labor Law under the auspices of the Association of American Law Schools, and wrote the chapter on Equitable Remedies in the Fourth edition of *Ballantine's Problems in Law*. Hanft published a book: *You Can Believe, A Lawyer's Brief for Christianity*. Aycock and Wurfel published a book on Military Law; Baer, a treatise on *Admiralty Law of the Supreme Court*; and Dalzell, chapters in books entitled *American Court Reports* and *How I Find the Law*. All members of the faculty participated in writing the annual survey of North Carolina Supreme Court decisions and the biennial survey of statutes passed by the North Carolina General Assembly.

During these fifteen years they participated in the activities of state departments, commissions, and other agencies of government: Professor Hanft served six years on the General Statutes Commission—as member, vice chairman, and chairman; Professor McCall continued his work as member of a subcommittee of this commission, studying Intestate Succession Statutes, and when the recommendations of this committee were written into law he served on a subcommittee drafting a revision of the statute governing the administration

of decedents estates. In 1961, he became chairman of this committee. Breckenridge served six years on a subcommittee of this commission on the revisal of Corporation Laws, and the recommendations of this committee were enacted into law in 1953. Brandis and Phillips worked with a subcommittee of this commission on redrafting Civil Procedure Laws. Coates served as a member of the Commission on Public-Local and Private Legislation and was its research director. He also was a consultant to the State's Municipal Roads Commission and the Stream Pollution Commission, a member of the Advisory Commission on Highway Safety, and he worked with many agencies of state and local government.

Brandis served on the Legislative Commission for the Improvement and Expediting of the Administration of Justice and on the Commission studying revisions of the North Carolina Constitution, and worked with Baer in research and drafting for the North Carolina Judicial Council. Wettach served as arbitrator with the State Department of Labor's Voluntary Arbitration Panel. McCall prepared a booklet for the North Carolina Agricultural Extension Service to emphasize to farmers the importance of making wills. Hardy served as Executive Secretary of the Commission to Recommend Changes in the North Carolina Constitution. Van Hecke served on the North Carolina Employment Security Commission. Phillips served on the North Carolina Wildlife Commission.

Also, during these fifteen years, members of the Law School Faculty worked on a variety of committees of the North Carolina Bar Association: Wettach on the Committee on Administrative Law and on the subcommittee on Continuing Legal Education, Brandis and McCall on the Special Committee on Taxation, Aycock on the Publicity Committee, Baer on the Committee on Courts and Civil Litigation and the subcommittee on Continuing Legal Education, and Phillips as Chairman of the Committee on Administrative Law. They have also been active in other affairs of the Association, in the Institutes for Practicing Lawyers, and in the American Bar Association.

The faculty has also been active in the Association of American Law Schools: Van Hecke as Chairman of the Committee on Preparation of Teaching Materials, member of the Council on Labor Law and the Council on Equity, President of the Association, and Chairman of the Special Committee on Faculty Appointments; Brandis as member of the Committee on Lawyers in Federal Services, of the Committee on Law Buildings, of the Council on Remedies, of the Committee on Revision of Library Standards, of the Council on

Admission Tests and Procedures, of the Panel of Law School Advisors, advisor to a Special Committee on Discrimination in Law School Admissions, Chairman of the Committee on Academic Freedom and Tenure, Chairman of the Nominating Committee at the Annual Meeting, and on the Executive Committee of the Association; Aycock as member of the Council on Trade Regulations, of the Committee on Cooperation with the American Law Institute, and as member of the Curriculum Committee; Breckenridge on the Round Table Council on Commercial Law; Baer as Chairman of the Inter-School Committee to plan the Southeastern Regional Meeting of the Association, and on the Committee on Educational Films; Wurfel on the Committee on International Law; Christopher on the Committee on Racial Discrimination and on the Editorial Board of the *Journal of Legal Education*; Pollitt as member of the Committee on Academic Freedom and Tenure; and Dobbs as member of the Committee on Admissions to the Bar.

