


4 February 2024 – Festival of Legal Learning

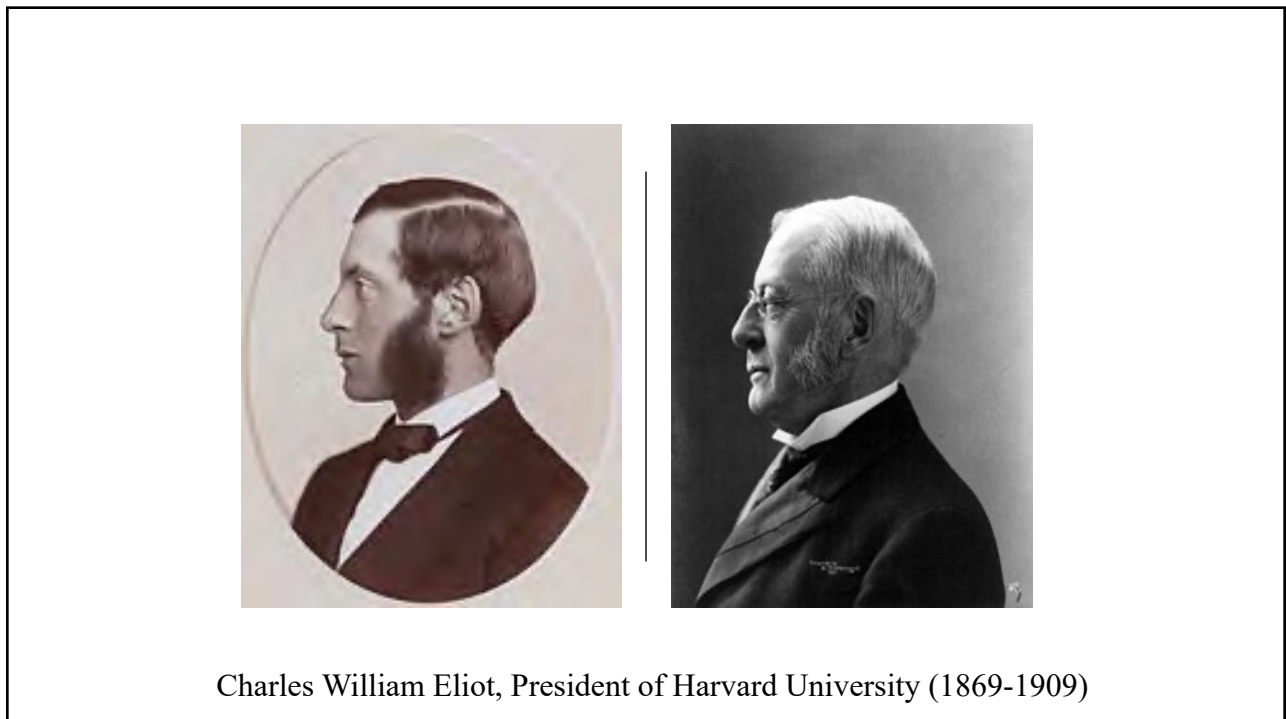
• • •

A New Model Law School

Martin H. Brinkley
Dean and William Rand Kenan, Jr. Distinguished
Professor of Law

 UNC SCHOOL OF LAW

1

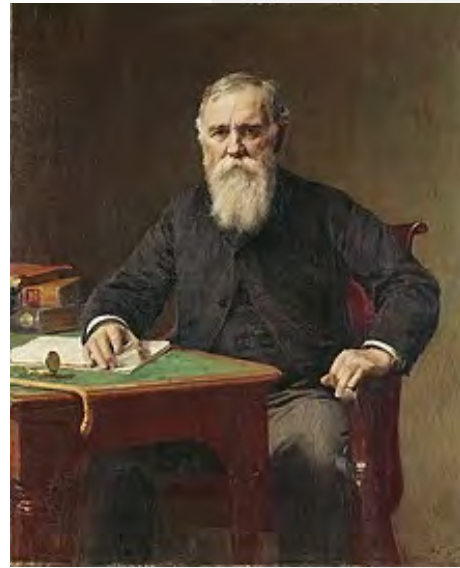


Charles William Eliot, President of Harvard University (1869-1909)

2

Christopher Columbus Langdell
(1826-1906)

Dean and Dane Professor, Harvard
Law School (1870-1895)



3

James Barr Ames (1846-1910)

Professor, Harvard Law School (1873-1895)
Dean, Harvard Law School (1895-1910)



4

Justification for the “Case Method”

1. “Law, *considered as a science*, consists of certain principles or doctrines. To have such a mastery of these as to be able to apply them with constant facility and certainty to the ever-tangled skein of human affairs is what constitutes a true lawyer; and hence to acquire that mastery should be the business of every earnest student of law.”
2. “To accomplish these objects, . . . it was indispensable to establish two things – that *law is a science*, and that all the available materials of that science are contained in printed books. *If it be a science*, it will scarcely be disputed that it . . . needs all the light that the most enlightened seat of learning can throw on it.”

