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School of Law Annual Report 1957-1958

School of Law Dean

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The Report of the College of Law
July 1, 1957 - June 30, 1958
Robert Emmet Clark

1. SIGNIFICANT ACHIEVEMENTS DURING
THE ACADEMIC YEAR 1957-58

For the year 1957-58 the figures on first-semester enrollment are as follows: There were 49 students in the first-year class, 4 of whom were returning part-time students without sufficient credits to advance with their class. This compares with 47 first-year students in the fall of 1956-57, one of whom was a returning part-time student. Of the 45 beginning students in 1957-58, 32, or 71%, had baccalaureate degrees at the time of their admission. Attrition rates remain substantially the same. There were 9 graduates in 1958. We now have 175 graduates, 1950-58 inclusive. (As this report is being prepared, word has been received that all 8 of the June 1958 graduates who applied to take the New Mexico bar examination passed the August 1958 examination. 69% of the applicants from all other law schools passed the same examination. The ninth graduate in the June class did not apply to take the examination. He finished first in his class and has received a graduate fellowship at New York University.) The demand for our graduates continues to be greater than the supply.

An article in the American Bar Association Journal of March, 1958 entitled, "Legal Education: Practice Court at a Small Law School," is about ^{the} University of New Mexico. It contains a summary of the statistics this College has compiled on the success of our graduates in taking and passing the bar examination of New Mexico. The article also includes a statistical summary of the placement and other activities of the classes 1950 through 1957. This information is contained in Appendix I to this report.

During 1957-58 student co-operation in the legal education process continued. The students again administered the orientation program for beginning students. The custom of bi-weekly luncheons with practicing lawyers and others as speakers was continued. The program of special lectures was also continued. Some of these lectures dealt with the legal profession and ethics and others dealt with the day-to-day problems of lawyers before courts and administrative agencies.

During 1957-58 the Dean formalized the Instruction in The Legal Profession and Ethics by meeting with the first-year class once a week for one hour throughout the year. This course is now required and appears on the student's record, but no formal credit is given. The course in Practical Problems was also formalized and is a required course. As in the past, work in the Legal Aid Society of Albuquerque is required of all third-year students.

The College Moot Court team won the regional competition against Arizona, Colorado, and Utah. The New Mexico team, composed of two men

and one woman, all second-year students, went to the semi-finals in New York City. University of New Mexico was defeated by University of Michigan, which in turn went on to the finals before being defeated. Generous support for the expenses of this trip was received from the Bar and individual sources. One member of the team won a silver cup during the regional competition for the best individual oral argument. It is particularly gratifying to note that although the legal point argued was a difficult constitutional law question, none of these students had at that time taken the course in Constitutional Law because the course is offered the second semester. This showing by the College after only four years in this national competition in the region is heartening. Arizona, Colorado, and Utah, older and more established schools, have been in this competition for many years.

During the spring semester the students organized and conducted, in co-operation with the State Bar of New Mexico, an institute on personal injury litigation. The State Bar contributed financial support to the institute. Several important aspects of personal injury litigation were discussed by prominent New Mexico and out-of-state lawyers in the field. The institute was climaxed by an address by Associate Justice Hugo L. Black of the Supreme Court of the United States. Mr. Justice Black, it will be recalled, dedicated the law building in 1952. The subject of the banquet address was, "Trial by Jury." A very large audience crowded the Alvarado dining room. The Student Bar Association persuaded Justice Black to make this appearance. They

were helped in their financial arrangements to bring him to Albuquerque by President Popejoy's office.

The Law Day banquet was the occasion for the presentation of gifts by the Law Alumni Association to retiring Dean Gausewitz and Mrs. Gausewitz. Dean Gausewitz, because of illness, could not attend the Law Day banquet.

One of the most successful Simms lectures was delivered under the auspices of the College on March 24, 1958. Dr. Robert M. Hutchins, President of The Fund for the Republic, spoke on "The New Society" to a large audience. Comments on his address were most gratifying.