Miss Elliott served as a member of the Committee on Cooperation with the American Library Association, and as President of the American Association of Law Libraries. Miss Oliver served as President of a group which later became the Southeastern Regional Chapter of American Association of Law Libraries, and on the Committee on Chapters, as Chairman of the Education Committee, and as Editor of the Membership News Section and contributor to *The Law Library Journal* published by the Association.

Faculty activities in other national areas during these fifteen years included: Van Hecke and Wettach serving as arbitrators in labor disputes—Van Hecke as chairman of the President's Committee on Migratory Labor, Wettach on the Labor Panel of the American Arbitration Association as a Labor Arbitrator; Aycock as personal assistant to Frank P. Graham's United Nations Mission to India and Pakistan to settle the Kashmir dispute; Aycock as Lt. Colonel in the office of the Judge Advocate of Third Army and as teacher of Army Judge Advocate Officers; and Wettach as a member of the National Academy of Arbitrators. Brandis also served seven years on the Advisory Board on Contract Appeals of the Atomic Energy Commission, while Van Hecke served as member of a Special Advisory Committee to the United States Secretary of Labor. Pollitt researched for the National Advisory Committee on Farm Labor, and he and Van Hecke were members of the National Advisory Committee on Farm Labor. Van Hecke sat on the Board of Directors of the National Institute of Labor Education, and Pollitt was a Special Assistant to the Chairman of the National Labor Relations Board.

Phillips served as North Carolina Chairman for United Nations Day; Wurfel lectured in the Duke University World Rule of Law Center and researched for the Ford Foundation, studying the laws of Colombia. Day was a participant in a special conference of the Civil Rights Commission.

During these fifteen years, Law faculty members served the University Faculty and Administration in many ways: Wettach as a member of the Advisory Committee of the University, on the Administrative Board of the Library, as Chairman of the Board of Governors of the University Press, on the Administrative Board of the Institute for Research in Social Science, as Chairman of the Faculty, as member of the Faculty Council, and as a member of various faculty committees; Van Hecke as Chairman of the Faculty Committee on University Government, member of the Faculty Council, and member of various other faculty committees. Hanft served as member of the Faculty Committee on Athletics, the Committee on Established Lectures, and as member of various other committees; Coates as the Founder and Director of the Institute of Government and on the Advisory Committee on the Institute for Research in Social Sciences; Aycock as member of the Faculty Council, member of other faculty committees, and as Chancellor of the University of North Carolina in Chapel Hill; Brandis as ex officio member of the Faculty Council, and on other faculty councils, chairman of the TV Programming Council, and as Chairman of two special All-University Committees; Breckenridge as member of the Administrative Board of the College of Arts and Sciences; Dalzell as member of the Committee on Retirement Allowances and other faculty committees; Oliver as member of the Faculty Council. Baer was a panelist discussing legal matters of interest to the Medical School and as the Planning Committee Chairman for an Institute on Medico-Legal Problems; Christopher produced a series of TV programs carried by WUNC-TV. Van Hecke received a Kenan Professorship. Van Hecke and Brandis received the Thomas Jefferson Award, Albert Coates the O. Max Gardner Award, and Herbert Baer received one of the original five Distinguished Professorships and was singled out in Brandis' report for his "extraordinarily imaginative and effective teaching and writing."

During these fifteen years, other law schools have recognized the calibre of members of this Law School faculty by inviting them to their Law Schools as Visiting Professors: Wettach was invited to teach at the University of Colorado, the University of Florida, and Duke University; Van Hecke at the University of Texas and Duke

University; Aycock at the University of Texas, University of Virginia, and the U.S. Army School for Judge Advocates; Breckenridge at Louisiana State University; Hanft at the University of Texas and Duke Law School; Day at the University of Michigan; Dobbs at the University of Texas; Christopher at Utah Law School; and Brandis at the University of Texas, University of Colorado, and Stanford University.

