THE ARIZONA BAR-
FROM INDIVIDUALISM TO INTEGRATION

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On the Glorious Feast of St. Patrick in the year 1933, the State Bar of Arizona was created as an integrated legal entity.[1] By act of the legislature the State Bar became a semi-public body, and membership in it was required for anyone who might practice law in Arizona.

Integration did not come easily and was finally passed by a very suspicious and rather reluctant legislature. The legislators felt that since the lawyers wanted this particular bill there must be something wrong with it, so it took several sessions before the actual act was finally passed and signed into law by the Governor. So difficult had it been to secure the bill's passage that, once passed by the legislature, rumor has it that Judge Dudley W. Windes immediately took the bill, moved into the Governor's office, and threatened to remain there until it was signed by the Governor. In any event, the bill was signed and the State Bar began its career as an integrated bar.

Seemingly, Arizona has always been well in the vanguard of social and economic legislation, and so it was not too unusual to find that once again Arizona was one of the states which took the lead in creating this progressive type organization.

While lawyers had been practicing in Arizona Territory since 1865 and several bar associations had been organized from time to time, it was not until 1933 that the culmination was seen in the legislation which is now part and parcel of our daily legal life.

The year 1895 seems to be the first year that a statewide organization was attempted—known as the Bar Association of Arizona. The earliest record of a state meeting is a delightful menu of the banquet held by the Bar Association of Arizona at the Opera House Cafe in

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* See Contributors' Section, p. 86, for biographical data.

[1] The word "integration" is defined as: "Act or process of making whole or entire." MERRIAM WEBSTER NEW INTERNATIONAL DICTIONARY (2d ed. 1957).

> The voluntary state bar organizations in existence proved to be impotent to carry on the high purposes and noble aspirations of the legal profession for the simple reason that they were composed only of a small minority of those eligible to its membership. This weakness was readily apparent to the leaders in the legal profession and a program was initiated shortly after the turn of the century to secure the adoption of the principal of a unified bar as a means of correcting the ills existing within the profession. *In re* Lewkowitz, 70 Ariz. 325, 220 P.2d 229 (1950).

Phoenix. That evening was evidently full and lusty. Eighteen courses and three wines later, those present assimilated their coffee and cigars along with various presentations including the need for the Bar Association itself, early practice in Arizona, the ideal judge, the Supreme Court and dissenting opinions.

After this meeting, the next known one of record was held on March 26, 1900, in Phoenix. This effort led to the eventual incorporation of the Arizona Bar Association which occurred on June 7, 1906, when articles of incorporation were filed with the corporation commission in Phoenix. This organization died quietly and unnoticed in the year 1931, its twenty-fifth year, by statutory grace.

In 1916, four years after statehood, a meeting was called for the purpose of reorganizing what had been the Territorial Bar. Notices were sent to all of the attorneys who had been admitted to practice in the State and Territory, but on the date set for the meeting only eleven attorneys appeared. Officers were elected, and then the meeting disbanded. A second meeting of this same group was subsequently called, but only a few Phoenix attorneys appeared. Thus ended for some time any effort toward a statewide bar association.

Several years passed before the out-of-Phoenix attorneys attended any annual meetings, and it wasn't until 1924 in Globe that the organized bar was able to hold a two-day session with any sort of a crowd present. In fact, it was at this first meeting that the idea of an integrated bar was first discussed by Arizona attorneys.

Recently a national newspaper columnist described labor unions, medical societies and bar associations (in that order) as defensive organizations. At first blush, this might seem true, as far as bar associations are concerned, but delving under the surface just a mite presents an entirely different picture.

Attorneys have always been in the forefront of the development of our state and government. At first they appeared upon the scene as individuals—and rugged at that. Subsequently they banded together in small groups and later as a firm devoted group, cloaked with the authority of statute, made up of as diversified a group as to be found anywhere —but still rugged individuals.

To be a lawyer requires aggressiveness, ability, a willingness to stand up for what is right, and a willingness to lead. This type of men put their individual stamp on their organizations, and consequently our bar associations have been anything but defensive groups. They have met issues head-on and in many cases have brought about the solution of trying problems on their own initiative.[2]

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[2] For example, the Arizona Bar has initiated the following: Legal Aid; Lawyer

Our confreres of yesteryear laid the groundwork without doubt, but at what odds? One hundred years ago, a short time by historical standards, when the United States was preparing for a war between the states, an American court had yet to try a case in any of what is now Arizona. It was not until 1854 that the first case was tried in Arizona by an American court. Prior to that time, Arizona's welfare under Spanish, Mexican, Confederate, and American governments had been treated with little care or attention.

To know the Arizona Bar requires an intimate knowledge of Arizona history. From 1821 to 1848, all of Arizona was a part of the Republic of Mexico. After the region north of the Gila was ceded to the United States, the portion south of the line stayed with Mexico for nearly eight years—under the Gadsden Purchase in 1854.

Prior to 1848, the Mexican Territory of New Mexico and the Mexican Territory of California each had vague claims of jurisdiction over Arizona north of the Gila. The area north of the Gila was never seriously challenged by the Spanish, but it became the Anglos from the east who first disturbed the Indians' traditional wanderings in this area.

At the same time the breakdown of Spanish laws and authority paved the way for more commerce between New Mexico and California. Prior to this time commerce was solely between New Mexico and Mexico, California and Mexico, Sonora and Mexico, but never between the three northern outposts.

On February 4, 1828, the new Empire of Mexico created a union of the states of Sonora and Sinaloa under the name of Estado Interno de Occidente. The northern boundary of this State vaguely included Tucson and approached the Gila River. In 1830 the State of Occidente was dissolved and again Sonora and Sinaloa became two separate states.

Courts under the Spanish, and later the Mexican, regime were almost nil in the entire northern part of Mexico. Mexico retained the old Spanish law, whose higher courts were described as forming "a prolific hotbed of special pleading, chicanery and delay." In all of New Mexico under the Spanish Government (and later the Mexican) and Primirea Alta,[3] there were no attorneys. Courts were non-existent except for the local alcaldes (a combination of mayor and justice of the peace) who

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Referral Service; securing Judges' Retirement Act from Legislature; securing pay raises for the judiciary; creating better understanding between the bench and bar; stimulating the interest of the average attorney in affairs of his profession; examinations and admissions; conduct of all disciplinary proceedings with recommendations to the supreme court; adoption of all rules relative to admission, qualifications and discipline; creation of advantageous public relations program; maintenance of office and full time staff in Phoenix; close cooperation with the supreme court regarding rules of pleading, practice, and procedure; cooperation with Arizona Medical Society; and creation of convention rules of order.

[3] Roughly the southern half of what is now Arizona, and the northern half of what is now Sonora.

operated by appointment of the local military commander. The alcaldes operated under the power of the dreaded "baston de justicia" (the large walking cane), symbol of the alcaldes' power and jurisdiction.[4]

Prior to the actual creation by Congress of the Territory of Arizona, this area had always been dominated historically and geographically by the Gila River. From the time this area was in the hands of the Spanish until all of it was finally transferred to the United States by the Mexican Government, there was the ever-present delineation of "that portion north" and "that portion south" of the Gila River.

Petty theft and crime in this era went unpunished for the most part. This situation lasted until 1846 when the United States created the Territory of New Mexico, which included all of Arizona north of the Gila River. Technically, what is now Arizona north of the Gila came under the aegis of American rule and courts through the formation of the New Mexico territorial court system which divided the territory into three districts. District Two served Dona Ana County which was created out of what was then known as the Gadsden Purchase. The other two districts did not cover any of Arizona.

General Stephen Watts Kearney in 1846 took over New Mexico and issued a proclamation setting up American Civil Government in Santa Fe, with a code of laws, a bill of rights, and the appointment of various temporary officials, all of which was for a territory presumed to include most of what is now Arizona. For the first time the political institutions of the United States were technically applied to a part of Arizona.

In 1856 newcomers to Tucson consisted chiefly of thieves and cutthroats from Sonora and criminal outcasts from Texas and San Francisco.

> There was at this time no established government in Arizona. The nearest court of justice was in New Mexico, hundreds of miles away. So every man was a law unto himself, and the leading citizen was the fellow with the quickest trigger-finger or the deadliest knife.[5]

At first the oncoming American tide flowed along the principal rivers and in and out of the old villages, presidios and missions of Spanish times—the Rio Grande, the Gila, Santa Cruz, San Pedro, and the Colorado Rivers, along with the ancient colorful settlements of Santa Fe, San Antonio, El Paso, Tubac, Tucson, San Diego and San Francisco.

Justices of the peace, or alcaldes, were appointed by Dona Ana

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[4] POLDERVAART, BLACK-ROBED JUSTICE.
[5] F. LOCKWOOD, LIFE IN OLD TUCSON.

County in Tucson and Tubac, but their duties were not very arduous. Lawlessness in the Santa Cruz Valley was so bad that in August 1856, a convention met in Tucson and was created for the purpose of sending a petition to Congress asking that territorial government be created for the new territory named Arizona.

At this meeting the citizens of the Gadsden Purchase met in Tucson for the purpose of creating a new territory to be called Arizona, separate and apart from New Mexico. This new area included all of what is now Arizona south of the Gila River. The delegates represented the principal towns of the Gadsden Purchase, e.g., Tucson, San Xavier, and Sopori.

The coming of the Civil War caused interest in the Arizona Territory to dissolve, even though in 1858 President Buchanan in his message to Congress recommended a territorial government for Arizona, saying that its people "are practically without a government, without laws, and without any regular administration of justice. Murder and other crimes are committed with impunity."

> Congress failed to recognize a great principle which should always govern a civilized nation in its councils—never to acquire territory until it can extend over it the protection of law.[6]

It is at this point that history records the first lawyers in the Gadsden Purchase. The law did not take up their full time, and actually there was nothing in the way of courts for their practice.

1859 brought with it more discontent because of the treatment being received from the government of the New Mexico Territory. The federal judges had refused to hold court south of the "Jornada del Muerta" and within the limits of Arizona.[7] The *Weekly Arizonian*[8] then demanded a judicial district for Arizona which would sit twice a year in Tubac or Tucson, and twice a year in Mesilla. Nothing ever came of the demand.[9] Things then really came to a boiling point when on July 14, 1859, the *Weekly Arizonian* reported a meeting in Tucson where those present resolved not to vote in the forthcoming New Mexico elections.

When the citizens of Arizona realized that they could secure no help from the federal government, a meeting was held in Tucson to create the provisional government of the Territory of Arizona. It created a constitution, and appointed territorial officials and a supreme court,

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[6] J. BROWNE, A TOUR THROUGH ARIZONA (1864).
[7] Weekly Arizonian (Tubac), June 30, 1859.
[8] July 7, 1859.
[9] The Weekly Arizonian (Tubac), July 14, 1859, does mention the Probate Judge of Dona Ana County as being Rafael Buelas.

along with district courts. It was a provisional government which planned to function until Congress actually created a territory to be known as Arizona.

The provisional government first met in Tucson and set up its boundaries to include generally what is now southern New Mexico and southern Arizona (south of the Gila). The famous historian Bancroft[10] describes this as a "soi-distant government" which did nothing beyond appointing its officers.

The *San Francisco Bulletin* of April 16, 1860, relates that a special session of the supreme court of this provisional government was held in Tucson on April 5, 1860, for the purpose of admitting six attorneys to practice before the court. The Chief Justice was Granville H. Oury; the two associate justices were Edward McGowan and S. W. Cozzens.