As indicated in the Dean's report of 1957, the College had objected on principle to a special appropriation for the law library. However, as the earlier report stated, the Legislature in 1957 passed a line item appropriating \$10,000 for the College of Law annually during the 1957-59 biennium. This sum has enabled the College to continue to improve its library. However, a national survey, "The Law Schools of the United States, A Statistical and Analytical Report on 136 Completed Questionnaires and on Inspections of 160 Law Schools, prepared by Lowell S. Nicholson for the Survey of the Legal Profession (The Lord Baltimore Press, Inc., Baltimore, Maryland (1958)," indicates that we are somewhat below the national average in law library holdings in several fields. We are slightly above the national average in other fields. We are continuing to acquire legal materials as the funds permit.

On February 26, 1958 Dean Gausewitz requested that he be retired.

The Regents subsequently approved his request. Following this development the faculty spent considerable time suggesting names to the Administration of suitable candidates for the position of Dean of the College. After several weeks and numerous consultations with the Administration, two candidates were brought out by the Administration for interview. The faculty was much impressed with both candidates. However, both candidates withdrew their names from consideration. Both candidates stated to the faculty that they were very favorably impressed with the University, the College, the law library and the educational aims of the faculty. Both stated that the disquieting feature they observed was the law faculty (not the proposed law Dean's) salary schedule. The faculty continues to hope that a first-rate scholar and teacher can be found who will accept the deanship of the College. The faculty continues to scrutinize biographical and achievement records of promising young men who may be interested in taking this job. The faculty hopes to submit names of candidates to the Administration for consideration by the President or Vice President, or both, and for personal interview, if possible, at the Chicago meeting of the Association of American Law Schools in December. The faculty hopes that from this list the names of two or three persons can be selected who may be persuaded to come out to New Mexico for interview at the Administration's convenience.

2. SIGNIFICANT PLANS AND RECOMMENDATIONS
FOR THE NEAR FUTURE

The requirement of a baccalaureate degree for admission in 1960 was reported in the 1957 report.

The question of publication of a law journal or legal periodical has been discussed ever since the establishment of the law school in 1947. The question has again been re-examined. The faculty has again expressed its willingness to carry on the extra editorial and writing work incidental to such a publication. Financial support for such a publication has never been assured.

With the help of the Director of Counseling and Testing and the Director of Admissions, procedures have been set up for pre-registration testing of law students. If these testing methods can be successfully employed, the casualty rate among entering law students may be reduced. Under the present admission policies of taking any student of good character with satisfactory academic credits, i.e., "C" work or better, we are unable to predict even gross failures. If testing methods prove satisfactory, we may wish to make such tests a prerequisite to registration.

The curriculum and teaching methods are continually under study. Little hope is held out for a stabilized curriculum in the near future. Nor is a rigid curriculum desirable.

It is the belief of the undersigned and the faculty that significant work can be done during the coming year through ad hoc committees making special studies of specific problems. With these

thoughts in mind, the following committees, some of which are already in existence and some of which are new, have been or will be appointed for the year 1958-59.

A. Curriculum, teaching load, and scheduling committee.

This committee will be concerned with ways to reduce course offerings, if desired, to reduce teaching load, and other related matters. Three members of the faculty serve on this committee. This committee is in existence.

B. Research projects committee. This is a new committee which will inquire into the availability of money from the state or from other sources for individual and group research by members of the faculty. In many states the law school is a research center, particularly for proposed legislation. In New Mexico the Legislative Council does a large part of this work, but is unable to do all of it. It is hoped that the faculty committee can act as a liaison between the Legislative Council and various legislative committees engaged in research. Three members of the faculty will serve on this committee.

C. Publication and research assistance committee. This new committee will again review the question of a law school publication. It will also inquire into the desirability of obtaining additional funds for faculty research assistance from the second- or third-year law students. This committee will inquire into the possibility of having students in the law school designated for this type of work as are graduate assistants in other departments of the University. Further, this committee will consider the

desirability of seeking funds for appointment of a full-time research assistant who would be a graduate of this College or some other law school who would not have faculty status. Three members of the faculty will serve on this committee.

