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School of Law Annual Report 1951-1953

School of Law Dean

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BIENNIAL REPORT

For the period January 1, 1951 to January 1, 1953

THE COLLEGE OF LAW
A. L. Gausewitz
Dean

To the President of the University of New Mexico:

I have the honor to submit the following report on the College of Law for the biennium January 1, 1951 to January 1, 1953:

1. The most significant achievements during the period have been the completion of the building, its dedication on October 4, 1952, and the graduation of two classes. The law building stands as its own description, and you played so large a part in its creation and in the dedication ceremonies that no report to you is needed. This report, however, is intended also for others, both now and as an historical record. I therefore include the following brief description of the building from our College of Law bulletin and copy the following history of our school and dedication program from the printed program that was used at the dedication:

"The building is of modified Pueblo Indian design and is colorfully decorated and furnished throughout. From the main entrance, corridors extend to the north and to the east. The corridor to the north is lined with student lockers. Here are the classrooms and moot court room. At the end of the corridor is the student lounge, with adjoining pantry and patio. Administrative, faculty, Student Bar Association, and law review offices are located in the corridor extending to the east.

"The two-story library lies between the two corridors. Reading tables run along the north side of open stacks on each floor. Adjoining the main reading rooms are a commodious lobby with control desk, a typing room, a microfilm room, offices of the librarians, a receiving room, and a cataloging room on the first floor; a seminar room, two small research offices, a rare book room, a typing room, and a Memorial Room housing a special collection of literature of the law, equipped for browsing

lounging, on the second floor. There is storage space in the basement.

"Bulletin boards are ample and lighted, a telephone booth has been installed for the use of the students, the pantry is equipped with refrigerator and stove, and there is a mimeographing room. The building has an elevator to service the second floor of the library. The classrooms, library, and halls are soundproofed. The building was designed to accommodate comfortably 150 students. Built on the modular plan, it can be rearranged. It can also be expanded."

(From College of Law Bulletin, 1952-53)

"The COLLEGE OF LAW is the newest of the forty schools, colleges and departments of which the University is composed. The State Bar of New Mexico at its regular annual meeting in the fall of 1940 adopted a resolution favoring the establishment of a law school. Because of the war, no action was taken until the 1947 Legislature provided for funds. The Board of Regents, on the recommendation of the faculty and administration, took formal action on March 31, 1947. A dean was appointed July first. A faculty was appointed and the first class was admitted in September. Careful planning by the University officials, adequate provision of funds by the Legislature, and generous gifts of books by New Mexico lawyers so speeded development that the College was provisionally approved by the American Bar Association on February 24, 1948. The College was admitted to membership in the Association of American Law Schools (the only other accrediting agency) in December, 1948. It was given full and final approval by the American Bar Association on September 19, 1952, just in time for the dedication of the new Law Building in which classes first were held on the opening of school September 15, 1952. The University is especially grateful to those members

of the state and federal bench and bar who took a special interest in the school and by individual contributions of time and effort assisted its program of legal education.

PROGRAM

- 9:30 Registration of guests and coffee hour at the new Law Building
- 11:00 Dedication ceremonies
PAUL F. LARRAZOLO, President of the Regents of the University, presiding
- "Ye Watchers and Ye Holy Ones"..
Old German Melody
University Chorus, KURT FREDERICK, Director
- Introduction of Distinguished Guests
- Remarks by:
- TOM L. POPEJOY, President of the University
ALFRED LeROY GAUSEWITZ, Dean of the College
PAUL ROBINSON, President of the Law School Alumni Association
HON. DANIEL K. SADLER, Justice of the New Mexico Supreme Court
HON. SAM G. BRATTON, Judge of the United States Court of Appeals for the Tenth Circuit
- Dedicatory Address
- The Honorable Hugo L. Black, Associate Justice of the Supreme Court of the United States
- 1:15 Luncheon at Mesa Vista Dormitory for invited guests
- 12:30 to 6:00 Public Inspection of the new building