Although history generally gives Coles Bashford of Tucson (and later Prescott) credit for being one of the first attorneys to be admitted to practice in Arizona Territory, with the present knowledge concerning the provisional government and the six gentlemen admitted in 1860, it would seem that the honor goes to one of these: W. C. Woodworth of Sonoita, Reese Smith of Arivaca, James A. Lucas of Mesilla, Frank Higgins, T. M. Turner, and T. J. Masten of Gila City.

A subsequent story in the *California Alta*[11] describes the failure of the government because the main officials resigned and the people lost confidence in it. This showed, however, the crying need for law and and order and the leading part played by attorneys in the attempt to seek good government.

But things were getting worse.

> Arizona was perhaps the only part of the world under the protecting aegis of a civilized government in which every man administered justice to suit himself and where all assumed the right to gratify the basest passions of their nature without restraint. It was literally a paradise of devils.[12]

Mark A. Aldrich became alcalde in Tucson. Aldrich had trained as a lawyer and had attended college but never practiced law in Arizona. On August 26, 1860, he was elected Judge of the Criminal Court in Tucson when, at a mass meeting of Tucson Citizens, a code of laws for the suppression and punishment of crime was adopted. He held this job until November 1, 1860, when he resigned in disgust because the citizens refused to help enforce the laws or to make complaints against anyone for any type of crime, including murder. Nothing could be done

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[10] BANCROFT, HISTORY OF NEW MEXICO AND ARIZONA.
[11] Sept. 27, 1860.
[12] Brown, *op. cit. supra* note 6.

with law and order except prosecution of a few minor cases of stealing. Aldrich said:

> If the time has arrived when a law-abiding portion of the community, either through fear of giving offense or for want of moral courage, fail to make the necessary complaint for the arrest and trial of those who commit a breach of the peace. I think they have no use for JUDGE or COURT; and, as Judge of the Criminal Court of Tucson, I resign the same.[13]

> The Vigilance Committee of San Francisco did more to populate the new territory than the silver mines. Tucson became the headquarters of vice, dissipation and crime. It was probably the nearest approach to pandemonium on the North American Continent. Murderers, thieves, cutthroats and gamblers formed the mass of the population. Every man went armed to the teeth and scenes of bloodshed were everyday occurrences in the public streets. There was neither government, law, nor military protection. The garrison at Tucson confined itself to its legitimate business of getting drunk or doing nothing.[14]

Later the Territory of New Mexico created a new county out of western Dona Ana County to be known as Arizona County, with Tucson as its county seat. This act was repealed two years later without having been ever really put into effect.

On August 1, 1861, the Confederate Army took over New Mexico, created the Territory of Arizona, which consisted of all of New Mexico south of the 34th parallel, and made Mesilla the capital. Territorial officials were appointed and judicial districts were set up. Under this organization, Dona Ana County still included Tucson. The Confederate jurisdiction lasted a little over a year, and as the Northern forces advanced down the Rio Grande Valley towards Mesilla, the Confederate capitol, the local court entered this minute entry:

> It appearing to the Honorable Court that in consideration of the disturbed condition of the county, it would be impossible to hold this term of court and conduct its business with satisfaction to the parties interested in suits pending herein, the court is adjourned to Monday, the 2nd day of June, 1862.[15]

But on June 2, 1862, things looked worse and court was never held.

After the departure of the Southern forces from the territory, once

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[13] Letter from Aldrich to "Citizens of New Mexico," November 1, 1860, on file at Arizona Pioneer's Historical Society.

[14] Browne, *op. cit. supra* note 6.

[15] 3 New Mexico Historical Review, No. 4, October 1928.

again the area was without law or order of any kind. So when the California Volunteers of the U. S. Army arrived in Tucson, the entire area was placed under martial law which was to last until civil law was created. This placing of the Gadsden Purchase under martial law was done in the Tucson plaza on either May 25, or May 26, 1862.[16]

From time to time attorneys popped up in the Gadsden Purchase and the Territory of New Mexico (that portion which included Arizona). There was Granville Oury, who later became chief justice of the provisional supreme court of 1860; also Palatie Robinson who came to Tucson in 1859. He did not devote too much of his time to the practice and made a much better name as a miner and merchant. *The Weekly Arizonian*[17] commented on a murderer who was "ably defended" by Col. R. A. Johnson, a Tucson attorney. Evidently this trial was a preliminary type of hearing because the defendant was sent to Mesilla for trial. Unfortunately Robinson killed Johnson and was tried by a military court in Yuma.

Samuel Cozzens was a practicing attorney in Mesilla and was very active in developing this part of the country. He was also something of a character and became known as "a great stickler for that writ of right, the habeus corpus—always has one at hand—carries it in his hat."[18] This description of Cozzens was published by Edward McGowan, an early day attorney in Tucson and Cozzen's cohort on the provisional court of 1860.[19]

Another first, or possible first, to be admitted to the bar in Arizona was Frank Higgins of Tucson and Mesilla. Higgins was admitted to the Confederate Territorial Bar on December 17, 1861. Prior to this time his name appears as having represented Simon Sanchez in a murder trial at Tucson.[20] Actually, this gentleman was identified more with New Mexico than Arizona, but was in that portion designated as Confederate Arizona.

At the time the Confederate Territory of Arizona was set up there were two judicial districts. The first district covered all the area east of Apache Pass, with Mesilla as headquarters. The second district was the area west of the pass with Tucson as the headquarters.

Thomas M. Turner appears on the scene from time to time, both

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[16] Sidney R. De Long, ms. in Arizona Pioneers' Historical Society.
[17] August 4, 1859.
[18] Weekly Arizonian, Sept. 29, 1859.
[19] Judge Cozzens again appeared on the scene when the Boston Daily Globe (Oct. 18, 1875) described a meeting of what was known as the New England Colony which was to be developed in northern Arizona. Judge Cozzens was one of the speakers extolling the joy of living in Arizona. The area to be developed by this New England group was located 130 miles from Prescott on what was known as the Rio Colorado Chiquito. (This sounds like an area around St. Johns.)
[20] Weekly Arizonian, January 28, 1860.

as an attorney and newspaper man, in Tubac and Tucson. He first came to Arizona in 1861, but was killed not too long after establishing himself in Arizona.

On March 4, 1862, President Lincoln appointed John A. Gurley as first Governor of Arizona. He died in August of that year before going to Arizona, and John N. Goodwin, who had been selected as Chief Justice, was made Governor in his place. William F. Turner became Chief Justice replacing Goodwin. The Associate Justices were William T. Howell and Joseph P. Allyn. The District Attorney was Almon Gage. In May 1864, the Territorial Government was moved from Fort Whipple south to a little community which had started on Granite Creek.[21] This mining town was named Prescott after the American historian, William Hickling Prescott. Previously it had been known as Granite and Goodwin City. Prescott thus became the first capital of the Territory of Arizona. Its atmosphere was one of Anglo-American, rather than the Spanish-Mexican atmosphere of Tucson. Wyllys describes Prescott as follows:

> It was as unruly a place as could be found in any section of the United States. Some indication of its wild character is shown by the story that the United States soldiers quartered there sometimes had better reason to fear the local citizens than the Indians.[22]

In 1867 the capital was transferred from Prescott to Tucson where it remained for ten years. Then in 1877 it was restored to Prescott where it stayed for twelve years until the permanent move was made to Phoenix. Governor Goodwin, in his farewell message to the First Territorial Legislature, among other things, said:

> Since its acquisition by the United States, the Territory has been almost without law or government. The laws and customs of Spain and Mexico have been clashing with the statutes and common law of the United States and questions of public and private interest had arisen which demanded careful but decided action.

With the creation of the territory a system of courts was organized from the justices of the peace through the probate and district courts up to the supreme court. Thus the first step was taken to battle the lawlessness and violence which paled by comparison the Indian resistance to the forcible entry upon their homelands.

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[21] At that time, Fort Whipple was located at what is now known as Del Rio, Arizona.

[22] WYLLYS, ARIZONA, THE HISTORY OF A FRONTIER STATE.

All territorial judges were appointed by the President of the United States. As a result, the majority of the judges first sent to Arizona were not versed in the ways of this country, and were complete strangers to the people, customs, and social existence of this area. Fortunately, for the most part the men turned out to be competent individuals and did a credible job as judges in the territory. The justice court level was greatly needed and remained in the hands of local people.[23]

At first the territory was divided into three districts with each judge presiding as a trial court in his own district. Then, once a year, the three judges would get together and sit as the Territorial Supreme Court. Later, five districts were created in the place of the original three.

The citizens of the territory, however, were strong for home rule and were soon very resentful of the courts being appointed by outsiders. The supreme court was called the "Supreme Court of Affirmance"[24] since the trial judges also sat on the supreme court and were accused of "log-rolling" to protect each other. The citizens wanted elected judges, judges in each county, and the county court personnel to be absolutely separate and apart from the supreme court.

To enable the Territorial Government to proceed, a code of laws was needed. In addition, a great need was present to meld the two types of culture and background, which met for the first time, to create what would soon be a great state. Our original code seems to have served this purpose. Prepared by Judge William T. Howell, it was designated as the Howell Code. With this new code, the new courts in 1864 were ready for business along with attorneys who were to practice in these courts.

In a quaint merchandise ledger, and written in longhand is *The First Journal District Court of the First Judicial District of Arizona.* This book covered the entries from May 31, 1864, to April 16, 1874. It is in this record that the first trials held in Arizona under American jurisdiction are recorded.

In setting up the judicial districts, the Territorial Governor made

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[23] In 1864, Charles H. Meyer, a druggist by profession, was elected Justice of the Peace. During the 1860's and the 1870's he became a terror to the so-called bad men. Lockwood says:

> He did not pay as much attention to the letter of the law as he did to the facts involved and to fundamental justice. Indeed, he knew very little law. It was said that his law library consisted of only two books: A volume on *Materia Medica* and one on *Fractured Bones.* When a very perplexing case was brought up before him, in order to gain time, to clear his mind, and make an impression, he would take down these two books and study them intently. His salty and straightforward decisions were so much in the interest of honesty and good order that the worthier members of the legal profession would use all their ingenuity to interpret the law in such a manner as to square with the decisions of the Judge; though able lawyers sometimes found it exceedingly hard to do this.

[24] Territorial Expositor (Phoenix), Dec. 24, 1880.

three districts, one of which was located in Tucson.[25] The second district was created for La Paz, and the third district was at Prescott.

Judge William T. Howell presided at the first trial under American jurisdiction which was held in Tucson on June 3, 1864. It involved a mortgage foreclosure in Tucson and was a civil suit. The first criminal case tried under the American regime was a murder case involving one Dolores Moore. A Tucson attorney by the name of J. E. McCaffrey had the distinction of being the first court-appointed attorney in the Territory when he was designated by the court to defend this lady in the murder trial. The trial began December 17, 1864, and by December 30 of the same year the jury had been selected, the lady tried, found guilty, sentenced, and motion for the new trial denied. She was sentenced to hang by the neck until dead. And so she was.

Prior to these trials the United States District Court for the First Judicial District in Tucson convened the first grand jury in May 1864. Judge William T. Howell presided at the impaneling and swearing of this jury and gave them this charge: "With your action today commences the judicial history of a country whose area is sufficiently extensive to form the seat of a powerful empire."[26]

The Second Judicial District held its first court session in La Paz in June 1864, with Judge Joseph Allyn presiding. But, there being no business, the court adjourned as promptly as it convened.

