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## THE FIRST FIFTY YEARS OF THE COLLEGE OF LAW

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Professional instruction in law was started at The University of Arizona in September, 1915. A night course in business law had been offered for the benefit of Tucson residents as early as 1911, but did not please President Arthur H. Wilde who recommended that it be expanded into a full law program. His recommendation was not seriously considered until 1914, but then, in the enthusiasm generated by recently achieved statehood, a definite program was formulated for the following year.

A department of law was created in the newly organized College of Letters, Arts and Sciences. Assistant Professors of Law Howard M. Colvin, Samuel M. Fegtly, and Sydney J. Frank were appointed to the faculty, with Frank as head of the department. But because only first-year courses were taught at the outset, Frank doubled in English literature, Fegtly in speech, and Colvin in economics. Colvin and Frank resigned at the end of the first year and Fegtly was advanced to the rank of professor and head of the department.

The second- and third-year courses were added a year at a time. But looking to the future, the original course descriptions for 1915-16 included a full law program. Some of the titles seem old-fashioned, because their subject matter is now usually merged with other courses, and some typically modern subjects like federal taxation and administrative and labor law were, of course, missing. Yet, more than half of the courses listed are the perennial core which law students study today. There was a practice court, and the controversial case study method of instruction was used. In short, this first law curriculum had a modern look and represented what was, for the day, an advanced concept of legal education.

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Early law enrollment records can be misleading. Until 1928 anyone with 30 semester hours of college credit could take law courses, and many students from other departments did so. But if one counts only the candidates for the law degree, there were eight law students that first year: Andrew Bettwy, Myron G. Brown, M. A. Eastabrook, Grady Gammage, George V. Hays, Gus R. Hoff, Harry C. Westover, and William H. Westover.

The degree offered was a bachelor of laws, the one offered today. In 1917, however, the degree of juris doctor was added for students holding a previous bachelor's degree. This degree was then much in vogue among American law schools, having been invented to correct the inconsistency of conferring two bachelor's degrees. But it created the new inconsistency of following a doctorate with the master of laws, and dimmed the lustre of the yet more advanced degree, doctor of juridical science. So its popularity soon waned, and in 1941 Arizona decided that the remedy was worse than the disease and the J.D. degree was withdrawn.<sup>1</sup>

The year 1918 saw the law department become the School of Law still under the College of Letters, Arts and Sciences, with Fegly as director.

The growth of the law program had been slowed by World War I, but a definite turning point was reached with the Armistice of November 11, 1918. Enrollment more than doubled the following fall, to 30, and five years later had climbed to 81. The graduating classes increased in size from one in 1919 to 21 in 1924. In 1921 the United States Veterans Bureau had approved the law school for rehabilitation work and large numbers of veterans were subsequently enrolled.

In 1919 the Legislature granted the diploma privilege to graduates of the School of Law, allowing them to be admitted to the bar of Arizona without examination. But though this was a welcome display of public confidence in the young school, it weakened the checks and balances within the profession which then, as now, were thought to be desirable, and in 1925 the privilege was repealed. Quite understandably the students then in law school campaigned vigorously against its repeal, not because they favored the diploma privilege in principle, but because they thought that its withdrawal at the time would be a few years too early.

The organization of a separate College of Law had thus far been prevented by a state statute which specified and limited the major divisions of the University. This limitation was removed, however,

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<sup>1</sup> There is a recent renewal of interest in the J.D. degree. Its present day proponents contend, with seeming logic, that it is a professional doctorate — like the M.D., D.D.S., and others — not to be confused with graduate research degrees in law.

by the 7th Legislature, and in September, 1925, the former School of Law opened as the College of Law under Dean Fegtly. It was the fifth college to be established at the University.

Besides the faculty members already named, those who served with the full-time faculty of the department and the School of Law were Robert M. Davis (1916-23); Andrew W. Anderson (1919-25); Leonard J. Curtis (1921-39); William P. Swinford (1922-24), and Richmond A. Rasco (1924-26). With the appointment of J. Byron McCormick in 1926, Chester H. Smith (1929-1964), and Floyd E. Thomas (1929-55) the faculty of the newly-created College of Law attained the needed numbers and stability which previously had been lacking. Much of the time before 1929 a substantial part of the teaching load had been carried by prominent members of the bar, who served at intervals as part-time lecturers. These included C. F. Cable, Frank E. Curley, Elwood B. Frawley, Gerald Jones, William F. Kain, William R. Lovell, Kirke T. Moore, Samuel L. Pattee, and A. I. Winsett. The College of Law is indebted to these members of the profession who gave their time and effort to further its program in the formative years. And this early tradition has been continued to a lesser degree, so that many other practitioners have served through the years to maintain this link between law students and the practicing bar.