(From Program of the Ceremonies Dedicating The Law Building, October 4, 1952)

As to our graduates: Because we did not previously have and did not report the records of our students in the form in which we now have them, I include all classes in the current report. The statistics are as follows:

SUMMARY OF FIRST THREE GRADUATING CLASSES (1950, 1951, and 1952)

First-semester registrants (degree candidates)	173
Transferred in from other law schools	34
Students not candidates for the degree	3
Returned after period of suspension	7
Shifts from one graduating class to another	5
	<u>222</u>
 Suspensions	 56
Withdrew during semester or did not reregister the following semester, although eligible to do so	65
Shifts and change in status	9
Not candidates for the degree	3
LL.B.'s granted	<u>89</u>
	<u>222</u>

The published reports of the New Mexico bar examinations show that University of New Mexico graduates had greater success in passing this bar than did the graduates of other schools. Since the first bar examination taken by our graduates (August 1950):

TOTAL University of New Mexico graduates who took the bar for the first time	79
TOTAL University of New Mexico graduates who passed the bar examination	60 - or 76%
 TOTAL graduates of other schools who took the bar for the first time	 108
TOTAL graduates of other schools who passed the bar examination	74 - or 69%

Incidentally, since the first bar examination in August 1950, of the total number who took the bar examination,

42% were University of New Mexico graduates
58% were graduates of other law schools

The records of our graduates show that about half are engaged in private practice. The remainder are engaged, mainly, in legal and non-legal work in business and industry, and legal work in the federal government, state, and armed forces.

The beginning of this biennium found the law school with a registration of 104, the survivors of our peak registration of 134 in Semester I of that school year. Our enrollment in Semester I of 1951-52 was down to 80. Registration this fall was 69, of whom 5 were women.

Since Semester I, 1949-50, when we first had three classes enrolled in the school, the percentage of veterans in our student body has declined from 78% to 56%. Figures on the percentage of veterans in this year's registration in the College are not available, but we assume there will be a further decline.

One of our most important achievements during the biennium is the steady growth of our law library. The number of accessioned volumes increased from 24,372 to 30,135 during the biennial period. The biennium also saw virtual completion of our file of state reports prior to the Reporter system, addition of the latest statutes for all but a few states, and material strengthening of the law review collection by the completion of back files of many important legal periodicals.

I wish to include as a significant achievement the continued and improved operation of our Law Alumni Association and the University of New Mexico Student Bar Association, and the participation of our students in the American Law Students Association. The latter held its district meeting here in the spring of 1951. Our students have been represented at all district meetings, and this year one of our students was elected Treasurer of the National Association. The Student Bar published the first Newsletter last spring. It was well received by alumni and members of the bar throughout the state. They plan to improve and continue this Newsletter.

I must also mention that the Legal Aid Society of Albuquerque has become firmly established, and in the report of the Committee of the Albuquerque Lawyers Club on Liaison with the College of Law, made October 6, 1952, was approved and accepted as an important legal institution of this county.

2. Our plans for the next biennium include the possible establishment of a law review, the reestablishment of our Practice Court, and the institution of a seminar on civil liberties. All three of these activities involve our relations with the lawyers of the state, as does also our part in the Legal Aid Society of Albuquerque, which I have mentioned above.

I can report that the lawyers of the state have cooperated fully with our College. They have served as judges

in our moot court and in our Practice Court; the federal judges have held demonstrations of pretrial conferences at our school; lawyers have lectured to our classes in Office Practice; lawyers have appeared and given special lectures on special subjects; and, as appeared in the dedication ceremonies, they were instrumental in the founding of the school and by substantial gifts of books to make it possible for the school to become accredited in a remarkably short time.

We had a Practice Court and held it in the federal courtrooms by arrangement with the federal judges. We discontinued it, however, until we should have a new building. It has been reestablished in the curriculum for the second semester of this year and will be held in our moot court room. Professor Robert Emmet Clark will be in charge, and I am confident that the lawyers will assist us as they have in the past to bring to our Practice Court as much of an appearance of reality as is possible.