D. New projects committee. This is also a new committee. This committee would be a kind of extension of the Dean's office, organized to make inquiries into (a) the availability of outstanding scholars in the field of law and jurisprudence as visiting lecturers at the College; (b) preparing a prospectus for a unique summer seminar built around the idea of teaching comparative or international law and jurisprudence during the summer under a grant from some foundation or with appropriate support from elsewhere. The faculty does not approve duplication of summer school effort in other states. However, at the present time the faculty considers that a law student during his three years of technical study does not acquire adequate understanding of legal philosophy, legal systems, and the social and individual values which the law is designed to protect and develop. It is believed that the University of New Mexico could develop such a seminar to which students in the whole region would be attracted.

(c) The Committee will examine the availability of foreign exchange instructorships in various fields of law with the purpose in mind of bringing to New Mexico distinguished legal scholars who would be in residence a semester or a year. On this committee there would be three members of the faculty and the Dean.

E. Library committee. The law school has always had a library committee. One of the important functions of this committee in the future will be to decide on the allocation of funds to develop certain parts of our library, e.g., special collections in natural resources law, public law, etc. Three members of the faculty, including the law librarian, will serve on this committee.

F. Scholarship committee. Such a committee presently exists. Its functions have been to administer funds for scholarship purposes. In the future this committee should look into the question of tuition scholarships for law students who have proved their merit. Three members of the faculty are included in this committee.

G. Faculty salary committee. This will be a committee of the whole faculty of the law school. The necessity for such a committee needs no explanation. The discussions with the Administration in the past and the reluctance of two very well qualified men to accept appointment as Dean of this College emphasize the problems this committee will examine. The committee will gather and furnish data to the Administration. The condition of law school salaries at this College and elsewhere will be studied. This committee will provide assistance to the Acting Dean and the Administration in preparing the proposed budget for the 1959-61 biennium. This committee's functions will be doubly important during the year 1958-59 because (1) the Dean's chair will be occupied on an interim basis by a member of the faculty and (2) the selection of a Dean may turn on the findings of this committee.

3. APPOINTMENTS TO STAFF

Mr. Paul A. Phillips, B.A., Princeton University, LL.B. Columbia University, formerly professor of law at the University of Nebraska and currently engaged in practice in Albuquerque, was employed temporarily on February 21, 1958 to teach the course in Probate Practice during the spring illness of Mr. Poldervaart.

The following is added parenthetically: Mr. R. Dale Swihart, A.B., DePauw University, J.D., Indiana University, currently research assistant at Indiana University, has been appointed Assistant Professor as of September 1, 1958. Mr. Thomas C. Chapin, Ph.B., Yale University, LL.B., University of Colorado, LL.M., Columbia University, candidate for J.S.D., University of Chicago, has been appointed Associate Professor, temporary basis, as of September 1, 1958. Robert Emmet Clark was named Acting Dean effective July 1, 1958 with the understanding that the formal announcement of the appointment would be made at the August meeting of the Board of Regents. These appointments, while not technically within the report year, are noted for the purpose of providing continuity with the material which follows below.

4. Separations from staff.

Assistant Professor Magnus E. Robinson, B.S., University of Nebraska, LL.B., University of Kansas City School of Law, Certified Public Accountant, candidate for the J.S.D. degree at New York University,

resigned from the faculty on June 30, 1958. Dean Gausewitz's notes contain the following statement on this resignation:

"The College of Law suffered a great loss in the resignation of Professor Magnus E. Robinson. While Mr. Robinson said that his decision to resign was not occasioned by factors here and that he was happy here, I cannot help but feel that he might have remained with us had we been able better to recognize his abilities and values to us."