Until 1929 the law program had no building of its own. At first its classes, faculty, and library were accommodated from time to time by agriculture, the University library, Old Main, and Herring Hall — wherever about the campus the space could be spared. In later years Dean Fegtly could recall with amusement the chilly winter mornings in Herring Hall when the students crowded to the sunny side, and a part of the teacher's duty was to stoke the stove. But during the summer of 1929 the former University library building was remodeled and equipped as a law building at a cost of some \$46,000 and was occupied by the College of Law on October 28, 1929. Except for the addition of a stack-room wing in 1948 the building served well without major change for thirty years.

With rare exceptions the Law College had exclusive use of its new building. One of these exceptions occurred in 1934, when a class in German was assigned to it. Thereupon the law students complained to the registrar that there "emanated from the enclosure allotted to the German class an insidious and disagreeable vocal effluvium of harsh and guttural sounds and noises." Apparently this had the desired effect, for there is no evidence that the intrusion was repeated. Another kind of exception occurred during World War II, when law enrollment was depleted and the College was proud to welcome classes from the Naval Training Center, then located on the campus.

The next goal was accreditation by the American Bar Association and the Association of American Law Schools. The prelaw requirement for admission to the College of Law had been increased from one year to two in 1928, and the only standard of the associations still unfulfilled was a library collection of 7,500 volumes. With funds remaining from a legislative appropriation to equip the remodeled building and to enlarge the library, and by some judicious shopping for good used law books, the library standard was met and exceeded in the fall of 1929. As a result, the annual meeting of the American Bar Association in 1930 saw the college placed on the list of approved schools, retroactive to September 1, 1929.

The same year an application for membership was presented to the Association of American Law Schools. During the required two-year waiting period the Association's library standard was raised to 10,000 volumes, but this requirement was also met, and in 1932 the College was admitted to membership.

Now as a separate college with all accreditation available in the law school field, an adequate law building, an excellent faculty of suitable size, and a stable student body, legal education at The University of Arizona may be said to have come of age. Since the close of World War I, enrollment had been keeping pace with the growth of the state. It seemed to be stimulated rather than deterred by the depression of the 30's. A silver anniversary alumni directory listed 331 living graduates, two-thirds of them in Arizona and the remainder in 29 other states, Mexico, Venezuela, and the Philippines.

On June 30, 1938, after 22 years as administrator of the department, school, and college, Dean Fegtly was elected Dean Emeritus. Thereafter he served as a part-time professor of law, engaged in teaching and writing, until his death on August 11, 1947. The college which he guided from small beginnings to national recognition is his enduring monument; but the warm affection of his former students is a memorial more to his liking, which will endure as long as they live.

Professor McCormick succeeded to the deanship. "The plan of this college," he declared in his first annual report, "has been one of continuing the policies long since established and maintained by Dean Emeritus Fegtly." But the heart of those policies had been progress, so that change and development was inevitable.

Arizona was growing, and the close relation between the college and the profession, which had pretty much "grewed" like Topsy, now required more careful attention. A program to assist law graduates in making suitable connections was, therefore, undertaken; the policy of presenting lawyers and judges as lecturers before the law students was inaugurated; the first of the annual Law Alumni Homecoming

Luncheons was held in 1938; and personal contacts between the law faculty and the bar of Arizona were encouraged and expanded. In these and other ways the good professional relations of the college were put on a more permanent footing.

During the first half of the 1940's the college experienced for the second time the impact of world war. Enrollment fell off some 70 percent. Great numbers of students and more than 30 percent of the alumni entered military service. Professor Thomas, a Lieutenant Colonel (later Colonel) in the Officers' Reserve Corps, was granted a military leave which was to last for five and one-half years. There being a war-time shortage of science teachers, Professor William S. Barnes, who in 1937 had become the first alumnus to join the law faculty, devoted at first a part, and during 1945-46 all of his time to the Department of Physics.

Contrary to the policy of some law schools, this college decided against any relaxation of graduation requirements during the emergency. Instead, a summer session was organized, so that students could expedite their law studies. A course in military law, covering the practice and procedure of military courts, was taught by Major Delmar S. Wood, lawyer-member of the Department of Military Science and Tactics. A military service record, listing alumni and students in service, with their rank and addresses, was published at intervals and distributed to all alumni and to students in the armed forces.

At the end of the war faculty and students erected a plaque in memory of students and alumni who had given their lives in the conflict. The names it bears are those of B. B. Baker, Thomas Charles Hawke, William Pearson Leisenring, John Henry Milne, Jr., Paul Sheldon Moore, Samuel Smith Revis, and Arthur Layton Turner.