Curriculum

Throughout the fifteen years of Brandis' leadership the Law School curriculum was steadily adjusting to meet the demands on the legal profession by the changing society in which we live. Old courses were revised and new ones brought in—including seminar courses with special emphasis on original investigation by students and the preparation of reports in an effort to extend the values of research and writing from *Law Review* students to all students. To illustrate, in 1949 a course in Brief Making was added, along with Taxation and Unfair Trade Practices, and the courses in Civil Procedure were reorganized. Other new courses were International Law and Legal Accounting in 1951; in 1952, Legal Writing, Military Law, and seminars on Wage and Hour Law and Estate Planning; in 1954 seminars on Debtors Estates, Labor Law, and Legislation; in 1955, a course in Admiralty Law; in 1956, seminars in Jurisprudence, Corporation Finance, Law and Accounting; in 1958, seminars in Arbitration Law and Constitutional Law; in 1960, a course in Preparation for Trial, and seminars in Air Law and Advanced Tax Problems; in 1962, a course in Corporate Income Tax; and in 1963, seminars in Legal Problems Involved in Doing Business and in Legal History.

During these fifteen years the Law Library steadily grew from 70,000 to 100,000 volumes. A cataloging process was started with a trained cataloguer who brought the collection into compliance with the library standards of the Association of American Law Schools. The library staff doubled and tripled in size to include a librarian with an A.B., LL.B. and Library Science degrees, two full-time assistants with A.B. degrees, and ten part-time student assistants.

During these fifteen years the stipend of the four top Editors of the *Law Review* was raised from \$250 to \$750 a year. The Board of Editors began on a nine-year supplement to the *Law Review* index. The scholastic requirement for editors was raised from a B average to a high B. The articles, notes, comments, and book reviews expanded

the contents of the *Law Review* from 600 to 1000 pages. The survey of case law and statute law was continued and expanded, bringing to lawyers of the state biennial reviews of the more important laws of the General Assembly and the annual review of Supreme Court decisions. And there was added the periodical analysis of problems basic to the state and the legal profession such as the 1963 Symposium on Civil Rights. All of these new and expanded activities furthered the stated desire of the Dean "to present materials, trustworthy as to research and scholarship, of interest and value to the bar of the state."

During these fifteen years the summer school sessions brought fifty or more of the great legal scholars and law school teachers of the country to law school classrooms at the rate of four each summer—adding to the stimulus, variety, and content of legal education in this Law School and strengthening the reputation of the School throughout the country.

During these fifteen years the Law School Alumni were brought into organized and active participation in the affairs of the Law School. The process started in 1949 with the annual reception for the Law School Alumni in the Law School Library after the homecoming football game. It grew in 1951 with the annual dinner of former editors of the *Law Review*. It grew further in 1952 with the organization of the Law School Alumni and the expansion of the annual assembly of Law Review Alumni to include all Alumni of the Law School.

In his 1952 report, Dean Brandis wrote: "The writer believes that November 8, 1952 is potentially one of the most significant dates in the 107 years of Law School history"—referring to the organization of the Law School Alumni Association—"for the purpose of contributing to the sound future of the Law School by assisting the *Law Review*, increasing aid in student placement, resolving problems of curriculum and teaching methods, encouraging prospective teachers to attend the Law School, and enabling students to carry on activities that cannot be financed by state funds." This Association grew from 200 active members contributing \$1,025 for Law School uses in 1953 to 1,109 members contributing \$7,488 in 1963. Out of it grew the Law Foundation, starting with a few Alumni contributing \$572 in 1959 and growing to 281 Alumni contributing \$5,016 in 1963, with \$52,250 contributed by that time. The Graham Kenan Fund was established in 1962 with a contribution of \$160,000 from Frank Kenan and the Sarah Graham Kenan Foundation. A legacy of \$10,000 from the estate of Thomas Ruffin has been added to the Law Foundation's capital fund.

According to Dean Brandis' stated objective, appropriations from these funds have been used for scholarships for needy students, to pay travel expenses of the Law School Librarian to Los Angeles to accept the Presidency of the American Association of Law Librarians to which she had been elected, and to help publish *The Tar Heel Barrister*, which was started by students to keep the Alumni in touch with the School.

During these fifteen years the Law Building, erected in 1923, was doubled in size with an addition authorized by the 1949 General Assembly; and throughout the later years of his deanship, Dean Brandis pressed without stint or limit for a new and larger building better adapted to Law School needs. He moved it to the head of the University's Capital Improvements Priorities list in 1963, saw it authorized by the 1965 General Assembly, and the Law School will move into this new building for the fall term in 1968.