The report of the Albuquerque Lawyers Club Committee on Civil Liberties made October 6, 1952, recommended that law students be used to investigate complaints received by the Committee, and that a member of the faculty be appointed to the Committee or to work with it. In order to enable our College better to meet with this request if it should be made, and because of its own merit, we probably shall request approval of the University Committee on Curricula to institute a seminar on civil liberties. Probably the first problem for the seminar would be to draft a brief set of instructions for the police on the law of arrest and other laws for the protection of individual freedoms.

The establishment of a law review has been under consideration ever since the school was first established. As stated in our last biennial report, we went so far as to have the students organize and work as though they had a law review. A make-believe law review, however, is little better than none. A law review involves so much hard work on the part of both students and faculty that they cannot be expected to do the work as an exercise. It is expected that the state bar of New Mexico in its annual meeting to be held shortly after this is written will consider whether to raise dues sufficiently to insure that each member will receive the review as a subscriber. The College of Law can do the work and meet the expense of writing and editing the review. The expense of printing, binding, and mailing it, however, will have to be met by the subscribers. We could be sure of some subscribers beyond the lawyers of New Mexico. At least when the review is full-grown to a quarterly, our library can exchange it with other reviews for which we must now subscribe. Beyond this and subscriptions from libraries and schools which do not have law reviews, we probably could not count on a

substantial number of subscriptions other than those of the lawyers of New Mexico.

The state bar of New Mexico may be willing to increase their dues as indicated because a law review would have a substantial value for them. In the first place, it would provide them with an opportunity for an additional contribution to the school and to the state within their professional interests. In the second place, it should aid them to keep abreast of developments in the law in New Mexico and elsewhere on problems likely to arise in New Mexico; it could run a series of collations of New Mexico decisions and statutes with comments thereon on matters not currently before the courts but likely to arise and needing some reconsideration -- perhaps even a sort of piecemeal New Mexico encyclopedic digest; the review could operate as an unofficial judicial council continually to review the law of New Mexico and suggest improvements by way of a Department of Legislation or otherwise, complementing the work of the Legislative Research Service recently established in the State; the review could provide a forum for discussion by members of the Bar complementing the work of the committees on legislation of the State and local bar associations; it could run symposia on such things as the proposed Model Code of Evidence of the American Law Institute, etc.

On April 3, 1952 we obtained from Mr. Minnick, of our printing plant, an estimate of what it would cost to print and bind a law review. His estimate is that each issue of 800 copies containing 96 pages would cost about \$900.00, or about \$1.12 per copy, or \$9.25 per page. This includes \$5.00 for postage. On the basis of 650 members of the state bar, I compute that the dues should be raised \$3.00 the first year to cover a review of two issues only. This assumes that the bar will be willing, in effect, to provide the capital for launching a review and contemplates that once the review is under way the price to members of the bar would be reduced to the actual cost or perhaps even slightly less than actual cost in view of the fact that the bar would be providing a subscription list without any promotion cost.

The computation, which involves assumptions and is at best an estimate, is as follows:

Number of copies:		
Members of the bar	650	
Exchanges	250	
For future orders or back orders	<u>100</u>	1,000

Cost of printing, binding, and mailing	\$1,000.00
Two issues	2,000.00

or substantially \$3.00 per member.

It is contemplated that the first issue will contain the proceedings of the annual meeting of the bar. It now costs the bar about \$550 to print these proceedings. If this cost were deducted, an increase in bar dues of \$2.25 would be adequate. It is believed, however, that the review should be increased to three issues, and eventually to four issues, so that it would become a quarterly, as rapidly as possible. It is therefore believed that a reserve fund should be built up by the law review to cover this and other contingencies. If even this were not adequate, I believe that the deficit should be taken care of by the University, and I shall include in the College of Law budget request a sum for this eventuality.