How would you grade these statements as propositions of logic alone? Are you persuaded that law is a science, whatever that means?

5

The “Case Method” and the Facts

“I might add that the power which this practice [the case method] gives him of analyzing the complicated facts of a case, and of clearly and concisely stating them, is what in no small degree distinguishes the good lawyer from the poor or indifferent lawyer.” *William A. Keener, Dean, Columbia Law School*

Consider the level of remove the edited appellate cases in the casebooks employed in your courses, especially your first year courses, have from the “original” facts. Do you agree that the case method has empowered you to analyze facts effectively?

6

Justification for the “Langdellian” Law Professor

“What qualifies a person, therefore, to **teach law**, is not experience in the work of a lawyer’s office, not experience in dealing with men, not experience in the trial or argument of cases, not experience in the trial or argument of causes, not experience in short, in using law, but **experience in learning law**, not the experience of the Roman advocate or of the Roman praetor . . . but the experience of the Roman jurisconsult.”

7

Langdell’s Reforms at Harvard

1. College degree or entrance examination required for admission
2. Three years of law study to receive a degree
3. Examinations (at the end of the year!)
4. 30 hours of instruction per week

What was the unspoken effect of these “reforms”? Cf. John Chipman Gray in *Yale Law Journal*: “Our experience has been that *the greater the ability of a student*, the more readily does he take to, and the more thoroughly enjoy, this mode of study.”

8

Anecdotal Propositions on the Case Method, Compiled by a Law School Dean

1. “Law school taught me to think.”
2. “I didn’t learn anything valuable in law school. The first time I understood what being a lawyer was all about was when I got into practice.”
3. “My clinic was the most valuable part of law school. I got to deal with real clients.”
4. “Serving on the board of editors of my journal was the best part of law school.”
5. “RRWA was the most important 1L course to me.”
6. “In law school, the professor is everything, and . . .
 1. My favorite professors were the ones who really made me think in the classroom.”
 2. My favorite professors were the ones who brought practical experience to bear on the materials we studied.”

9



10



John Hall Manning

Professor of Law, UNC School of Law
(1881-1899)

11



James Cameron MacRae

Judge, Superior Court, 1882-1890
Associate Justice, Supreme Court of North Carolina
(1892-1894)

Dean, UNC School of Law, 1899-1909

Enrollment: 38 (1899), 82 (1909)

Location: By 1909, two large rooms in the South
Building

12

**THE FIRST "MODERN"
DEAN: Lucius Polk McGehee**
(1868-1923)

UNC Class of 1887
UNC Law Class of 1891

Professor of Law, 1904-1910
Dean, UNC School of Law,
1910-1923



13

Francis Preston Venable
(1856-1934)

9th President, University of
North Carolina (1900-1914)



14



Edward Kidder Graham (1876-1918)

Faculty member and Dean, College of
Liberal Arts, UNC (1899-1914)

10th President, University of North
Carolina (1914-1918)

15



16

Excerpt from Editorial Notes, 1 N.C. L. Rev. 31 (1922)

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

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

17

UNC’s ELIOT & LEADER OF THE FORCES OF CHANGE:

Harry Woodburn Chase (1883-1955)

UNC Faculty (1910-1919)
11th President, University of North Carolina
(1919-1930)

7th President, University of Illinois (1930-
1933)

8th President, New York University (1933-
1951)



18

Harry Woodburn Chase: November 1923 Memorandum to Executive Committee of UNC Trustees

*“The question at the root of the whole matter is whether it is the function of the University Law School to prepare an **inferior brand of lawyers for law as a trade**, or whether it shall **prepare men for practice and leadership in law as a profession**. It cannot do both. It is no answer to say that great professional success has been attained by men with little legal training. Times have changed. Not only has the existing body of law grown enormously, but the whole social and economic life of North Carolina is rapidly undergoing a transformation which affects legal problems as it affects problems in every other sphere of life. I submit, therefore, that we must choose between a law school which is frankly a coaching school for bar examinations and a real professional law school in the modern sense. To choose the former means to **abandon all thought of leadership**.”*

19

Harry Woodburn Chase: November 1923 Memorandum, cont'd

“To choose the [path of leadership] is a task calling for an administrative head who knows legal education, who has been trained in modern methods, and who has the youth and vigor to give himself to a grinding task – to a task of building, not of perpetuating a condition which exists. . . . It is my firm conviction that we should, for our dean, go to some other law school and pick a man familiar with the type of capacity in the type of administrative problems he will have to solve here . . . and that we then leave him free to make such appointments as he chooses, and hold him responsible for results.”