The writer of this report adds the following:

Mr. Robinson had a desirable combination of qualities and interests that is often hard to find in young law teachers: an acute and inquiring mind of almost mathematical precision together with a strong, restless and persistent interest in human values and philosophical questions. Mr. Robinson was thirty years of age when he resigned. He had spent two summers between teaching years attending New York University, where he took advanced work in legal education, jurisprudence, comparative law, and other courses which would prepare him for a solid future as a law teacher. Mr. Robinson left the clear impression with me that he saw very little future for his abilities recognized in terms of salary increments, teaching load, and faculty status at this law school. He left without bitterness but with a feeling that his abilities would be recognized elsewhere.

Dean Gausewitz submitted his request for retirement as of June 30, 1958. This decision came as a surprise to the law faculty and particularly to the writer of this report. It was believed that the Dean would remain in office another year. However, his decision was not questioned and the faculty understood his reasons. Dean Gausewitz

established a tradition of idealism, inquiry, and experiment which has made this law school what it is. During the early days of the law school the faculty could only hope for the status the law school has actually achieved in academic circles. Full credit for this accomplishment goes to Dean Gausewitz. This fact was recognized by the Albuquerque Bar Association which at its quarterly meeting in June, 1958 passed a resolution commending the Dean and establishing a scholarship in his honor. A copy of the resolution was handed to the Dean at the Senior Breakfast on June 10, 1958. With his usual humility, the Dean accepted the statements of his accomplishment as symbols of the co-operative effort of students, faculty, and Administration of the University. The second semester of the next academic year will find Dean Gausewitz occupying the chair of Distinguished Professor at the University of Arkansas law school. The Dean declined other offers to teach during the first semester. The faculty hopes that the Dean will continue his legal research and writing and will lend his wisdom and tact to faculty judgments which may be offered in the future. The Dean is the first member of the law faculty to be placed in emeritus status.

A bronze profile bas relief of Dean Gausewitz commemorating his tenure as first Dean of the College was commissioned by the Student Bar Association and paid for by them. This fine plaque was done by the sculptor John Tatschl of the Fine Arts College and is now permanently affixed to the wall in the main hallway of the law building. The cast used to make the bronze plaque was covered with a metallic finish, mounted and presented to Dean Gausewitz for his home.

5. PUBLICATIONS(a) Books and Monographs

POLDERVAART, ARIE. New Mexico Justice of the Peace Manual. Denver, W. H. Courtwright Publishing Co., 1958. 250p.

WEIHOFEN, HENRY. The Urge to Punish. (English edition) London: Victor Gollancz Limited. 1954. 213 p.

(b) Articles

CLARK, ROBERT EMMET. "New Mexico Water Law and Policy," before Second Annual Water Resources Conference, New Mexico A&M College, November 2, 1957. Published in Proceedings of Conference.

CLARK, ROBERT EMMET. "Legal Education: Practice Court at a Small Law School," American Bar Association Journal, Vol. 44 (March, 1958) 225-228.

POLDERVAART, ARIE. "Statute Law in the Field of Legal Research," 50 Law Library Journal 504-528.

POLDERVAART, ARIE. "Book Selection for the Law Library on a Limited Budget," 50 Law Library Journal 529-541.

VERNON, DAVID H. "The Uniform Statute of Limitations on Foreign Claims Act: A Discussion of Section 2," Saint Louis University Law Journal, IV (Fall 1957) 442-463.

WEIHOFEN, HENRY. "Remarks of Professor Weihofen," Journal of the Bar Association of the District of Columbia, XXV (February 1958), 77-91.

(c) Reviews

VERNON, DAVID H. Review of Glanville Williams, "The Sanctity of Life and the Criminal Law," Vanderbilt Law Review XI No. 111 (June 1958) 962-966.

WEIHOFEN, HENRY. Review of Arthur Koestler, "Reflections on Hanging," and Glanville Williams, "The Sanctity of Life," Saturday Review (July 20, 1957) 32-33.

6. COMPLETED RESEARCH PROJECTS

ROBINSON, MAGNUS E.