I am told by the Dean of the Wyoming law school that nothing they have done has won the favor of the bar so much as the law review which they have recently instituted.

3. Edward G. Riggs II was appointed as Assistant Professor of Law to take the place of Professor Harvey S. Hoshour, who died October 9, 1951, the position having been filled in the meantime by the temporary appointment of Professor Edward J. Becker. Professor Riggs comes to us with a B. A. from Princeton University, an LL.B. from Yale University, and an LL.M. from Columbia University. In addition, he taught law at Wake Forest for three semesters and a ten-week summer session, when he was promoted to Associate Professor, after he had practiced for two and one-half years following four years in military service as a commissioned officer. He spent this last summer as research assistant to Professor Wechsler, of Columbia, who is the Reporter for the American Law Institute's Model Penal Code.

Margaret Keiper Dailey has replaced Sue Mitchell Murphy as Director of Legal Aid.

Ralph Carlisle Smith has continued to give a two-credit evening course in Patent Law the first semester, and the second semester of 1951-52 we had a second-semester course in the evening session, in Military Law, given by Lieutenant Colonel James H. Cowan, Staff Judge Advocate's Office at Sandia Base. Both Dr. Smith and Colonel Cowan are carried on our staff as Lecturers in Law. They and Mrs. Dailey are on a dollar-a-year basis.

4. There have been no resignations or retirements from the faculty.

5. The following books and monographs were published by faculty members during the past biennium:

CLARK, ROBERT EMMET, Children and the Courts in New Mexico. Albuquerque, New Mexico: Division of Government Research, University of New Mexico, Publication #33, December, 1952. 30-40 pages. :

POLDERVAART, ARIE. Probate Practice, Appellate Practice and Office Practice Manuals. Albuquerque, University of New Mexico, 1950-52.

WEIHOFEN, HENRY and GUTTMACHER, MANFRED S. Psychiatry and the Law. New York, N. Y.: W. W. Norton & Co., 1952. 476 p.

WEIHOFEN, HENRY. Report to the Committee for the Study and Recommendation of Reorganization of the Executive Branch, State of New Mexico, on the Corporation Commission and the Public Service Commission. Mimeo., 1952. 76 p.

The following articles have been published by members of our faculty:

BAUMAN, JOHN A., "Judicial Control of Administrative Action by Means of Extraordinary Remedies in Minnesota," 36 Minn. L. Rev. 435 (with Riesenfeld and Maxwell).

CLARK, ROBERT EMMET, "Community Property Law of New Mexico," New Mexico Quarterly, Spring, 1951, 5.

CLARK, ROBERT EMMET, "Presumptions in New Mexico Community Property Law: The California Influence," 25 Southern California Law Review, (February 1952) 149.

CLARK, ROBERT EMMET, "Transmutations in New Mexico Community Property Law," 24 Rocky Mountain Law Review, (April 1952), 273

CLARK, ROBERT EMMET, "Management and Control of the Community Property in New Mexico," 26 Tulane Law Review, (April 1952), 324.

GAUSEWITZ, ALFRED LeROY, "Presumptions in a One-Rule World," 5 Vanderbilt Law Review 324 (1952) (a contribution to a symposium on Evidence)

POLDERVAART, ARIE. "Legislative Drafting in New Mexico" Santa Fe, Taxpayers' Assn. of New Mexico [5th ed.] (December, 1950), 1-11 pp.

POLDERVAART, ARIE. "New Mexico." National Encyclopedia Yearbooks 1950 and 1951. New York, P. F. Collier & Son Corp.

WEIHOFEN, HENRY. "Trial or Execution of an Insane Defendant," American Bar Association Journal, XXVII (September, 1951) 651-54, 710-11.

WEIHOFEN, HENRY. "Psychiatry and the Law of Criminal Insanity," Southwestern Law Journal, VI (Winter, 1952), 47-80.

WEIHOFEN, HENRY. "Hospitalizing the Mentally Ill," Michigan Law Review, V (April, 1952), 837-72.