Institute of Government

There is another movement initiated by Dean Brandis which may prove to be as significant in the Law School's history as the beginning of Alumni participation in the activities of the Law School and the coming of the Law Foundation, and that is the beginning of the formal working relation with the Institute of Government in the early 1950s. Let me illustrate:

The first Law School professor, William Horn Battle, had put himself in the service of the state in the 1830s by revising and bringing up to date the statute laws of North Carolina, annotated with Supreme Court decisions. The second Law School Professor, John Manning, had continued this public service tradition in The Code of 1883. Professor Lucius Polk McGehee had kept this tradition alive in the Consolidated Statutes of 1918, and Atwell Campbell McIntosh had continued it as Secretary and member of the County Government Advisory Commission in the early 1920s.

This public service tradition was expanded in the 1920s and continued thereafter by Professor Coates, who taught the Law School courses in Criminal Law, Municipal Corporations, Legislation, Family Law, and the Seminar Course in Legal Problems Involved in Inter-governmental Relations. Services to local and state officials and the General Assembly grew out of these law school classrooms in the 1920s and 1930s and outgrew them in the years that followed, finding expression in the Institute of Government.

In 1933, Dean Van Hecke picked up and expanded the public service tradition of the Law School by offering and giving the services of himself and other faculty members to the Legislative Commission for revising the North Carolina Constitution, to the General Statutes Commission, and in many other ways described in his reports and outlined earlier in this writing. Dean Brandis went still further in expanding the Law School's services to the state in ways already described in this report. During the fifteen years of his administration and the administrations of his predecessors for forty years the Law School paid the full time salary of the Founder and Director of the Institute of Government and permitted him to devote half or more of his time to Institute activities.

In 1951 the Law Faculty followed the recommendation of Dean Brandis in starting a working relation between the Law School and the Institute of Government, which were following parallel and independent programs of service to the state and local units of government. This beginning relation was described by Dean Brandis in his 1957 report: "As explained in the 1951 annual report the Law School and the Institute of Government now have an arrangement under which selected members of the Institute staff, all of whom are members of the general University faculty and have degrees in law, assist in instructing the courses taught by Mr. Coates. In this way our law students can be given the advantage of the specialized experience of these men, which includes intensive field and library research, particularly in criminal and public law subjects. Those now designated as Lecturers in Law under this program are George Esser, Philip P. Green, Jr., Henry W. Lewis, John A. McMahon, and Ernest W. Machen, Jr." This sharing arrangement was later extended to include Clyde L. Ball, Jr., Richard Mysen, and Roddy Ligon.

Pursuant to this agreement Dean Brandis invited Institute staff members to sit in on faculty meetings and attend Law School functions as members of the faculty. The Law School and Institute began using each other's services and facilities, including the Institute for Practicing Lawyers conducted by the North Carolina Bar Association. Efforts were made to locate a building site for the new Institute of Government building adjacent to the Law Building, but available space was lacking. When the Institute Building was erected at the eastern gateway to the University, with room around it for added buildings, Dean Brandis' report for 1961 carried the following paragraph: "A new law building might well be placed in the area of the Institute of Government building. As you will recall, this was a strong recommendation of the American Bar Association and the

Association of American Law School evaluators in their report on their inspection of the school in the spring of 1960." This has been done, and with the Law School moving into its new building adjoining the Institute of Government this fall, the foundation is laid for combining the resources of Law School and Institute of Government into the Law Center envisioned by Dean Brandis in the late 1950s and early 1960s.

This Law School trained all of the men who laid the foundation of the Institute of Government in the early and middle 1930s, with the exception of one man who was not a lawyer, and he got his undergraduate training in the University. The Law School continued to train the men who held the life line of the Institute and kept it going in the latter 1930s and early 1940s. It trained twenty-eight, or well over half, of the men who have worked on the Institute staff since World War II.