The Supreme Court of the Territory of Arizona held its initial meeting in Prescott on December 26, 1865. Chief Justice William F. Turner and Justice William T. Backus presided at this session held in the legislative council chamber. The first order of business was the selection of Marcus D. Dobbins as clerk; next, the sheriff of Yavapai County was ordered to secure stationery for the use of the court. Then seven persons presented themselves for admission to law practice in Arizona. The seven who were admitted on December 26, 1865, were: Coles Bashford, John Howard, William J. Berry, James A. Robertson, James Anderson, Joseph P. Hargrave, and C. W. C. Rowell.

Bashford, Anderson, and Hargrave were requested by the court to prepare "Rules for the Government of the Practice of this Court." These were prepared and presented to the court the following day (December 27, 1865). In all, there were 32 rules covering all phases of appellate procedure which covered a total of five and a half pages of legal size paper, all in handwriting. These same three gentlemen were also ordered to prepare rules of practice for the district courts, which rules were to be ready for the next term of the supreme court. All of these records are

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[25] "All that portion of said Territory lying south of the Gila and east of the 114 degree of longitude west from Greenwich."

[26] Arizona Miner, June 22, 1864.

maintained in the supreme court in a book described by a clerk of the 1890's as being an "old worn leather bound Book entitled 'Records'." This same book carried the names and signatures of all admitted to practice in Arizona up to 1896.

Evidently the signing by members of the bar was rather a haphazard affair since the first signature was that of William Herring who was admitted in Tombstone in 1882, and it is followed by that of William H. McGrew, who was also admitted in 1882. Yet, Coles Bashford, who was one of the first seven to be admitted in 1865, did not get around to signing the book until 1885.

The records indicate that up to the year 1896 all attorneys desiring to practice law in the territory could be admitted by the local district court. This was tantamount to being admitted by the supreme court; and, if at a later date the party was able to appear in Phoenix and sign the roll of attorneys, that would be good. In the meanwhile his admission before one of the district courts was sufficient to allow him to practice law anywhere in the Territory of Arizona.

The book in use today and ever since 1896, is entitled *Roll of Attorneys—Supreme Court of Arizona 1894.* Across the top of each page in this book, which has been signed by every attorney practicing today in Arizona, is this legend: *United States of America—Territory of Arizona—Supreme Court.* C. O. Anderson of Mesa (and later of Holbrook and Willcox) was the first to sign the current book. His name was recorded January 20, 1896.

When the new book was started, somebody very carefully copied the first page of names—thirty-nine in all—listed in the old record, but evidently completely forgot to copy the remaining 109 names listed on the subsequent pages.

The first woman admitted to practice in Arizona was Sarah Herring Sorin. She signed the old record book in 1893 and then came back in 1900 to assure her position by signing the new book *nunc pro tunc* 1893.

Arizona began its official existence with four counties: Pima, Yuma, Yavapai, and Mohave. After a year, the northern part of Mohave was cut off and became Pah-Ute County. Then the federal legislature in its congressional wisdom gave most of Pah-Ute to the new State of Nevada, and what little bit remained in Arizona was returned to Mohave.

As has already been seen, Tucson and Pima County had the first attorneys practicing in the territory, and these were mainly those left over from the Gadsden Purchase days. To this group were added, in 1865, Mortimer R. Platte and John Anderson. Mortimer began his practice in Tucson in the partnership of Platte and McCaffrey, and, in addition to this, also had the government mail contract from San Diego to Mesilla. The coming of the railroad eased him out of the mail business, and in time he left Arizona and the law practice. John Anderson began

his practice in Tucson but soon after the founding of Nogales he moved there and for a time was a member of the Pima County Board of Supervisors representing the district from Nogales.

Beginning in 1888, attorneys practicing in Pima County signed a register or roll of attorneys admitted to practice in the District Court of the First Judicial District in and for the County of Pima. A similar type roll was being signed by attorneys in Pima County as late as 1941.

The first attorney to practice in Mohave County was Alonzo Edward Davis. He originally came to Arizona with the California Volunteers and was stationed within the territory for two years. After his discharge be became a resident of Mohave City, Arizona Territory. He was admitted to the Bar on October 23, 1866, having obtained his legal education by studying law during his time in Arizona with the Army. In addition to Mohave City, he also lived in Mineral Park.

Davis became District Attorney for Mohave County in 1870 and in addition to his practice was also well-known as a merchant and miner. The *Walapi Enterprise* of June 1, 1876, carried Davis' card showing he was an attorney authorized to practice law in the territorial courts.

La Paz, Arizona, was the headquarters for the Second Judicial District created upon the establishment of Arizona Territory. One of the earliest attorneys to be admitted in La Paz, which included Yuma, Mohave, and Pah-Ute Counties, was William J. Berry, admitted on June 28, 1864. During his tenure he was District Attorney of Yavapai County in 1868 and later was District Attorney in Yuma County in 1875. In addition he was editor of the *Arizona Sentinel* published in Yuma.

Yuma became the first town to be built after the Gadsden Purchase had been annexed to the United States. The Yuma Crossing had been known to both the Indians and the white man for several centuries, but the first town developed under American jurisdiction on the east bank of the Colorado River brought forth the following individuals who practiced law: Judge El Rowel from San Bernardino, who, soon after his arrival, ran for district attorney; Judge W. Alexander, who practiced in Yuma and then moved on to Phoenix; John Mullen, George Knight and Joseph Walker. These men were "unmarried and had no obligation for stability."[27] The first courthouse was built in Yuma in 1872.[28]

In 1864 Henry Nash Alexander came to Yuma, but he did not begin to practice law there until 1872. In 1874 he was appointed the Probate Judge and in 1879 ran for, and was elected, District Attorney for Yuma County. His son-in-law was Chief Justice A. C. Baker, Territorial Su-

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[27] Rev. Paul Figeroa, ms. in Arizona Pioneers' Historical Society.
[28] In 1870 the county seat of Yuma County was moved from La Paz to Yuma.

preme Court. His son, J. L. B. Alexander, was Clerk of the Supreme Court.

The new territorial government in Prescott caused many of the new attorneys of the area to focus their attention on Yavapai County. While Tucson still represented the Spanish and Mexican influence, Prescott stood for the Anglo background which was finding its way westward.

Already two changes had been made on the supreme court. Joseph Pratt Allyn had run for delegate to Congress in 1865, but was defeated. He then tried to be appointed Governor, but again was unsuccessful. Although he claims not to have resigned from the court until March 13, 1867, he left the territory soon after being turned down for Governor in early 1866. Meanwhile, Judge Backus was firmly installed on the bench in late 1865 in place of Howell. Harley H. Carter replaced Allyn.[29]

In addition to the seven men admitted in 1865, other early Prescott lawyers described are John C. Herndon, John J. Hawkins, Tobe Johnson, T. G. Norris, Henry D. Ross, Robert E. Morrison, and E. W. Wells. James Anderson came with the new government but did not remain very long.

A. H. Favour described Judge E. W. Wells as follows:

> He came to this state in 1864, and has made Prescott his home ever since. He is the Dean of the Arizona Bar. He has held many public positions with honor and distinction. As an attorney, legislator, district attorney and judge, and member of the Constitutional Convention, he exemplifies the finest type of a lawyer, and as a citizen he is honored, respected and loved. We can well take pride in claiming him as our first citizen.[30]

The central part of the territory was growing at a great rate around the newly-founded town of Phoenix, and in 1875 Maricopa County was created out of Yavapai and Pima. A journalist in a San Diego newspaper (March 5, 1872) wrote of Phoenix:

> . . . [A] smart town which had its first house completed about a year ago. When it has become the capital of the territory, which it will, undoubtedly, at no very distant day, and when the "Iron Horse" streams through our country on the Texas-Pacific road, Salt River will be the garden of the Pacific slope and Phoenix the most important inland town.

James Taber Alsap, prominent in both law and medicine, came to Prescott in 1863 and later moved on to Phoenix. Prior to his arrival in

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[29] Chief Justice Turner resigned in 1871 and was replaced by John Titus.
[30] Favour, The Messenger (Phoenix), 1928.

Prescott he had practiced medicine in California for approximately 10 years. Alsap was not admitted to the Arizona Bar until 1872, which was after he had moved to Phoenix. In addition to being the first mayor of Phoenix, Alsap also practiced law in this community and was a great booster of the Salt River Valley. In 1872 he previewed the greatness that would in time come to the Salt River Valley in an original document entitled *Reference to Resources of Salt River Valley.* The original of this is in the Secretary of State's office and in part contains this statement: "It is a very simple process to get a farm in this vicinity. A man settles on a quarter section and that is as good a title as need want for the present."[31]

Although 1875 saw the creation of Maricopa County, the earliest records of the district court for that county found in the Maricopa County Clerk's office are a minute book and court calendar beginning with the year 1879. The first case numerically listed begins with the number "7." The first attorneys listed in these minutes are A. C. Swift, A. D. Lemmon, J. W. Van Slyek, H. B. Summers, and William A. Hancock. The name of Granville Oury is very much present on these early records, but he never actually was a resident of Phoenix. Thomas Edwin Farish[32] states that the first attorneys admitted to practice in Maricopa County, on May 7, 1872, were William A. Hancock, E. Irvine, John T. Alsap, and J. R. Barrocke.

Next to be created was Pinal County, with the original county seat in Hardyville.[33] Pinal was created out of Pima, Yavapai and Maricopa in 1865. John W. Anderson is described as the first attorney to ever practice in Florence, Arizona. The records show that Granville Oury practiced in Florence after he left Tucson, but they are rather hazy as to when he actually went there.

Yavapai again came under the knife when Apache County was created in 1879 from the eastern edge of Yavapai. For a very brief time the county seat was Snowflake, but it was transferred to St. Johns. Probably the first lawyer who resided and practiced in Apache County was Robert E. Morrison, who later moved on to Prescott. The Morrison family had lived in Springerville, but at that time there was not sufficient practice to keep an attorney engaged full time. So most of the attorneys who engaged in practice in the northeastern part of the state were usually those who came to the county seat with the court at such times as the district court was traveling the circuit. This continued on up until the time of integration when the Navajo-Apache Bar Association was organized.

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[31] Neri F. Osborn, ms. in Arizona Pioneers' Historical Society.
[32] FARESH, HISTORY OF ARIZONA, 213.
[33] Florence Enterprise, July 11, 1891.

In 1881 Cochise was created out of Pima with the county seat at Tombstone where it remained until moved to Bisbee in 1929. Tombstone in 1884 had probably as many attorneys as any city in the territory.

At its first session on May 16, 1881, the Cochise Court, after admitting twelve men to the practice of law,[34] was immediately embroiled in a contest between two members of the bar as to which one was the duly appointed and acting district attorney. Judge W. H. Stilwell ruled that Lyttleton Price (the Governor's appointee) was the district attorney rather than J. M. Millier (the Board of Supervisors' appointee).

An interesting item of this era was the court calendar prepared for the call of the calendar or law and motion day. This document was printed and divided the court's work into three parts: criminal calendar (by far the largest), law calendar, and trial calendar. Each of the three divisions was further broken down with the name of the case, the kind of case, and the names of the attorneys of record. No doubt these were printed because typewriters were not then standard equipment, and writing the voluminous calendars in longhand would be a rather tedious chore for the clerk.