Normal peace-time enrollments were now augmented by large numbers of returning veterans. The law building was soon taxed to the limit. In 1948, 113 students were meeting in a classroom designed for 42. To ride out this temporary flood of students without expanding facilities, which were basically adequate for the time, three full semesters were offered each year and enrollment was limited to legal residents of Arizona for the five years beginning in 1946. Even so, the faculty was burdened with heavy teaching loads, which it assumed loyally and in good spirit. Additional members of the full-time faculty during this period were Lester W. Feezer (1938-39; 1941-52), Bryant Smith (1938-40), Claude H. Brown (1941-46, and since 1947), Calvin Webster (1945-47), Francis J. Owens (1945-1961), and Charles H. Woods (1946-53).

On July 1, 1947, Dean J. Byron McCormick was appointed President of the University, and the writer succeeded him as dean. The emphasis during Dean McCormick's tenure had been upon quality.

"A large law school enrollment," he wrote in 1940, "should not be encouraged." An admission requirement of at least a C average (then substantially above the University requirement for graduation) was adopted in 1939; early in 1947 the prelaw requirement was raised to three years, one year more than the minimum then required by the accrediting associations; the size of the library collection was doubled, and the level of instruction and student accomplishment were raised. In brief, the college which had been established on a sound foundation under Dean Fegtly, was refined and polished under the administration of Dean McCormick.

After ably piloting the University through four years of difficult postwar adjustment, President McCormick chose to resign that office and accept an appointment as professor of law; but the general administration soon began to make increasing demands upon his talents and experience, and since 1957 the greater part of his time has necessarily been devoted to his work as Adviser to the Board of Regents.

In line with its primary purpose of educating Arizona students for the bar, the academic standards of the college have been further but gradually increased in recent years. Since 1951 the curriculum has, in effect, been enlarged by offering annually the considerable number of elective courses theretofore offered in alternate years only. Several important subjects, especially in the fields of tax law and estate planning, have been added. Standards for admission, for continuance in college, and for graduation have been raised, in line with the trend in approved law schools, and in keeping with the general tightening of educational standards in Arizona and throughout the country.

Rapid changes and development in legal concepts, as in other fields since the close of World War I, gave rise to an increasing demand for postadmission education of the bar. This movement was brought into focus in 1948 by the creation of the Committee on Continuing Legal Education of the American Law Institute, collaborating with the American Bar Association. The College of Law entered this field in 1953, and since then numerous courses and institutes for practitioners have been conducted throughout the state. In 1962 the College and the State Bar of Arizona combined their separate postadmission programs into the "Arizona Law Institute," whose offerings during the first three years have registered an attendance in excess of 2000.

A perennial problem in American legal education is that of bridging the gap between law school and practice, between theory and its application. A step toward its solution was taken in 1956 when a summer clerkship program for law students was started in cooperation with the Junior Bar Conference of Arizona. Before this, student law clerkships were practically unknown in Arizona. But with the enthusiastic cooperation of the bar, scores of our students have since

served as summer clerks with Arizona law offices. In this manner the advantages of the apprentice system and the law school system of legal education have to some extent been combined.

In 1959, after several years of planning, the first issue of the *Arizona Law Review* was published. It is edited by a student board, under the general supervision of faculty advisers, and is designed to encourage student research and writing, to give expression to the legal scholarship of the faculty and the bar, and to serve the profession and the public by the timely discussion of legal problems, with emphasis on those of Arizona and the West. Its reception has been encouraging and its brief history has been one of steady progress. Circulation has climbed to 1000, and the demand for certain articles has already exhausted the reserve supply of the early issues.

The college now has 1400 graduates. The distribution of the first 25 years still prevails, with about two-thirds in Arizona and the rest scattered throughout three-fourths of the other states and several foreign countries. As a group, they have had outstanding success in the bar examinations of Arizona and other jurisdictions, and many have distinguished themselves on the bench, at the bar, and in government and business.

The college has continued to be fortunate in its faculty. It has included John L. Mechem (1951-52), Walter S. Peake (1953-54), Norman S. Hull (1954-57), and Ralph W. Aigler (1955-64). Besides those previously mentioned, its present members, with their years of appointment, are Major General (Retired) Thomas H. Green, 1953, John J. Irwin, Jr., 1955, Thomas L. Hall, 1957, James J. Lenoir, 1957, Ray Jay Davis, 1958-61 and since 1964, Jack J. Rappeport, 1959, Charles Marshall Smith, 1960, Willard N. Van Slyck, Jr., 1961, Thomas J. Tormey, 1961, Wallace J. Baker, Jr., 1962, G. Kenneth Reiblich, 1963, Robert Emmet Clark, 1964, and Paul C. Matthews, 1965.