Served as compiler of New Mexico lien law provisions for the Committee on Liens and Collection Procedures of the Section of Taxation of the American Bar Association to be used in connection with a comprehensive study of federal lien laws undertaken with a view to recommending legislative changes in the area of priorities, filing procedures, exemptions and procedures for enforcement and removal of the lien.

VERNON, DAVID H.

Article: "Some Constitutional Questions in the Conflict of Laws and Statutes of Limitations."
(To appear in the Journal of Public Law, VII No. 1)

7. OUTSIDE-SPONSORED RESEARCH

ROBINSON, MAGNUS E.

Conducted a study for the Commission for the Promotion of Uniformity of Legislation for New Mexico on the Uniform Securities Act and the New Mexico blue sky law.

SEED, VERLE R.

Continuance of work on Title II, "Mineral Development of Federal Public Domain and Acquired and Reserved Lands" and Title XII "Mineral Laws of States and Local Governing Bodies" for encyclopedic treatment of American Mining Law sponsored by Rocky Mountain Mineral Law Foundation and to be published by Matthew Bender & Co. early in 1959.

VERNON, DAVID H.

Comparison of New Mexico Corporation Laws and the Model Corporation Code (Report for Commissioners on Uniform State Laws).

Preparation of Title XIV on the American Law of Mining to be published by Matthew Bender in the Fall of 1958.

7. Outside-Sponsored Research - Continued

WEIHOFEN, HENRY.

Writing of several chapters for a book on "The Law of Criminal Correction," to be published by the National Probation and Parole Association.

8. PROFESSIONAL ACTIVITIES

CLARK, ROBERT EMMET

Member, Statewide advisory committee on Annual Water Resources Conference, New Mexico A&M College.

New Mexico representative, Water Resources Conference, Lake Arrowhead, California, August 15, 1957 (University of California, sponsor).

Paper, "Guardianship of Children" before Ross Conference, Tulane Medical School, New Orleans February 5, 1958 (to be published with proceedings).

Paper, "Water Law Institutions and the Community" before Area Development Seminar, Albuquerque, April 18, 1958. (To be published in New Mexico Quarterly.)

Paper, "Community Property and Married Women" before Las Cruces Chapter AAUM, January 25, 1958.

Of Counsel In Re McCoy to Legal Aid Society of Albuquerque (Social Security Administration Hearings).

GAUSEWITZ, A. L.

Member of the New Mexico Commission for the Promotion of Uniformity of Legislation. Attended National Conference of Uniform Legislation Commissioners in New York City summer of 1957.

Board of Directors, Legal Aid Society of Albuquerque.

Member, Advisory Committee, New Mexico Probation, Parole and Correction Association. Chairman, Resolutions Committee, Annual Conference of New Mexico Probation, Parole and Correction Association, October, 1957.

8. PROFESSIONAL ACTIVITIES - Continued

POLDERVAART, ARIE

Vice-chairman, New Mexico State Library Commission.

Member, National Conference of Commissioners on Uniform State Laws.

Director, National Law Librarians' Institute, University of Colorado, June, 1957.

SEED, VERLE R.

Trustee, Rocky Mountain Mineral Law Foundation; member, Scholarship Award Committee and Essay Contest Committee.

Member, Legal Committee, Interstate Oil Compact Commission.

WEIHOFEN, HENRY

Lectures and speeches given before the University of Utah; District of Columbia Bar Association; New Mexico Western College; NAACP, etc.

Member, Boston University Medical-Legal Institute.

Member, Advisory Committee on Mental Health, State Department of Health.

Advisory Committee, University of Chicago Jury Project.

9. ACTIVITIES IN LEARNED AND PROFESSIONAL SOCIETIES**CLARK, ROBERT ENNET**

Member, Committee on Advancement of Law School, State Bar of New Mexico

Member, Committee on Continuing Legal Education, Albuquerque Bar Association

9. ACTIVITIES IN LEARNED AND
PROFESSIONAL SOCIETIES - Continued

POLDERVAART, ARIE

Member, Board of Directors, Albuquerque Bar Association

Member, A.L.L.A. committee on new law subject headings

ROBINSON, MAGNUS E.