The Law School of today is the product of many men, working since 1836 against the background and in the context of the first American State University to open its doors—on the fifteenth of January, 1795. It is the product of the labors of David Lowrie Swain, William Horn Battle, John Manning, James C. McRae, Lucius Polk McGehee, and Atwell Campbell McIntosh from 1845 to 1923. It is the product of the labors of Harry Woodburn Chase, Merton Leroy Ferson, Charles Tilford McCormick, Maurice Taylor Van Hecke, Robert Hasley Wettach, and their Faculties from 1923 to 1949. The Law School of today is what it is because these men were what they were. If Henry Brandis has brought the Law School forward faster in the fifteen years from 1949 to 1964 than it had come in the administration of any man or group of men in any other period of its 123 year history, he would be the first to say it is because he has been standing on the shoulders of these men who had gone before him

Illustrations of the Theme Song

Everyone reading the fifteen reports of Dean Brandis, as I have read them, reads between the lines a larger picture of a Law School faculty moving into a growing participation: in the affairs of students beyond the classroom; in civic affairs in Chapel Hill; in the affairs of the University of which the Law School is a part; in the affairs of the North Carolina Bar Association, the State of North Carolina, and the Association of American Law Schools; and in the affairs of the nation. It may be said that fifteen years of the life and record of Henry

Brandis have become the living illustration of the Law School at its growing best in all of these relationships.

He has been teacher and scholar and has written his share and more of articles appearing in the *North Carolina Law Review*. He has been an administrator with his door open to all the students all the time with a regularity that has become a legend.

He has served as adviser to the Chancellor and President of the University on crucial questions of law and policy, as chairman of the Faculty Committee on the relation of the Consolidated University to the Board of Higher Education, chairman of the Faculty Committee on Tenure and Academic Freedom, chairman of the Faculty Committee on the Visiting Speaker Ban Law, chairman of the Faculty Committee on Educational TV Programming, member of the Faculty Committee on Instruction, and member of the Administrative Board of the School of Social Work.

He has served as a worker in the civic affairs of Chapel Hill, including the School Board, the Community chest, the Mayor's Committee on Human Relations, and in his church—where he sat in the congregation, served on committees, occupied the pulpit, and appeared before the district board in defense of a local minister involved in questions of orthodoxy.

He has served as a participant in the activities of the North Carolina Bar Association, including work as chairman or as member of committees on Civil Procedure, Taxation, Expediting and Improving the Administration of Justice in the Courts, Continuing Legal Education, and as organizer and lecturer in Bar Association Institutes for practicing lawyers.

He has served as a member of state commissions authorized by the North Carolina General Assembly, including the Commission on Revising the Constitution and the Commission on the Administration of Justice in the Courts.

He has served as chairman or member of committees in the Association of American Law Schools, including: Lawyers in the Federal Service, Law Building Plans, Council on Remedies, Admission Tests and Procedures, Panel of Law School Advisers, Revision of Law Library Standards, special adviser to the Committee on Segregation, adviser to the Special Committee on Discrimination in Law Schools, Academic Freedom and Tenure, Nominating Committee, Law Building Planning, Executive Committee.

He has served as a participant in national affairs as vice chairman of the National Executive Council of United World Federalists, as a member of the Advisory Board on Contract Appeals of the Atomic

Energy Commission, of the American Judicature Society, of the American Law Institute, of the American Association of University Professors, and of the Lawyer's Committee for Civil Rights Under Law formed by President Kennedy. He has served in the armed forces of the United States at Iwo Jima and Okinawa on the U.S.S. Texas, and as special assistant to the United States Representative on the United Nations Committee of Good Offices in Indonesia.

Precise Mind

To all of these meetings and committees and assemblies he has brought a mind which is a precision instrument. The superintendent of the Chapel Hill School Board states that he was one of the most valuable school board members he had known in his experience, and gave this illustration of his meaning: "An important question would come up for discussion. One member after another would tell what he thought about it but nothing was being settled. And then Henry would come in with a few precise sentences that picked up the differing viewpoints, bring them into focus and point the way to a solution which was not so obvious before he spoke." Any member of the University faculty can tell of his doing the same thing in faculty assemblies when the point under consideration was getting lost in the confusion of many voices. And so in other gatherings where he worked. A few days ago I was reading the memoirs of Claud Bowers, and ran across this description of the United States Senator Tom Walsh, which is a literal description of Henry Brandis in action:

He was on the Committee on Privileges and Elections, which numbered among its members some of the greatest lawyers in the Senate. I was secretary of the committee. The members would be mulling over a measure that involved some intricate legal difficulty, talking incessantly without reaching a solution, and Walsh would sit in silence, looking down. At length he would straighten his chair, lean forward, fix his eyes on his colleagues, and in one or two precisely spoken sentences suggest the wording that ended the discussion.