The calendar printed for the November 1882 term in Cochise County ran seventy-nine pages. This same calendar carried the names of fifty attorneys who were described as the "Members of Cochise County Bar." However, the following year the calendar listed only forty-two members. Pima County's printed calendar for 1884 listed thirty-seven "Members of the Tucson Bar."

1881 also saw the creation of Graham and Gila Counties. Graham was created out of Pima and Apache, while Gila came from Pinal, Maricopa, and Yavapai. The Minute entries in the Graham County Clerk's Office show that the district court held its first session in Graham County on November 5, 1883, at Solomonville. The attorneys opposing at that session of court were B. H. Finely, C. C. Stevens, J. A. Zabriskie, P. J. Boland, and P. M. Thurmond. All of these gentlemen practiced in Solomonville, which was then the county seat.[35]

Boland was evidently a giant of a man and somewhat of a character. During an interview he described his birthplace as Ireland, and his occupation: "Prospector when I could find a deposit or even a stringer; a promulgator of the doctrines of Blackstone and an expounder of Kent

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[34] V. A. Gregg
Marcus P. Hayne
J. M. Murphy
P. T. Colby
J. F. Senis
J. W. Stump
H. K. S. Melveny
Theron Reed
J. F. Culton
A. G. P. George
Marcus A. Smith
Allen R. English

[35] During the American history of Arizona, there have been five changes of county seats: Cochise County, from Tombstone to Bisbee; Graham County, from Solomon-

when my friends fall out and resort to law; and, finally, a jack of all trades."[36]

The District Court's meeting in Solomonville was always described as a lawyer's picnic. It was here that the famous story seems to have originated about the judge who ordered a shirt-sleeved juror to go home and get his coat. The juror silently left and did not return for three days. Upon his return he was upbraided by the judge for being gone so long, but he explained that his home was many miles distant, that he had to go by horseback, and it took three days to make the round trip. Strangely enough, this story has been told of numerous judges. It has even been attributed to justices of the peace and goes back many years. Probably the true originator of the story will never be known unless he happened to be the first juror ever chosen who came to court without his coat.

Early practitioners in busy, thriving Globe with its exploding mining development were Gustavus A. Swasey (Gila County's first probate judge), Aaron A. Edwards, George K. French, and John W. Wentworth.

Coconino County was created in 1891 and was followed by the new counties of Navajo, Greenlee, and last of all, Santa Cruz. Early practitioners in the District Court in and for the County of Coconino were H. D. Ross (District Attorney), W. L. Van Horn, D. M. Doe, T. G. Norris, E. E. Ellenwood, J. E. Jones, and J. J. Hawkins.

Volume 1 of *Arizona Reports* lists 109 attorneys practicing in the Supreme Court of the Territory of Arizona from its organization up to the year 1883. The first reported case by the Supreme Court of the Territory of Arizona, in the Arizona Reports at the January term, 1866, was *Davis v. Simmons.*[37] It was the only case reported during this term. No further cases were reported by the Territorial Supreme Court until the January term of 1871, when only one case was heard. The next term was January 1872.

Oddly enough, it has been pointed out that the name of William T. Howell (first judge to convene a grand jury in Arizona; presided over the first trial in Arizona; author of our original code) had been omitted from the list mentioned above. As can be best determined, he was here solely in a judicial capacity, and even though he authored our first code, there seems to be no record of his actually practicing law in Arizona Territory.

By 1884 the *Gazateer and Business Directory,* which covered a greater portion of the west, showed that not only were there attorneys practicing in Phoenix, Tucson, Prescott, Yuma, and Bisbee, but that one

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ville to Safford; Apache County, from Snowflake to St. Johns; Yuma County, from La Paz to Yuma; Pinal County, from Hardyville to Florence.

[36] Arizona Weekly Star, Feb. 17, 1881.

[37] 1 Ariz. 25, 25 Pac. 535 (1866).

of the largest groups was practicing in Tombstone, to say nothing of those who had hung out their shingle in Mineral Park, Tip Top, Vulture, and Bueno. Well represented on the list were Benson, Florence, Clifton, Globe, Kingman, and Yuma.

Although attorneys were operating throughout the territory, the first organized bar of record was the meeting in 1895. Quiet then reigned until 1900.

The first known minutes of an organized bar in Arizona were minutes kept in a large, bound ledger book which, in handwriting, was entitled "Bar Association of Arizona, 1900-1905." All of the entries in this book were made in handwriting, and it contained, in addition to the minutes, the by-laws of the Bar Association itself. The first entry of minutes is dated March 26, 1900, and, in addition to showing the election of new officers, shows that the treasury had a balance of $2.20. Evidently the organization dated back to 1899 inasmuch as the presiding President at that time was Judge A. C. Baker and the newly elected President was Judge J. J. Hawkins.

The next meeting was on January 14, 1901, at the supreme court room in Phoenix. The Secretary reported that the books of the association were lost. Therefore, not much business was transacted at this meeting.

The reading of minutes of the next annual meeting of January 15, 1902, was waived inasmuch as the books had been lost and no minutes were accessible to be placed in the book. The treasury still had the $2.20 left over from 1900. Although the original by-laws provided for annual dues of $1.00, it was obvious that none of the members had gotten around to paying. The President chided the Bar severely for doing nothing but meeting once a year and electing officers. He charged that they should be more alive to the offices to which they had been elected and must read legal papers on various subjects which had been assigned by him. The papers which had been assigned for reading at this meeting were not prepared, but at least they were able to raise the dues to $5.00 a year.

The next meeting was held on January 12, 1903, and in the interim the treasury picked up $160. A move was made to incorporate the Bar Association, but this failed. A motion was passed to draft a new constitution and by-laws. The minutes reflected the crying need to revise the Civil Code of the Territory, and so a committee was appointed to draft a bill to correct the errors in the Code (this must have been the Revised Statutes of 1901). The committee was also authorized to present this bill of correction to the Judiciary Committee of each house of the Legislature. A banquet was arranged to be held at the Hotel Adams in Phoenix on January 17, 1903, at a charge of $5 per person. The committee was not ready to "report on the names of those to whom toasts

would be assigned." The legal papers which the president of the year before had demanded were reserved for presentation at the banquet. History is silent as to whether these papers were ever read or presented at the banquet itself.

On January 11, 1904, the annual meeting was again held in Phoenix and the Committee on Code Correction reported that it had worked very hard and made many corrections. So it was given $40 to print the corrections. The Constitution and By-law Committee reported that it had made no progress and that it still needed more time. A committee was appointed to draft a bill on appeals. Meanwhile, the banquet at the Adams Hotel was in line for that evening.

A special meeting of the association was held in Phoenix on October 3, 1904. The conduct of two of the members had been questioned and they requested that a meeting be held to investigate the charges and to go into their qualifications. This motion failed and the meeting adjourned.

On December 22, 1904, a special meeting was held by the bar association at Phoenix for the sole purpose of protesting the admission of Arizona and New Mexico as one state into the Union. This particular resolution was printed on a small sheet and pasted into the Minute Book. No doubt other copies were used as propaganda and as throwaway sheets to show the stand taken by the lawyers on this particlar issue.

The resolution protested very vigorously the combination of Arizona and New Mexico as one state because it would not only violate a sense of local pride, but would subject all Arizonans to the domination of a majority of heretofore strangers living under different institutions, different customs, different laws and rules of property, different trade relations, and, in addition, most of whom could not understand, read, or write the English language. The resolution went on to state that it would involve either a concession by them of their laws, customs, and habits, or a violation and abandonment of ours. It would create a state too big and in so doing would violate one of the cardinal principles of American institutions—that the more nearly within the actual observation of the people the functions of government are exercised, the safer these instituions are, for they tend to be more economical, honest, efficient, and capable. The combination would result in a distasteful union imposed upon unwilling people.

The resolution provided for a committee of five which was to go to Washington, D. C., to protest the proposed union of both territories. This committee was also delegated to find ways and means of financing the trip. How this was done the record never says.

The final entry in this interesting old ledger book records a meeting held in Phoenix on January 9, 1905. Motions to carry on a regular busi-

ness session failed. The only thing done was to elect new officers.

In the following year, 1906,[38] the Arizona Bar Association was incorporated, and officers were elected each year until 1912, nonetheless no records of minutes of any kind have we been able to find or locate.

In reviewing the short history of the Bar prior to statehood, the 1912 record related that the Arizona Bar Association had more or less active existence for many years prior to 1906. Papers were read and an effort was made to give the Association reason for its existence extending beyond the mere social function of the annual dinner. The desire to render the Bar more efficient crystallized in 1906 with the incorporation "which seems to have exhausted the unusual vitality so manifested, for until the year 1911-12, the Association was no more vigorous than before."

Outside of a printed booklet containing the By-laws and Articles of Incorporation of the Arizona Bar Association, the written record is again silent until a statewide meeting was held on March 18-19, 1912, in Phoenix, right after statehood.[39] Papers were read at the meeting and one of them rather caustically treated the subject of "reversals for technical reasons." The Association adopted the ethics of the American Bar Association. A motion was then made to endorse Richard E. Sloane as Judge of the United States District Court. Sloane had been on the Territorial Supreme Court, and was the last Governor of Arizona Territory. The Attorney General, George Purdy Bullard, after expressing his high personal regard for Judge Sloane, moved to table the motion for "purely political reasons." The motion failed.[40]

The banquet committee had failed to report back as to the preparations they had for the big session, so a new one was appointed to arrange a feast for the same night. The numerous papers which had been prepared for presentation at the convention were all printed and copies passed out rather than reading them at the convention itself. The

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[38] John B. Wright, ms. in Arizona Pioneers' Historical Society. In 1906 a Memorial presented to Congress seeking statehood for Arizona included among those signing the following lawyers: George K. French, Nogales; Roy S. Goodrich, Phoenix; Robert E. Morrison, Prescott; Eugene Brady O'Neill, Phoenix.

[39] Just fifty years from the date that Jefferson Davis made Arizona a Territory of the Confederate States of America, President Taft signed the bill making Arizona the fifty-eighth state of the United States. One of the proud witnesses to the signing of this bill was Thomas Molloy, Yuma attorney, who was to be father of Judge John F. Molloy of the Superior Court of Pima County. Prior to statehood, Taft had made the Constitutional Convention of Arizona remove from its constitution the provision that judges could be recalled. However, one year after being admitted to the Union, the Arizona voters promptly reinstated this provision in our constitution. During the time that this issue was being dealt with by our Constitutional Convention, the chaplain of the Convention opened one of the sessions in this manner: ". . . and Lord, we hope that President Taft will not turn down the Constitution for a little thing like the initiative and referendum."

[40] Judge Sloane had been appointed by President Taft, but failed of confirmation; subsequently, President Wilson appointed Judge William Sawtelle whose appointment was confirmed.

federal district court in Phoenix convened that same day for the sole purpose of admitting to practice in a body all members of the new Bar Association of the State of Arizona. Joe Morrison of Phoenix moved the admission of the entire bar and vouched for their good moral character. Judge William W. Morrow of the Ninth Circuit Court, who came to Phoenix to organize the new United States District Court, felt that Mr. Morrison was taking quite a chance!