20



21

Edwin A. Alderman (President, Univ. of Virginia),
to Harry Woodburn Chase (Mar. 1924)

“Do not permit yourself to be driven into putting any lawyer in your faculty because he is a practitioner, however eminent. Teaching law and practicing law are two different professions. The University of Virginia has never had a great teacher who was a practitioner of any long standing. The thing to do is to catch them young, regardless of whether they had had any practice at the bar, and make teachers of them. Their job is to teach law, not to practice it. The technique of the practice is easily learned.” Intelligent procedure at great American law schools picks out young promising scholarly men and makes teachers of them. I hope Carolina will follow this precedent.”

22

THE OPPOSITION:

Cameron A. Morrison (1869-1953)

Elected Governor of NC as candidate of Simmons Machine in race-baiting campaign, defeating O. Max Gardner (D) and John J. Parker (R)

Governor of NC (1921-1925)

“Good Roads Governor”; opposed teaching of evolution in public schools



23

THE COMPROMISE:

Walter P. Stacy (1884-1951)

NC House of Representatives
NC Superior Court

Associate Justice (1920-1925) and
Chief Justice (1925-1951), NC
Supreme Court



24



**THE CONSULTANT:
Roscoe Pound (1870-1964)**

Dean, Harvard Law School
(1916-1936)

25

<hr/> <p>Merton L. Ferson, A.M., LL.B. Dean of the College of Law</p> <hr/>	
--	--

26

Charles T. McCormick (1889-1963)

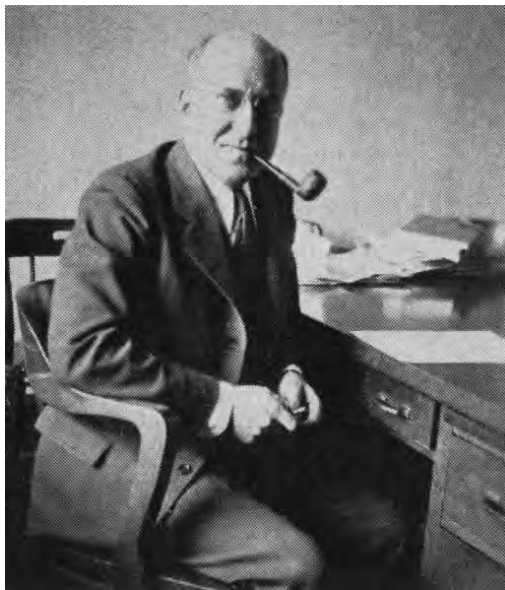
LL.B, Harvard Law School

Dean, UNC School of Law
(1927-1931)

Dean, University of Texas School of Law
(1940-1949)



27



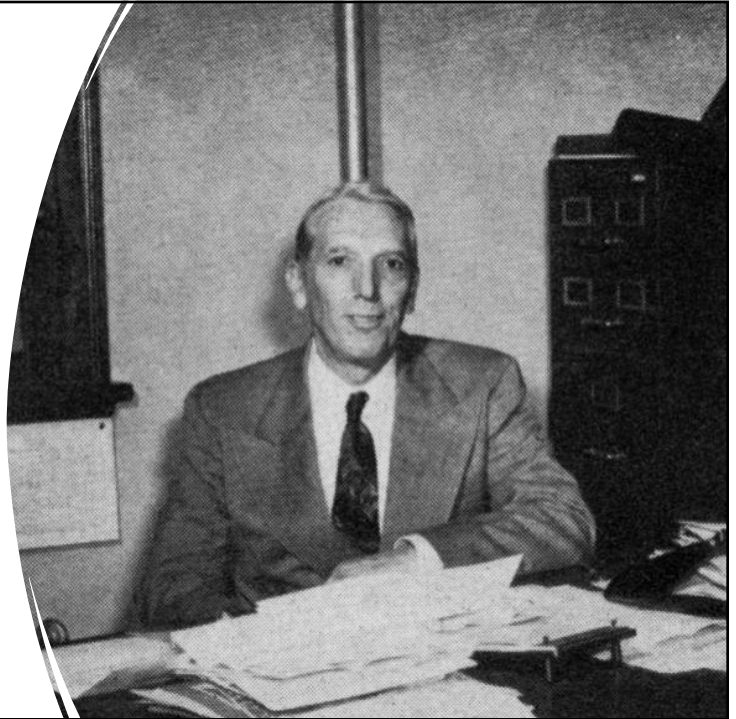
**Maurice Taylor Van Hecke
(1892-1963)**

LL.B, University of Chicago

28

Robert Halsey Wettach (1892-1964)

LL.B, Harvard Law School



29



30