With this mental precision working for him it is perhaps to be expected that he suffers fools—never gladly, sometimes tolerantly, sometimes with obvious impatience, sometimes with a patience obvious enough to turn impatience into a virtue. Sometimes he suffers them not at all—with a thrust which can be lethal, and sometimes is. Here is one illustration. One year the Law School

registration came on a Friday. That night he talked to the annual convocation of students and faculty on the state of the Law School, emphasizing the virtues of getting to classes on time, and meeting responsibilities as they come. No one ever heard of classes starting on Saturday, though a look at the schedule would have shown it. Two members of the faculty were scheduled to set law students an example of meeting classes on time on this particular Saturday morning, and they did not show up. The Dean called one of them and found he was somewhere on the highway from Virginia Beach to Chapel Hill and could not be reached. Then he called me in an office in another building. "Can you read?" he asked with all the fury of molten lava which had not caught the man who was already fleeing from the wrath to come. There was only one sensible answer to this question, put in this way, and that was No; and that is what I told him. This reply was briefly satisfying to me, but not at all satisfying to him. The upshot of his reply was that I should pick up that part of my anatomy which was usually covered up, and hurry over to the classroom where my students were meeting their responsibility if I were not meeting mine. I followed his instruction to the letter, and I don't mean maybe.

Here is another illustration. The Law Faculty was passing on petitions for readmission to the Law School by students who had flunked out. The feeling which is said to make men wondrous kind found full expression in these meetings. Precision and logic seldom ruled the roost. Now and then we would vote in men with records showing little promise of improvement and then vote out men with better records than men we had voted in—leaving the Dean to justify the ways of faculty to students and their parents. One day he got fed up with this desultory process and broke in with this graphic expression of an inexpressible disgust: "I see the faculty lacks one vote of a tie on this applicant. For the first, and I hope the last, time in my Deanship, I am going to vote as a faculty member to tie the vote and then vote as Dean to break the tie." This may have been unconstitutional but no one raised the point at that particular time. He told me the other day, when I checked this illustration with him for accuracy, that one faculty member had come to him with a wife's observation that the Dean's procedure was against all the rules of order. But I noted that this observation came from the faculty member's wife, not from him, which goes to show that the least arbitrary of men confirms an exception which proves the rule.

A Precise Conscience

If his mind is a precision instrument, it is wedded to a conscience working with no less precision. He has his own high code of conduct and comes as close to living up to it year in and year out as any man I know. He comes as close to judging fairly, and bluntly, as any man I know. He comes as close to meeting his responsibilities with courage, candor, and conscience, as any man I know. Let me illustrate my meaning.

He had practiced law in New York City for two years when he came to North Carolina to work with me in laying the foundations of the Institute of Government. That was thirty years ago, and I can hear him protesting now: "For two years I have not heard the question raised as to whether it is morally right to break a contract, but only what will it cost?"

He was at one time called on to testify in a judicial proceeding that the Law School of the North Carolina College for Negroes in Durham was as good as the Law School of the University of North Carolina in Chapel Hill, so as to keep a Negro applicant out of the Law School in Chapel Hill. He did not believe it was as good and steadily refused to go on the witness stand and say it was as good—in the face of pressures which had been strong enough to triumph over other men in other places at that time.