When the first territorial officials arrived in Arizona they immediately realized that the laws under which they were required to act were so ill-adapted to the conditions existing in Arizona that a new code was required to be drawn up. Judge William T. Howell immediately got busy. By the time the legislature appointed him as the Code Commissioner, he was in a position to return to them a brand new Code on the day of his appointment. Only 250 copies were printed, and they were without an index and with only a paper cover. This remained the law and code of Arizona from the time it was created until 1887.[41]

Although the bar entered another period of inactivity, nonetheless the profession was operating on a foundation which had been well and carefully laid during the organizational years of the territory and later of the state. Courts were organized, districts were laid out, and law enforcement at least got its start towards what we know as such today.

When our national government at long last took some interest in the people residing in the territory of Arizona, it was immediately faced with the fact that an attempt was being made to impress upon a large number of these people a culture, government, and philosophy entirely different from the one under which they had lived for centuries. There were the possibilities of cultural, governmental, and religious strife, but fortunately these were worked out. Our code of laws was one of the most monumental works in attempting to bring about the melding of centuries of radically different civilizations. This perhaps is best described in connection with the water laws created by William T. Howell in the initial Code. The foundation of his law on water rights has been described as:

> . . . [T]he written and unwritten laws of Mexico, handed down from the civilization of the valleys of the Tigris, Euphrates, and Nile, carefully sifted and formulated by the brightest minds of Greece, Rome, Carthage, France, Spain, and Mexico. From these he formulated the present law for the protection of the irrigators of Arizona, em-

[41] One of the earliest laws passed by the Legislature provided: "No indebtedness or liability heretofore incurred against any person prior to his or their arrival in the territory, shall be binding or have any effect whatsoever, or be in any way enforced in any court for the term of four years from the date of the passage of this Act." No doubt this made things a lot easier for many of our new citizens.

bodying the experience of the irrigating world . . . .[42]

Actually a code with an index, known as the Compiled Laws of 1871, had been prepared, but the Legislature did not pass this code. The 1871 code had been compiled by Coles A. Bashford.

In 1877 John T. Hoyt, a Prescott attorney, was appointed commissioner to compile the 1877 code. The 1887 provisions were made for the revision of the laws, the first since the Howell Code. Three attorneys were appointed to make this revision: Cameron H. King, Ben Goodrich, and Judge E. W. Wells. For the first time the criminal code was separated from the civil code, and each had its own index.

The next revision of our code was made in 1901 by Judge C. W. Wright of Tucson, J. C. Herndon of Prescott, and L. H. Chalmers of Phoenix. The Revised Statutes of 1913 and the Penal Code of 1913 followed next and were prepared by Judge Samuel L. Pattee of Tucson. This was then followed by the Revised Code of 1928 (prepared under the supervision of Judge Fred C. Struckmeyer), the Arizona Code Annotated of 1939, and Leslie Hardy's current Revised Statutes of Arizona, 1956.

Because of the limited number of Howell Codes printed, and the length of time since the printing was done, it is not surprising to discover that there are not many complete sets of all the code and session laws of Arizona. Only a few complete sets are in existence today (State Law Library in Phoenix, United States Congressional Library, Southwest Museum in Los Angeles, Harvard Law Library, Statute Law Book Company of Washington, the late E. E. Ellinwood of Phoenix, and the late Alpheus H. Favour of Prescott). Even the University of Arizona College of Law does not have a complete original set.

In the early days of territorial practice, and continuing into the twentieth century, it seemed to be very much the accepted custom for attorneys and lawyers to advertise in the local newspapers. One of the outstanding papers of the times was the one in Prescott which carried a large number of advertisements or "cards" inserted from time to time by various attorneys. In some cases these insertions ran one or two years, and in others the ad was just for one particular issue. It was not uncommon for attorneys at that time to advertise in papers throughout the Territory, and the ads would, in a very genteel but forceful manner, point out the type of work they did, their excellence, plus price mod-

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[42] Charles T. Hayden, ms. on William T. Howell (1891), in Arizona Pioneers' Historical Society.

Another excellent example of this is Arizona's basic venue statute based on the Texas model, which in turn is based on old Spanish statutes: McKnight, *The Spanish Legacy to Texas Law*, 3 AM. J. LEGAL HIST. 299 (1959). See ARIZ. REV. STAT. § 12-401.

eration which could not help but rebound to the benefit of the prospective client.

Platt & McCaffery had advertised their legal business in Tucson.[43] In the March 25, 1871, issue of the *Weekly Arizonian,* appears this ad:

> Jno. Anderson, Conveyancer. Deeds, mortgages, powers of attorney and agreements drawn up and acknowledged. All kinds of legal papers prepared; collections made. Charge moderate. Office: First door south of the Governor's Mansion, Tucson.

The *Arizona Citizen*[44] in Tucson carried the ads of three attorneys, along with one for a doctor, one for a shaving saloon, a surveyor, and a purveyor of hay and grain. One attorney stated: "Will promptly attend to all claims placed in my hands against the United States Government." The *Prescott Miner* of June 2, 1882, carried an advertisement of Colonel Edgars who practiced the legal profession in the second story of the Nathan Ellis Building in Prescott.

In line with the ads or cards carried, the newspapers would also eulogize, and sometimes denounce, various of the territorial attorneys in the news columns. Editorializing was not necessarily restricted to the editorial page and so the good points, or bad, of the particular attorneys could be found from time to time spread throughout the pages of the territorial newspapers. For example, John A. Anderson of Tucson was described by one of the Tucson papers as being the best pleader of legal points in the city. The *Arizona Citizen*[45] described him as never being at a loss for positive authority, "with none of the buncombe that marks a secondary class professional, he takes a stand with the leading members here."

In the *Tucson Daily Citizen* of January 5, 1889, there were carried legal cards from about ten of the leading attorneys in Tucson. With one exception, the cards all modestly proclaimed only the attorney's name, the fact that he was an attorney, and his address.

Today's senior members of the bar who practiced in the days of the ads and "insertion" cards are not all in accord as to whether or not such advertising was proper even then. Naturally, there were no rules of ethics to govern the attorneys and some seemed to feel that the insertion of the card was permissible while others denounced it as purely advertising and something unethical and below the standard required for a reputable attorney. As one member said, "Everybody practiced law to suit himself."

One of the leading attorneys in Yuma became embroiled in a run-

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[43] Weekly Arizonian, Oct. 2, 1869.
[44] Dec. 3, 1870.
[45] March 15, 1884.

ning fight with the *Weekly Arizona Miner* of Prescott over the publication of a legal card which the paper had been running on behalf of the Yuma attorney. The paper claimed it had been requested to run the ad for a much longer period of time than the attorney stated was true. But the attorney would only pay for the amount for which he had contracted. So the newspaper ran a complete story[46] of the entire transaction, and it might be fair to say that the version so printed was not favorable to the attorney. He was generally accused of "sharp practice" because he would not pay his bill. Not long thereafter one of the Phoenix papers took up the bone and said it served the Yuma attorney right because he should pay up if he owed the money. The *Arizona Sentinel*[47] at Yuma made its columns available to their local man and he presented his version of the entire affair in strong and cogent language. In none of the cases did the participants seem particularly concerned with or perturbed by the law of libel. Later on, the same Yuma attorney was described as one of the "ablest limbs of the law" by the *Arizona Weekly Enterprise*[48] at Florence. So amends must have been made somewhere along the line.

Another time, an attorney was denounced by one of the Phoenix papers for having defended two criminals who were charged with holding up the paymaster for the United States Army on his way to Ft. Whipple. The paper accused the attorney of having been paid by the money taken from the paymaster, and after this printed deluge, the attorney turned back the funds he had received as his fee (to the government, it is presumed).

The *Arizona Weekly Enterprise*[49] praised Florence attorney, John Witherspoon Anderson, in this manner: "The Venerable Judge had served several terms in the Arizona Legislature, and even this body failed to corrupt his morals; in taking this into consideration, we cannot but pronounce him proof against all kind of vice."

But the *Arizona Republic*,[50] when commenting on one of the candidates for Mayor, said he ". . . was the only person in Phoenix pretending to be a lawyer who fell so low as to act as an attorney for the swindler Reavis . . . ."[51]

Another paper did not hestitate to discuss a certain attorney's "love of the cup" and pointed out that if it hadn't been for this great and continual love feast, this particular man would have made an excellent at-

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[46] Weekly Arizona Miner (Prescott), March 28, 1879.
[47] April 5, 1879.
[48] Feb. 25, 1882.
[49] May 29, 1886.
[50] April 26, 1893.
[51] Here, reference is made to James Addison Reavis, known as the "Baron of Arizona." See Powell, *The "Baron of Arizona" Self-Revealed: A Letter to his Lawyer in* 1894, 1 ARIZONA AND THE WEST 161 (1959).

torney. His activities with the cup are described in detail and the article concludes in somewhat this vein: "So long, Judge, it's a long time between drinks."

"A scandalous affair—seeks another man's wife" is the lead-off in a story of the *Weekly Arizonian*[52] when the paper went into great detail on how one of the legal lights of Tucson had attempted to steal another man's wife on her wedding night.

One of the early appointed territorial judges, H. T. Backus, proceeded to set aside as unconstitutional various acts passed by the early legislature. As a result of this, the newspapers throughout the state went after him unmercifully, reflecting not only on his legal ability and his ancestry, but describing how he never went anywhere unless his way was paid, and stating that he was never known to soil his lily white hands with work—especially honest work.

In Yuma the *Arizona Sentinel* was edited by a lawyer named William Jeans Berry who also plied his trades as a lawyer and gunsmith. In fact, when he wasn't editing a news sheet, his shingle always carried the designation "Attorney at Law" and underneath that, "Gunsmith." During his editorship he undertook to seek and woo a mate in this manner:

Wanted:

A nice, plump, healthy, good-natured, good-looking, domestic and affectionate lady to correspond with. Object—Matrimony.

She must be between 22 and 35 years of age.

She must not be a gad-about or given to scandal, but must be one who will be a help-mate and companion, and who will endeavor to make home happy.

Such a lady can find a correspondent by addressing the Editor of this paper, Post Office box 9, Yuma, A.T.

Photographs exchanged!!

If anybody don't like our way of going about interesting business, we don't care. It's none of their funeral!!

Another time, in his issue of July 8, 1876, a criminal case about to be tried was reported. The case had created much local interest and so the editor directed a great deal of attention to the coming event. Witnesses were described, the facts of the case were discussed, and in closing, the editor named the defense attorney in glowing terms, describing how fortunate the accused was to have this man defend him. The editor congratulated the defendant for having "one of the best defense attorneys in the territory (when he is sober)."

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[52] Jan. 14, 1871.

The papers carried detailed stories as to the cases being heard by the territorial supreme court. The facts of the cases were related, and the articles stated which lawyers were present, and then usually closed by saying the case had been taken under advisement. The phrase "taken under advisement" has many meanings, and no doubt many descriptions, but the *Weekly Arizona Miner* of July 20, 1877, has provided one of the best: "The last gun is fired, the powder is all burned, but the fortunes of war are yet to be determined."

For the most part, the papers of early Arizona days were not objective in their news reporting and usually editorialized at any given opportunity. Then, too, there were the contemporaries of the day who were always rushing their exploits and remarks into print, being only one step away from our present day method of prepared statements or handouts for news. Even with these items, the papers gave a fairly good idea of current activities. In fact, one of the classics was this item from the *Arizona Citizen* of November 28, 1874, commenting on the selection of a jury for a murder case:

> . . . [P]eople who come under the head of business' ones, seek every pretext to avoid jury duty. Nothwithstanding life and large property interests are at stake, men of much property or business are seldom secured on juries. This nearly always occasions delay and expense, and sometimes works great injustices to parties ligitant. But it is an evil without a remedy, so far as courts and apparently law-matters are concerned.