No story of the College of Law would be complete without some account of its students. By and large, they have been young men and women of mature outlook and exceptional promise, who have deserved and enjoyed a great degree of autonomy, and have made significant contributions to the law program. The law student body was formally organized during the year 1924-25, and existed under several designations until 1942 when it adopted its present name, The Student Bar Association of The University of Arizona College of Law. In 1949 it became one of 45 charter members of the American Law Student Association, founded by the American Bar Association and now including substantially all of the approved law schools in the United States. All students in the College of Law are automatically members of the Student Bar Association, which is modeled after the organized bar.

It provides liaison between students and faculty, administers the Honor System and the Fegtly Moot Court competition, and performs many other services for the college.

The Honor System was instituted at the request of the students, most of them veterans, soon after the close of World War I. Although the exact date of its adoption is not a matter of record, it appears to have been in operation by 1922. All student work and examinations have since been conducted under the Honor System, which is designed to inculcate respect for the ethical standards of the profession and an understanding of the sanctions by which they are enforced.

The Fegtly Moot Court competition was organized by the student body in 1939, and named in honor of Dean Fegtly who had retired from the deanship the previous year. Open in the first instance to all members of the first-year class, it is an elimination contest in appellate briefing and argument extending throughout the three years of the law course. Since 1951 it has been integrated with the regional and national contests of the National Inter-Law School Moot Court competition. And in that year Charles E. Ares and the late Henry A. Kiker, Jr., then on the third-year class, brought to The University of Arizona its first national championship by winning the national competition in a field of 58 law schools.

The Knox Chapter of Phi Alpha Delta law fraternity was installed in 1923. It was an outgrowth of the Davis Law Club organized in 1921 and so named in honor of Professor Robert M. Davis. The Pattee Inn of Phi Delta Phi law fraternity, named for the late Judge Samuel L. Pattee of Tucson, was chartered in 1929. It started as the Kings Bench Law Club which was organized in 1922 to stimulate student interest in forensic argument. Interestingly, the constitution of the Kings Bench Law Club had provided that its members should never seek membership in any national law fraternity. But in 1926 it was reorganized as Phi Theta Delta, with the express purpose of petitioning Phi Delta Phi. A chapter of Kappa Beta Pi legal sorority was organized at the College of Law in 1947. Over the years each of these societies has sponsored numerous activities of benefit to the college and to its members.

By 1951 college enrollment had dropped to a normal level after the postwar influx. But due to the rapid growth of Arizona's population, a stable enrollment was not to be expected. The annual report of the college for 1955-56 pointed out that both enrollment and population had increased some 160 percent in 30 years, and said: "The capacity of the present College of Law Building was taxed to its literal limit in the postwar peak of 1948. It is less than adequate now, and with the rapid growth of Arizona, a repetition of 1948 conditions is not far away." This rather obvious prophecy was justified by sub-

sequent events, and by 1957 that over-crowding had, in fact, been duplicated and exceeded.

This time, however, it was not a temporary storm to be weathered, but a permanent and growing problem which called for long-term planning. The possibility of enlarging the existing building, which had served the College since 1926, was studied and reluctantly abandoned as uneconomic. Instead, this attractive old building entered upon a new career as an adjunct to the College of Liberal Arts, successor to the College of Letters, Arts and Sciences in which the Department of Law had originated.

On January 4, 1961, the College of Law moved into a new building, the first to have been originally designed and constructed for its use. It was built and equipped at a cost of \$870,000, and was planned to meet the needs of the College for five years. Five years later, as this is being written, the enrollment and the law library have expanded to the capacity of this building, and a new stage of over-crowding and physical expansion lies ahead.

In this respect the history of the College of Law has been the history of Arizona and of its University. Fifty years ago The University of Arizona had an enrollment of 460. Since then both the University and its law program have multiplied fifty times, and the enrollment of the College of Law now is what the enrollment of the University was then. Older alumni, like the writer, may find it hard to realize that the College is no longer a small law school, but is in the upper third of approved American law schools in this respect.

If quality could be measured statistically, however, I am sure that these first fifty years would show no such sensational changes. For it has been the good luck of The University of Arizona College of Law that the quality of its faculty and the morale of its students have generally been of the first order since its beginnings. The true measure of the quality of any school is to be found in the record of its alumni. And the alumni of the College of Law have made an impact on Arizona, and beyond its borders, far out of proportion to their numbers. True, this standard of measuring academic quality implies a strong emphasis on the teaching function. And that emphasis has been characteristic of this College in the past.

Now there is some feeling that, while excellence in teaching must be maintained, and strengthened, an increased attention to research is about due. The founding of the Law Review was a step in that direction, and the present program to materially expand the law library collection is another.

But whether this or something else will be next, continuous innovation in the future, as in the past, is certain. For if the first fifty years have a lesson for us, it is that in the life of any vital institution, the only permissible constant is change.