He resigned from a school board which refused a Negro child's application to the public schools for reasons he did not think would stand up in court, saying:

On the issue of racial integration in the public schools I am, in my own eyes, a moderate. I fully appreciate (and on occasion have publicly stated my appreciation of) the enormous difficulties and real educational dangers inherent in rapid integration. . . . To qualify as a member of the Board, I took a solemn oath to support the Constitution of the United States. I felt, and still feel, that had I voted to deny the Vickers application I would have violated the oath. . . . Constitutional rights are personal. A promise, as yet untested and intestable, to recognize the constitutional rights of a first grader in the future is not valid justification for a present denial of the constitutional rights of a sixth grader. . . . In the last analysis it comes to a matter of conscience. I say this with great diffidence, most strongly urging the reader to remember that my purpose here is not to advise the reader or other Board members what their consciences should dictate. My sole purpose is to attempt to account for

my action to my fellow citizens, who are clearly entitled to an accounting.

There come times in the life of every man when his conscience lays upon him a very strong mandate. He should not be naive in heeding it. He should be aware that it is subjectively possible to identify as the dictate of a mature conscience what is, in reality, a mere juvenile desire to have his own way. He should be doubly aware that there are others, decent and perceptive, whose consciences impel them in other directions. If he is experienced and not given to self-deception he knows, in the light of hindsight, that his conscience is capable of error.

Nevertheless, as a man undertakes to find an enlightened way through the smokes and smudges of the high controversies of his time, he increasingly perceives that his hardest task of life is to live with himself. The penalties inherent in taking action strongly disapproved by others whom he respects become less frightening than the penalty inherent in living with the knowledge that, at a time of critically significant decision, he lacked the fortitude to do what he knew in his heart to be right. When, after being tested by the most objective standards a man can bring to bear, the mandate of conscience lies still sufficiently strong and heavy, it should be heeded. Long personal experience with my foibles and few strengths convinces me that there is far greater likelihood that a man will fail his conscience than that his conscience will fail the man.

I saw him write this notice and put it on the Law School Bulletin board on the day President Kennedy was shot:

On the Death Of President Kennedy

We are sure that each student and faculty member in the Law School joins us in a reverent prayer for the family of President Kennedy, for the people of the United States, and for the welfare of our country.

Let us also, to the extent that it is within our power to do so, ennoble the death of the President by rededicating ourselves to the ideals of the profession we have chosen. Let it once more be burned deeply into each of us that law and justice provide the indispensable framework for order in society and peace among men; that the reiterated voicing of unrestrained hatreds is as cancerously murderous within the body politic as is controlling and consuming hatred within the individual human soul; and that contempt for and

defiance of law, particularly when expressed by lawyers, are preludes and incitements to tragic and fatal violence.

He spoke out in the Chapel Hill Weekly against a rising tide of civil disobedience:

I was very glad to read that the local Ministerial Association has indicated that it does not support the traffic-blocking activities with which Chapel Hill has recently been blessed. I noted, also, that the Association requested Chapel Hillians to try to understand these demonstrations have been directed not only against segregated facilities, but also against the community, because the community could challenge the situation if it would.

I believe that this latter is already understood by the overwhelming majority of Chapel Hill citizens. We understand that the reasoning involved is precisely the same as that which induces a military occupation force to take and shoot hostages, regardless of individual guilt. To penalize an individual because he is a member of a community is as irrational and immoral as to penalize him because he is black.

It is clear enough that CORE and its cohorts, by their recent methods of operation, have been proceeding, as rapidly and effectively as is within their power, to destroy the essential moral basis of the movement for racial justice. The statement of the Ministerial Association is a welcome indication that it is already beginning to identify some of the dangers inherent in the scofflaw Christianity which some of its members have been preaching.

The Association is obviously struggling with the thorny question of which laws it is moral to flaunt. The scofflaw doctrine, unfortunately, leaves each minority to determine this for itself. It is not more saintly to engage in criminal activity merely because one disapproves the law being violated than, as in the case of the traffic-blocking, to engage in such activity because one disapproves some other law or some general condition in the community. At least, if this is saintly, then Barnett, Wallace and General Walker are equally entitled to canonization. (Incidentally, to label the recent criminal activities "civil disobedience" has about the same measure of accuracy as the Russian use of "people's democracy.")

Those who have been making it should abandon the attempt, in the framework of the reasonably democratic society in which we live, to furnish moral underpinning for organized law breaking. The preservation of effective

democracy is always a delicate and difficult task, at best, and only a very small portion of humanity has ever managed to accomplish it. No democracy can survive if every minority is allowed to take the law into its own hands, turning its back on peaceful persuasion and all the opportunities available for use of ordinary political and judicial processes.