The interest in the courts and attorneys by the newspapers was very natural, as it is today, since court activity always reflects the current events of the public and government. Newspaper relations with the bar and attorneys generally have always been good, even down to the present day, when one of Tucson's newspapers publishes its editorial against the "closed shop" of the lawyers. This editorial is as regular as the swallows' return to San Juan Capistrano.

C. O. Anderson—attorney, teacher, and newspaperman—supplied this invitation, issued by the Sheriff of Navajo County on November 28, 1899, after Judge Richard E. Sloan had sentenced to death a man who was found guilty of murder:

> You are cordially invited to attend the hanging of one George Smiley, Murderer. His soul will be swung into eternity on December 8, 1899, at 2 o'clock P.M. sharp.
>
> Latest improved methods in the art of scientific strangulation will be employed, and everything possible will be done to make the surroundings cheerful and the execution a success.

In Mohave City, during 1872, an attorney was having difficulty with one of his clients. As a result, the client took an ad in a Tucson paper and denounced his lawyer "as an unmitigated scoundrel, and hold myself personally responsible for this language."[53] The same paper picked up the attack and castigated the lawyer very severely by describing him as "wandering around the streets looking as though he had been driven from a sheep fold or henroost under suspicious circumstances." With this treatment, the lawyer soon left Arizona and traveled to California where he later became a superior court judge.

James Reilly, newspaperman and attorney, during his tenure as district attorney in Yuma, had this to say about his compensation:

> . . . [T]hat no man having any reasonable degree of fitness for any business in life (though not a good lawyer) can give his time and attention to the business of the County for such a miserable pittance, and that anyone who so undertakes will be very apt to neglect the duties of the office, if he do not worse.

Reilly was perhaps the only attorney who ever sued a territorial paper for libel, but after filing the suit he did nothing further, as far as the records indicate. He opened his own paper in competition with the Yuma paper which Reilly felt had treated him so shamelessly. The *Weekly Miner* in Prescott, in referring to Reilly's attempt to fight the Yuma paper, said, "Everybody has always admired the courage of the little bull that tried to butt the locomotive off the bridge, but nobody has the least respect for his judgment."

Reilly called his paper *The Expositor.* He soon moved it to Phoenix, and then sold it and went on to Tombstone where he became very well known in the practice of law.

Even during long periods of time when there was little or no activity going on bar-wise, the papers and other current reports would relate occasional meetings of the bar associations of the various cities and towns. Generally these seemed to be a meeting in court of most of the lawyers in the area who were there either to hold memorial services for a lawyer who had passed on or were gathered together for some special occasion where a court proceeding was the focal point of the meeting.

In the 1890's and the early 1900's, many references are found concerning the Tucson Bar Association, Phoenix Bar Association, the Bar Association of Maricopa County, Pima County Bar Association, etc. It appears, however, that many times the so-called bar associations, which had been so designated more by the spectators rather than by the participants concerned, were a very loose, informal group.

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[53] Arizona Citizen, Jan. 20, 1872.

From the time of statehood until 1924, the only organized bar activities of which any record has been found consisted of the organizational meeting held by the County Attorneys throughout the state. They met at the Arizona Club on January 11, 1915, for their organizational meeting.

History records that there was at least a president of the Arizona State Bar in the years 1916-17, who was Joseph H. Kibbey. During 1916, an attempt was made to reorganize the Bar Association which had existed during territorial days. Notices were sent to all concerned, but only eleven appeared for the meeting in Phoenix. Strange as it may seem, no record has been found as to who the presidents of the Bar Association were from 1913 to 1915, 1917 through 1923, nor for the years 1927 and 1930. Records have been discovered of P. W. O'Sullivan and Gene S. Cunningham having been presidents of the Arizona Bar Association, but as yet the exact years are unkown.[54] The original search for the past presidents of the bar prior to integration was instigated by C. C. Faries, Ed Rice, and James Malott, all of Globe.

The first attorney to settle in Miami was Judge Faries, who later became judge of the Gila County Superior Court. Judge Faries is well known throughout the state, not only for his ability, but for his wit. Originally he came to Arizona as a health-seeker, and intended to settle in Nogales. However, in order to practice he had to go to Phoenix to be sworn in before the supreme court. While there, Judge Fredrick G. Nave talked him into going to Miami to practice since there were no attorneys there. Once while enroute to Phoenix he had to change trains at Maricopa, and while waiting stuck his head into the bar. As he did, a man pointed a .45 at him and said "Partner, we are going to have a drink." Said Faries, "You bet your damn life we are."

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1895-96	W. H. Barnes, Phoenix	1914-15	
1896-97	William Herring, Tucson	1915-16	
1897-98	John C. Herndon, Prescott	1916-17	Joseph H. Kibbey
1898-99	Selim M. Franklin	1917-18	
1899-99	A. C. Baker, Phoenix	1918-19	
1900-01	J. H. Hawkins	1919-20	
1901-02	Frank Cox	1920-21	
1902-03	R. E. Morrison, Prescott	1921-22	
1903-04	Frank H. Herford, Tucson	1922-23	
1904-05	Jerry Millay, Phoenix	1923-24	James R. Malott, Globe
1905-06	M. A. Smith, Tombstone	1924-25	W. R. Chambers, Safford
1906-07	Thomas G. Norris, Prescott	1925-26	Harry E. Pickett, Douglas
1907-08	Walter Bennett, Phoenix	1926-27	
1908-09	John Mason Ross, Prescott	1927-28	James P. Lavin
1909-10	George J. Stoneman, Globe	1928-29	James P. Lavin
1910-11	LeRoy Anderson, Prescott	1929-30	
1911-12	Frederick G. Nave, Globe	1930-31	C. C. Faires, Globe
1912-13	H. B. Wilkinson, Phoenix	1931-32	Tom Richey, Tucson
1913-14		1932-33	James R. Moore, Phoenix

The fact that no record can be found of activities or of presidents of these years, is a strong indication that activity-wise the Bar was absolutely dormant. Our senior members of the Bar who were active at this time seem to draw a complete blank when it comes to naming the men who might have been presidents during this period. Still, their memories of the courts generally—judges, attorneys, and their tactics and stories—are very clear and enjoyable to hear.

Many have told me of a Bar Association meeting held at the old Phoenix Country Club located at North Central and Arizona Canal. The date and year are a total blur. But melding together several versions from highly reputable members would indicate it to be pre-prohibition. Many delightful wines were served, but the high point of the evening came when the very venerable and distinguished judge who was to be the evening's main speaker, was unable to make his way to the platform.

Although the local county bars throughout the state have developed a high degree of service and efficiency towards their members, even to the incorporation of the Maricopa County Bar, the start at statehood was not too promising. Outside of Cochise County, the local activities were exceeded in dormancy only by the state effort.

In 1913 the Superior Court of Cochise County had a local bar made up of forty lawyers. Local rules were printed in pamphlet form and the names of all attorneys were listed along with the rules. At that time the county seat was at Tombstone. Fifteen were practicing in Bisbee, the next largest group listed their residence as Tombstone, and the balance were scattered throughout Cochise County. At that time, a Cochise County Bar Association was organized with John C. Gung'l as chairman. However, after the organizational meeting, it did not hold another meeting for a period of eight years. The idea of the County Bar Association was good but it was almost an impossibility to get all of the lawyers together for a bar meeting until prohibition came along and made bar meetings popular along the border.

In this era, the litigation mainly consisted of criminal cases, a great many mining cases, land contests, and difficulties over homesteading and homestead laws. The negligence and personal injury action as we know it today hardly existed. About the only rules which were binding on practicing attorneys were those of the court, as far as litigation and practice in court itself was concerned. Other than that, there were no limits, and everybody practiced law to suit themselves.

The biggest competitors the lawyers had at that time were the notaries public who were willing to prepare and notarize a deed for the sum of one dollar. This was undercutting considerably the two-and-a-half dollars usually charged by attorneys for this type of service.

After eight years of inactivity, and with the advent of prohibi-

tion in the early 20's, the Cochise County Bar Association began to have annual meetings which were usually held in the offices of Knapp, Boyle & Pickett in Douglas. The business sessions were conducted quickly and efficiently. Then the group would adjourn to Agua Prieta for a social hour. On one occasion, the president of the county bar felt the banquet should be held at the Gadsden Hotel in Douglas. This was done, but an impromptu social hour held prior to the banquet caused this procedure not to be too successful. In subsequent years, the annual meeting was held first, followed by the social hour in Agua Prieta. Because there were no dues in the organization, it usually meant that the president had to pay for the dinner and for at least two portions of refreshments for each member of the bar. This was one case where the office actually sought the man!

Although during this period there again was little or no activity insofar as an organized bar was concerned, nonetheless, the attorneys in the state were again the leaders in instituting and taking the necessary steps to assure that future attorneys would be properly trained and educated to grant better service both to themselves and to the public as a whole. In order to put this plan into effect, arrangements were made to begin the College of Law, which is so much an integral part of the legal life of the State Bar of Arizona and its members today.

A very high percentage of the attorneys now practicing in Arizona and a majority of our superior court judges throughout the state are alumni of the University of Arizona College of Law. The College of Law has always been under the guidance of members of the State Bar of Arizona. The faculty has been well-represented in the State Bar, and all three deans of the College of Law, from its beginning to the present, have been active members of the bar itself.

The law school at the University of Arizona was founded by Samuel M. Fegtley. He joined the faculty in 1915, and from 1916 to 1919 was professor of law and head of the department of law. In 1919 he became Director of the School of Law and held this position until the College of Law was created in 1925, when he was appointed its first dean. Dean Fegtley remained as dean until his retirement in 1938.

Dean Fegtley was followed by J. Byron McCormick who, after a successful tenure as dean, served as President of the University of Arizona. Dr. McCormick had been on the law faculty prior to being appointed dean in 1938. He served as dean until his appointment as President of the University of Arizona in 1947. In 1951, he resigned the position of President of the University of Arizona and is presently a professor of law and also legal adviser to the Board of Regents of the Universities and State College of Arizona. In addition, he has served as State Bar Delegate to the House of Delegates of the American Bar Association.

Dean McCormick was succeeded by the present dean, Dr. John D. Lyons, Jr., the first graduate of the University of Arizona College of Law to become dean. As were his two predecessors, Dean Lyons was a practicing attorney. He was also City Attorney for Tucson and Judge of the Superior Court of Pima County prior to his appointment as Dean of the College of Law.

James R. Malott opened the 1924 Bar Convention at Globe and in his address likened the Bar's resolutions to those of New Year's—always made but never kept. He also reviewed the fact that the bar takes minutes, that they look good when written and then are promptly forgotten. This without doubt described the activities of the proceedings of the 1924 meeting and the general apathy which met the bar officers in attempting to work out programs of benefit to the membership. The Bar had been canvassed the preceding August to see if they had any ideas concerning pending legislation. Very few replies were received.

A committee known as the "Ax Committee" was very active and operated most efficiently in opposing bills to fix compensation of attorneys in suits to collect promissory notes and foreclose mortgages, to reduce the fees paid executors and their attorneys to an unreasonably low figure, to establish a time within which the court must decide submitted cases, and to provide for women jurors. Apparently the bar was opposed to all of these. In addition, a disbarment statute was drown up but failed to pass.

Under the bar's constitution, members of the legal profession whose names appeared on the records of the supreme court in the year 1920 were declared to be members of the association. Dues were $3 per year.