Member, American Bar Association, Section of Taxation, Committee for Co-operation with State and Local Groups, Section Corporation and Banking Law.

Paper, Beta Alpha accounting fraternity and alumnae on the topic of "Accounting Records for Tax Purposes."

WEIHOFEN, HENRY

Member, Board of Isaac Ray Award of the American Psychiatric Association.

10. IMPORTANT STUDY AND TRAVEL

POLDERVAART, ARIE

Professor Poldervaart and his family traveled to Europe in the summer of 1957 by way of Canada. Libraries, government buildings and museums were visited in Canada, England and The Netherlands. Belgium, Western Germany, Austria, Italy, Monaco and France were also toured.

ROBINSON, MAGNUS E.

Studied during the summer at New York University for LL.M. and J.S.D. degrees.

WALDEN, JERROLD

Completed doctoral thesis, "Banking Concentrations in the United States." Awarded degree of J.S.D. Yale University, June, 1958.

11. GIFTS

A. The College of Law received \$25.00 from a donor who desires anonymity , for the purpose of awarding a prize for the best oral argument in the appellate part of the course in Legal Research. We have been assured that this will be an annual award.

B. The Albuquerque Bar Association, as reported above, established a Dean Alfred L. Gausewitz Scholarship Fund. The initial amount to be awarded is \$60.00. There is good reason to believe that this scholarship will be increased substantially in the future.

C. An Albuquerque lawyer and his wife have deposited \$5,000 with the Business Office of the University and have arranged for future deposits up to \$15,000, the income from which is to be used annually to further the education of law students at the University of New Mexico. This scholarship fund is named for the donors, Sam and Frances Joy Dazzo.

D. It has been reported above that the College Moot Court team was given cash gifts amounting to \$924.50 to pay expenses to the national competition in New York City. Of this amount, \$200 was received from the Chaves County Bar Association of Roswell and \$25 was received from the District Court of Bernalillo County. Other gifts from individual lawyers, too numerous to cite, ranged from \$50.00 to \$5.00 each.


Robert Emmet Clark

Seen by

A. L. Gausewitz, Dean Emeritus

APPENDIX I

The average total (all three classes) college enrollment from 1949 through 1956 was as follows: Semester I, 85, Semester II, 72. The average first year attrition rate in first nine classes (1950-58) was 57 per cent.

The class of 1950 had twenty-seven graduates. On January 2, 1958, this class had eighteen members in private practice, sixteen of them in New Mexico. Eight of the sixteen were practicing in cities under 20,000 and eight were practicing in Albuquerque. One member of the class was doing legal work of a public nature, viz., legal adviser to the State Land Commissioner. One member of the class was a legal officer in the Armed Forces (J.A.G.) Seven members of the class are in private business or employment. Of this latter group, three did not pass a bar examination. On the same date, January 2, 1958, out of a total of 166 graduates from 1950 through 1957, 113 were in private practice; thirteen were doing legal work of a public nature involving court appearances, ten were doing legal work not involving trial work, e.g., law clerks to state and federal judges; two were doing legal work in the Armed Forces; one other graduate was in the Armed Forces; one was in the diplomatic service; sixteen were in private business or employment; one is deceased; and nine graduates are unclassified, but it is believed that some of them are in private practice.

As of September 1, 1957, 146 New Mexico graduates, or 88 per cent of the 166 graduated had taken the New Mexico bar examination. This figure represents only 38 per cent of all those taking the examination in the period 1950-57. There were 234 graduates of other law schools who took the examination. This figure represents 62 per cent of all those taking the examination for the same period. Of this group 156 or 67 per cent passed the first time. Of the 146 New Mexico graduates who applied, 118 or 81 per cent passed the first time and 28 failed. Subsequently 18 of these passed the examination and were admitted. Thus a total of 136 or 93 per cent of the 146 applicants have been admitted in New Mexico.