The doctrine that organized law breaking is the moral and Christian way to behave is dangerously subversive not merely of public order in general, but also of individual rights and the personal safety and security of every citizen, whatever his race, color or creed.

A glance backward over developments in the United States during the past decade demonstrates conclusively that much progress has been made, through ordinary civic, political and judicial processes, toward more equal justice for the Negro. Measured by the time taken to effect other profound changes in human relations, the pace of this progress has been rapid. (The pace can be considered glacial only by those who have the fanatic's characteristic myopia or youth's unavoidably foreshortened perspective.) There is no possibility that more completely equal justice can be achieved for the Negro through the destruction of public order. I concede that, through such destruction, there can be achieved for him a sort of equality—the tragic equality of injustice and insecurity for all.

On the same day he wrote this letter to the Chapel Hill Weekly, he wrote another letter to his Congressional Representatives:

I am enclosing a copy of a letter of mine, published in the February 19th Chapel Hill Weekly, severely criticizing (1) the recent campaign of organized law breaking in Chapel Hill; and (2) the attempt to depict the campaign as a moral and Christian endeavor. I am writing you because I think that Senate consideration of the Civil Rights Bill is highly relevant to the situation in Chapel Hill and in many other communities in North Carolina and elsewhere.

I urge you not only to refrain from participating in any filibuster but also that you use your personal influence to persuade other Senators to refrain from such participation. It seems to me to be incontrovertible that the blocking of vital legislative traffic on the floor of the Senate is a more deadly danger to the future of democracy in the United States than is the blocking of automobile traffic on the streets of Chapel Hill.

I am not undertaking to argue the merits of the Civil Rights Bill as a whole or in detail. If it is bad as a whole, it

should be defeated. If it is good as a whole, it should be passed. If it is good in part and bad in part, it should be passed as appropriately amended. But in any event, it should be allowed to come to a vote. I am sure that millions of Americans agree with me that the protagonists in the movement for racial justice should eschew organized law breaking and stick to lawful methods normally available in our democratic society. But this view presupposes that the legislative process—a critical part of such normal methods—will be available to them to the point of securing a vote on the merits.

This record gives the background and underpinning of the *Thomas Jefferson Award* going to him from the University of North Carolina at Chapel Hill in a general meeting of the University faculty on April 24, 1964. In the words of Chancellor William B. Aycock this award goes each year "to that member of the academic community who through personal influence and the performance of his duties has exhibited the highest example of personal and scholarly integrity. These personal and professional qualities would be as nearly as possible those which Thomas Jefferson would have recognized as essential to the political, religious, and intellectual advancement of society."

He quit his deanship on June 30, 1964, of his own free will, at the age of fifty-five, ten years short of the Trustee limit of sixty-five for administrative responsibility. He quit with the satisfaction of knowing that more than half of the 2,200 living alumni of this Law School have gone through its classrooms in the fifteen years of his deaning. He quit with the satisfaction of knowing that there has never been a moment in these fifteen years when he was not the undisputed leader of the school entrusted to his keeping. He quit with the satisfaction of knowing that, without exception, his students and his colleagues wanted to see him keep on going as Dean, and that they are happy to see him keep on going as a colleague. He shares the satisfaction of pulling in harness with them in the service of North Carolina, the University of North Carolina, the Law School of the University of North Carolina, the South, and the Nation.

In the February, 1964 issue of the *North Carolina Law Review* he paid this tribute to the late Professor Maurice Taylor Van Hecke: "I wrote about him happily because he was a man upon whom I could heap the highest praise without the slightest danger of prejudicing my own integrity or of inflating his ego beyond its naturally modest portions." It may come as a surprise to him to find that there are those who can write happily about him for similar reasons.

Twenty years ago I said that Henry Brandis was as fine a combination of brains, character, and personality as I had taught in twenty years of teaching. After forty years of teaching I repeat that statement now—in tribute to the man who was once my student, later my colleague, then my dean, and always my superior.