At this time, the only requirements to practice law were: to be 21 years of age, a citizen of the United States of good moral character, and to pass an examination prepared by the Board of Law Examiners. The Bar felt that the examination given could be passed by any applicant even though he had little or no legal education. It was suggested that the requirements proposed by the American Bar Association be accepted, but the majority felt that this was too radical a change to be made in Arizona at this time. In 1924, all that the American Bar Association required of an applicant was that he be a graduate of a high school and have at least one year of law school training and two years in a lawyer's office. This proposal failed to pass when subsequently presented to the legislature.

At the same time a new organization to be known as the American Law Institute was being formed, and the Bar sent Chief Justice McAllister of the Arizona Supreme Court to represent it at the meeting being held at the same time as the American Bar Association convention.

In his welcome to the 1924 Bar Convention at Globe President Ma-

lott said, "We may not be able to display the metropolitan airs of Phoenix and Tucson or to offer the liquid refreshments available at our border cities, but we do hope you will avail yourselves of the opportunity to visit our mining plants and local points of interest."

In attempting to determine where past bar conventions were held, many could not pinpoint a time or place, but almost all enthusiastically described how they enjoyed the conventions held in border cities during prohibition.[55]

And so integration came about.

The organizational meeting was held in the courtroom of the Arizona Supreme Court on September 9, 1933. The Commission which organized the State Bar of Arizona consisted of Judge Henry D. Ross, Chairman; James E. Nelson, Secretary; and Charles A. Carson, Jr., J. L. Gust, and Gerald Jones. At this meeting the Organization Commission created the first Board of Governors for the State Bar of Arizona and then adjourned the meeting to September 15, 1933, at which time the new Board of Governors would be present to take over the operation of the State Bar.

At the time of integration there were 654 attorneys and 22 judges in Arizona.[56] Only 175 of these were members of the old Arizona Bar Association which existed prior to integration. At the time of integration, Arizona became the tenth state in the Union to integrate. Now there are approximately 26 integrated bars in the United States.

At this organizational meeting, committees were appointed with members from different counties with the result "that the committees

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[55] Since integration, the State Bar of Arizona has held its conventions as follows:

1933—Phoenix (organization)	1947—Grand Canyon
1934—Phoenix	1948—Chandler
1935—Tucson	1949—Tucson
1936—Phoenix	1950—Chandler
1937—Tucson	1951—Chandler
1938—Prescott	1952—Prescott
1939—Phoenix	1953—Yuma
1940—Grand Canyon	1954—Tucson
1941—Phoenix	1955—Phoenix
1942—Tucson	1956—Flagstaff
1943—Phoenix	1957—Prescott
1944—Phoenix	1958—Tucson
1945—No convention held (War)	1959—Chandler
1946—Tucson	1960—Chandler

[56] Talking with individuals who practiced in Arizona prior to integration, and reading old minutes of bar meetings, showed integration did not come easily. Many difficulties and disadvantages presented themselves to those who practiced without an organized State Bar to cooperate with them and back them up. When the integration processes were started, they were not universally accepted and a great hue and cry came from those who opposed it. Now it's an accepted thing, and I have yet to hear a current word of dissention. President's Report, State Bar of Arizona, 1958.

never got together and never did anything." An original committee had been appointed eight or ten years previously to draft a bill for the incorporation of the bar. That committee never got together, but one day after the legislature convened, Captain Alexander and James Nelson met and put a bill together in one day. It passed the Senate but died in the House. The same thing occurred at the next session, but on the third try the majority of the committee was from Maricopa County and they drafted a bill and secured its passage through the legislature in one week.

The first Board of Governors consisted of: District 1, E. R. Byers of Williams; District 2, Howard Cornick of Prescott; District 3, J. Verne Pace of Safford; District 4, W. G. Gilmore of Douglas; District 5, Francis M. Hartman of Tucson and Frank J. Duffy of Nogales; District 6, Charles A. Carson, Jr., J. Early Craig, James E. Nelson, and Allan K. Perry, all of Phoenix, and William H. Westover of Yuma.

The new officers were Charles A. Carson, Jr., President; Frank J. Duffy and E. R. Byers, Vice Presidents; James E. Nelson, Secretary; and Allan K. Perry, Treasurer.

First order of business was to appoint a Board of Bar Examiners. The new examiners consisted of Raymond M. Campbell, Gerald Jones, and John L. Gust. The committee was appointed "with instructions . . . to be hard-boiled—very hard boiled." Rules were immediately adopted for admission by examination. It was decided that an applicant must be a resident of Arizona for at least six months prior to taking the bar examination. New Mexico had a year requirement and California three months, so the Board split the difference to make it six months for Arizona.

Next business was the creation of administrative committees.[57] A means was created for proceeding in hearing cases where complaints were made against attorneys. The Board immediately moved to provide that the only pleadings permissible would be the complaint, which was required to be in writing; the notice to show cause; and an answer. Demurrers and motions to strike and motions to make more definite

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[57] In District 1, for Navajo and Apache, the administrative committeemen were W. E. Ferguson, Dodd L. Greer, and John P. Clark. A separate committee was had for Mohave and Coconino made up of F. M. Gold, James E. Babbitt, and Louis L. Wallace.

In District 2, for Yavapai, the committee consisted of P. W. O'Sullivan and Ray Westervelt.

In District 3, for Gila, Graham, and Greenlee, there were on the committee, Samuel H. Morris, Jesse A. Udall, and Frank B. Laine.

In District 4, for Cochise, there were Fred Sutter, W. A. Evans, and J. T. Kingsbury.

In District 5, for Pinal and Pima, there were S. L. Pattee, W. R. Chambers, and E. T. Cusick of Tucson, and Earnest W. McFarland of Florence.

In District 6, for Maricopa and Yuma, there were Lynn Laney, Thomas J. Prescott, and Dudley W. Windes.

and certain were not allowed. The Board moved to cut out all technical objections which could possibly be raised so that they could get right to the meat of the issue. No provision was made for challenges inasmuch as it was felt that any conscientious attorney would get off in the the event he had no business on the committee, and further, "that the first thing you know, the accused would be challenging everybody and would start the proceedings out under a cloud." The Board gave administrative committees the power to stop a case once it felt there wasn't sufficient justification to go on. As of that date there were 180 delinquents on the list who had not paid their required dues to practice law.

It was suggested there be a legislative committee in Phoenix composed of members of the Board to recommend changes to the legislature. It was also suggested that if this were done the legislature would try to appeal it so that it would be better to leave it alone. One member said that he had haunted the legislature out there when it was in session, and he would certainly hate to have to go back there. Another man said the legislature should be watched to see that they didn't slip any crazy rules of practice into the law.

The old Bar Association had a group known as the Committee on the Standards of Practice. This was abandoned by the adoption by the Arizona Bar of the American Bar Association Canons of Ethics. The newly created committees on legal practice of law, one from Pima and one from Maricopa County, immediately got busy, and the committee from Maricopa County entered into a meeting with the Corporate Fiduciaries Association in Phoenix. This was composed of the Valley Bank, the Phoenix National Bank, The Phoenix Savings Bank and Trust Company, the First National Bank of Arizona at Phoenix, the Phoenix Title and Trust Company, and the Arizona Title Guaranty and Trust Company. They agreed on a statement of principles. After meeting, the Bar and Corporate Fiduciary Committees arrived at an agreement subject to approval by the Bar and the Corporate Fiduciary group itself. Part of the agreement had to do with a fee schedule requested by the Corporate Fiduciaries inasmuch as they could then give people a general idea as to what a minimum fee would be when they sent peole to an attorney for work. Minimum fees statewide were discussed but dropped because of the difficulty in trying to fix a fee in Phoenix, and also make it fit, for example, in Safford. It was the concensus of the Board that minimum fees be handled by the local associations rather than by the State Bar itself.

At the same meeting, the Board studied the request for reinstatement by an attorney who had been disbarred, and the request was denied.

The Board requested local administrative committees and the local

bars to consider the advisability of providing minimum fee schedules in their respective communities.

Judge Faries and Judge Lampson requested that the Judges' Association come into the State Bar as a judicial council. Up to this time the superior court judges of the state maintained a kind of loose organization which hardly functioned. It had not met for two years. They wanted a group including the supreme court judges, which would meet at the same time the bar had its annual meetings. The judges felt it would create better fellowship, understanding, and cooperation with the lawyers. It would also help the work of the courts. So it was moved that all judges be invited to form a judicial council as a branch of the work of the Judges of Arizona. A voice asked if that would include federal judges, but it was never answered.[58]

It was suggested that the administrative committees make surveys of unlawful practice in their communities and then report this to the Board of Governors. The State Bar in turn could print literature or write letters to the various non-lawyers who were practicing unlawfully. Thus, it could eliminate without a great deal of difficulty, real estate men, abstractors, and insurance men who were causing all the trouble. Coming from the State Bar, it would be an impersonal matter and these people would probably pay more attention to it.

The May 28, 1933, issue of the *Arizona Daily Star* in Tucson carried a story to the effect that the bill for integration had barely passed "by the skin of its teeth" after ten years of trying. The article quoted a prominent member of the bar who stated that while he favored the act, it was unconstitutional because of a conflict with article XIV, section 2, of the Arizona Constitution prohibiting the creation of corporations by general law. However, the Integration Act withstood the stress of times and even survived an attempt to declare a portion of it unconstitutional.

During the year 1950, the Supreme Court of Arizona handed down a decision in a disciplinary case which had been initiated pursuant to the Integration Act.[59] The respondent, a member of the State Bar, claimed that as far as disciplinary proceedings were concerned the act was in

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[58] The minutes of these meetings were reported by a court reporter, and attached to the minutes are the following:

Appendix A: Rules of the State Bar of Arizona relating to recommendations to the Supreme Court for the admission of attorneys from other jurisdictions.

Appendix B: Rules and Regulations for the Committee on Examinations and Admission to the Bar.

Appendix C: Report of the Committee on Rules and Procedure for the State Bar. (J. Early Craig was the Chairman of this Committee.)

Appendix D: Rules of Procedure, adopted November 4, 1933. (These Rules regulated the operation of administrative committees and how they were to work. Later these were followed by our current Rule 1.)

Appendix E: Statement of Principles with Corporate Fiduciaries Association of Phoenix, Arizona.

[59] *In re* Lewkowitz, 69 Ariz. 347, 213 P.2d 690 (1950).

violation of the Constitution because the title to the act did not embrace the subject matter of the act itself. The title read thusly: "An Act relating to the State Bar, and creating a public corporation to be known as 'The State Bar of Arizona'."[60] In its opinion the court stated:

> With this premise in mind, let us consider whether the title of the State Bar Act is sufficient to have given notice to any person interested therein or affected thereby, during the process of its enactment, that the bill would provide an entirely new procedure for the disciplining, suspension and disbarment of members of the State Bar of Arizona, hereinafter called the Arizona State Bar, based upon such rules and regulations as might be adopted by the board of governors (created by said act), not inconsistent with law; that the Board would be granted powers in said act to provide additional grounds for suspension, disbarment or discipline of its members than those therefore existing under the provisions of law. Is the title sufficient to apprise interested persons reading it that the act contains a provision giving to the board of governors power to appoint administrative committees, vesting said administrative committees and the board of governors with concurrent powers to initiate and conduct investigations, with or without complaint, of all matters relating to the Arizona State Bar, or its affairs, or the practice of law, or the discipline of the members of the Arizona State Bar or any other matter within the jurisdiction of the Arizona State Bar? Does the title indicate in any way that the administrative committee or the board of governors is to be vested with power to take and hear evidence touching matters under investigation, administer oaths, to compel the attendance of witnesses and production of books, papers and documents pertaining to such matters? Or to give said administrative committtees and board of governors summary recourse to the superior courts of the state, to punish as for contempt any person for failure to appear in answer to a subpoena issued by either the board or committee and upon appearance for his failure to conform with the orders and requirements of said board of committee?

After fully reviewing cases from other state and all Arizona authorities which touched on the matter in any way, the court ruled:

> We recognize and fully appreciate the outstanding achievements of the incorporated Arizona State Bar in the state and regret that we are forced to declare the portion of the act relating to disbarment proceedings unconstitutional on the ground that said matter is not germane to the subject of the title or directly or indirectly related thereto and has no natural connection thereto. We therefore hold that sections 32-329, 32-335, 32-337, 32-338, 32-339 and 32-340 are unconstitutional and void.

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[60] Ariz. Sess. Laws 1933, ch. 66, at 251 now embodied in ARIZ. REV. STAT. § 32-201.

The court went on to say that until the State Bar Act is amended the State Bar had full recourse in matters of this type due to the provisions of Sections 32-201 to 32-208 relating to the disciplining of attorneys.

The State Bar of Arizona immediately filed a timely motion for a rehearing under the guidance of Judge Alfred C. Lockwood. The matter for the rehearing was thoroughly prepared by all sides and the court granted the motion because of the far-reaching effect of its decision, plus the fact it was somewhat in doubt as to its correctness.

After a very thorough and exhaustive review of the entire subject, the supreme court reversed itself, and in the second opinion[61] (which was a four to one ruling), the court said:

> Actually the principle of self government is the very essence of an integrated bar and if the provisions relative to admissions and discipline were emasculated it would leave but an empty shell. When considered in this light, we believe the only reasonable conclusion that can be drawn from the title in question by the average legislator and those having an interest in or affected by the legislation proposing integration is that contained in such legislation there would be found such closely allied, relevant and germane provisions as those having to do with disciplinary action. A contrary holding would violate the rule forbidding a strained and narrow construction of titles.

The court ruled that the title of the State Bar Act was sufficient to meet the constitutional requirements.

One of the difficulties in proceeding in the disciplinary cases had been the fact that committees were slow and deliberate in their transactions. This was especially true where the help came from voluntary committees who were doing the work in the various counties. The State Bar had another brush with the supreme court when the supreme court justifiably censored it for delay in hearing and disposing of a disciplinary case. One had been pending for some four or five years before it was finally brought to the supreme court for attention. Prior to the time this case was handed down, the State Bar had already proceeded on its own accord to bring up to date its disciplinary proceedings. So by the time the supreme court's ruling was forthcoming the State Bar had worked out a satisfactory system of keeping tab on its disciplinary cases and keeping them moving at a proper gait.

On another occasion the supreme court had an opportunity to pass on the activities of the State Bar in connection with its Admissions and

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[61] *In re* Lewkowitz, 70 Ariz. 325, 220 P.2d 229 (1950).

Examinations Committee.[62] At that time an applicant had passed the bar examination given by the committee but had been denied admission to practice on the ground that he had failed to establish his good moral character. The court held that although the action of the Committee was not unreasonable or arbitrary in denying this particular applicant admission to the Bar, nevertheless, during the investigation of the applicant "fifty-six letters had been received strongly recommending the applicant as a person or high moral character." The court for this reason overruled the State Bar and admitted the applicant to practice.

And so, under the leadership of twenty-six different presidents, including our current President, Devens Gust, the bar in Arizona has developed successfully and has produced a great deal of interest not only among its own members, but also among the public as a whole. Attempts have been made to re-district the state, for State Bar purposes solely. The newspapers and other press representatives have urged a change in Canon 35, and have actively sought the State Bar's help. The Bar has sued the title companies in the state for illegal practice of law; instituted mid-winter meetings of the membership for committee work; held an annual convention and has sent its president each year since 1950 to the American Bar Convention to represent Arizona; appointed representatives to the American Bar House of Delegates; opened its first central office at Phoenix in 1948, with Mrs. Doris Odom in charge; in 1954, employed Don E. Phillips as its first full time executive secretary; aided in staging the American Bar's Pacific Southwest Regional Meeting held in Phoenix; instituted a News Bulletin for members; and created a series of informative legal columns which have been carried in most of the state's newspapers. These items are just a few of the many activities carried on by the membership as a whole and its officers.

The presidents of the Bar since integration have been:

1933-1934—Charles A. Carson, Jr., Phoenix
1934-1935—Charles A. Carson, Jr., Phoenix
1935-1936—W. G. Gilmore, Phoenix.
1936-1937—William H. Westover, Yuma
1937-1938—Henry H. Miller, Phoenix
1938-1939—Francis Hartman, Tucson
1939-1940—C. B. Wilson, Flagstaff
1940-1941—L. L. Howe, Phoenix
1941-1942—John C. Haynes, Tucson
1942-1943—Alfred B. Carr, Phoenix
1943-1944—Matt S. Walton, Phoenix
1944-1945—T. J. Byrne, Prescott

[62] Application of Courtney, 83 Ariz. 231, 319 P.2d 991 (1957).

1945-1946—B. G. Thompson, Tucson
1946-1947—Orinn C. Compton, Flagstaff
1947-1948—Stanley A. Jerman, Phoenix
1948-1949—Ralph W. Bilby, Tucson
1949-1950—Anthony T. Deddens, Bisbee
1950-1951—Charles L. Strouss, Phoenix
1951-1952—Walter E. Craig, Phoenix
1952-1953—E. C. Locklear, Prescott
1953-1954—Clifford R. McFall, Tucson
1954-1955—Arthur M. Davis, Phoenix
1955-1956—James B. Rolle, Jr., Yuma
1956-1957—Keith F. Quail, Prescott
1957-1958—James M. Murphy, Tucson
1958-1959—C. A. Carson III, Phoenix
1959-1960—Devens Gust, Phoenix

At the time the Bar Act was passed by the State Legislature, the six districts were set up in as equitable a manner as could be evolved; but as time went on, dissatisfaction became apparent among certain counties which felt that they were not receiving proper representation on the Board of Governors.[63]

Most of the dissatisfaction came from Pinal and Santa Cruz Counties for the reason that, being in one district with Pima County, the two smaller counties were never able to secure sufficient votes to elect one of their own to the Board of Governors. Pima County always overwhelmingly placed their own members in the two positions on the Board provided for this particular district. This problem was never felt in District 6 (Maricopa and Yuma) with its five representatives on the Board, since the statute provided that one of the five must come from Yuma County.

So, in an attempt to correct this point, the Board of Governors appointed a committee to get busy and see what could be done. As the matter then stood, the northern tier of counties had a total of thirty-three attorneys in District 1, and had one member representing them on the Board of Governors. It was recommended that this district remain as it was.

Next came Yavapai County with twenty-three attorneys in District

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[63] District 1—Mohave, Coconino, Navajo, and Apache Counties
District 2—Yavapai County
District 3—Gila, Graham, and Greenlee Counties
District 4—Cochise County
District 5—Pima, Pinal, and Santa Cruz Counties
District 6—Maricopa and Yuma Counties

2 and one representative on the Board. The recommendation was that this district be enlarged to include Yuma County, with two representatives on the Board, one coming from each county. District 3 (Gila, Graham, and Greenlee—the three G's) with twenty-six attorneys, would be expanded to include Pinal County, giving this district a total of fifty-one attorneys with one representative.

Cochise County stood alone with twenty-two attorneys and one representative. This district was to be enlarged to include Santa Cruz County, making a total of twenty-nine attorneys with one representative. This then would mean that Pima County would stand alone in its district with two representatives, and that Maricopa would stand alone with four representatives. All of these recommendations were made to the Board of Governors, but in 1956 they were all turned down by the Board.

The following Spring at the annual convention at Prescott, Pinal County very strongly urged that the matter of redistricting be taken up again and requested that the convention itself direct the Board to take further action. The Board was directed to appoint a new committee to consider redistricting with one member from each county on the committee. The argument carried over to the Tucson convention in 1958, after a series of meetings held during the year, again with Pinal leading the demand for better representation. Cochise County very strongly opposed any move placing another county in its district. But the redistricting plan failed to pass at this convention, and approximately four years of work and effort in this regard ended.

At the 1954 convention held in Tucson, a resolution was passed by the assembled convention directing that the State Bar of Arizona file suit against the title companies because of their illegal practice of law. In due time, the suit was filed in Prescott, later removed to Phoenix, and tried. The lower court held against the State Bar and an appeal is now pending in the Arizona Supreme Court.

The history of the Bar and its members in Arizona is being made daily. Too, much remains to be assembled of the past from all kinds and types of sources—old court records, the memories of our senior members, records in various law offices throughout the state, newspapers, suggested sources which this small effort may bring to mind, letters, books, historical manuscripts, and the excellent files of the Arizona Pioneers Historical Society.

And so began the life of the State Bar of Arizona. Twenty-five years later the organization was going strong and celebrated its twenty-fifth anniversary as an integrated bar. The theme of the convention held in Tucson on April 10, 11, 12, 1958, was the silver anniversary at which the past presidents were honored as well as all members of the bar who had

practiced law in Arizona for forty years or more.[64] This was the largest turnout ever had for an Arizona Bar Convention, and the allotted time was comfortably filled with business, educational, and social activities.

It was at this time that the bar was able to look back on its past record, not with complacency, but with satisfaction as to the effort made, and as to the effort necessary to meet the demands of the future.

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[64] Those honored were:

1897
Henry F. Ashurst
Charles Woolf

1898
Joseph E. Morrison

1900
J. H. Langston

1906
Barnett E. Marks
R. C. Stanford

1907
Ben C. Hill
Carl G. Krook
D. M. Penny

1909
John C. Gung'l
Gerald Jones
G. W. Shute
Leslie C. Hardy

1910
Frank J. Barry
Clifford C. Faires
Bertram L. Hitch
Joseph H. Morgan
Edward W. Rice
Frederick A. Shaffer
C. B. Wilson

1911
Fred L. Ingraham
Harry Johnson
J. H. Moeur
George F. Senner
Fred Blair Townsend

1912
Alice M. Birdsall
William E. Brooks
R. H. Brumback
Joseph S. Jenckes
L. M. Laney
Ed M. Whitaker
Lee O. Woolery

1913
H. H. Baker
Neil C. Clark
Fred J. Elliott
Dave W. Ling
M. C. Little
A. Y. Moore
Samuel H. Morris
M. T. Phelps
Floyd M. Stahl

1914
F. M. Gold
Leon S. Jacobs
Henry C. Kelly

1915
James P. Boyle
R. William Kramer
George W. Nilsson
James R. Malott
R. G. Langmade
Stephen B. Rayburn
Clifton Mathews
Louis B. Whitney
Dudley W. Windes

1916
Duane Bird
James Blacksill
John C. Haynes
Perry M. Ling
V. P. Lucas
Greig E. Scott
Jesse C. Wanslee

1917
Raymond Allee
Earl Anderson
Ralph W. Bilby
Minor Blythe
W. E. Ferguson
Oswald C. Ludwig
Clifford R. McFall
A. Henderson Stockton