WEIHOFEN, HENRY and GUTTMACHER, MANFRED S. "The Psychiatrist on the Witness Stand," Boston University Law Review, XXXII (June, 1952), 287-318.

WEIHOFEN, HENRY and GUTTMACHER, MANFRED S. "Mental Incompetency," Minnesota Law Review, XXXVI (February, 1952) 179-212.

WEIHOFEN, HENRY and GUTTMACHER, MANFRED S. "Cross Examining the Psychiatric Expert Witness," American Bar Association Journal, XXXVIII (November, 1952)

WEIHOFEN, HENRY and GUTTMACHER, MANFRED S. "Privileged Communications between Psychiatrist and Patient," Indiana Law Journal, XXVIII (November, 1952).

WEIHOFEN, HENRY and GUTTMACHER, MANFRED S. "Sex Offenders," Journal of Criminal Law and Criminology, XLIII (July-August, 1952)

The following book reviews have been published by our faculty:

BAUMAN, JOHN A., book review of Clark, "Cases on Modern Pleading," Columbia Law Review.

WEIHOFEN, HENRY, book review of Spitz, "The Pattern of Anti Democratic Thought," University of Pittsburgh Law Review, XII (Winter, 1951).331-2.

6. Exhibits were displayed at the dedication of the new building. The College of Law also had a part in encouraging exhibits by the Legal Aid Society of Albuquerque. Our moot court trials are open to the public as are also talks by speakers we have brought to the campus.

Professor Poldervaart is a member of the State Library Commission of New Mexico and has worked on Official State Author Headings for New Mexico as New Mexico representative on a national project of the American Library Association.

On June 21, 1952, Professor Seed addressed the New Mexico Title Association on the subject, "The Duties and Liabilities of an Escrow Depository." Professor Seed was President of the Heights Lions Club for the year July 1, 1951 to June 30, 1952. He is the President of the Legal Aid Society of Albuquerque.

Professor Weihofen made a study of state Corporation Commission and Public Service Commission for "Little Hoover" Commission. He handled legal problems for Laguna Indians; assisted Air Carrier Pilots Association in labor disputes; and served as impartial member of fact finding committee appointed by City of Albuquerque and Central Labor Union.

7. Other than the academic research involved in preparing the materials for the above and projected publications, we have provided the faculty with comparative grading sheets to enable them to compare their grading standards. We have also engaged in some institutional research into correlations between law school success, on the one hand, and such factors as prelaw success, scores on the Law School Admission Test and the A. C. E. tests, and age. The work was done by Thelma Shoher Baker, Secretary to the faculty.

We have also completed work on what we have called our Perpetual Inventory of Students. We now have charts and figures on our law school experience since the establishment of our school in 1947. Most important to us are the sheets which currently

analyze the history of each graduating class. Our system was described in the temporary Bulletin of the Conference of Western Law Schools. Also, we have been asked to present it before a round table of the Association of American Law Schools at its annual meeting this December in Chicago, and have arranged to have copies of the forms made and to have a member of our faculty explain them at that meeting.

8. The Dean has been appointed a member of the Advisory Committee of the Journal of Legal Education, and was elected to membership in the Academy of Political Science. He is also a member of the American Bar Association Associate and Advisory Committee of the Standing Committee on Legal Aid Work in New Mexico.

Professor Clark is a member of the Committee on Family Law, Association of American Law Schools, a member of the Executive Committee and Legislation Committee of the American Association of University Professors, and a member of the Committee on Development of the Law School, New Mexico State Bar Association.

Professor Poldervaart is a member of the Committee on History and Necrology, State Bar of New Mexico, 1950; a member of the Committees on Index to Legal Periodicals, Membership, Law Library Journal, Cooperation with State Libraries, and Law Book Exchange, American Association of Law Libraries; and a member of the Committee on Legislation, American Library Association.

Professor Weihofen is a member of the Law and Psychology Round Table, Association of American Law Schools; member of Labor Law Round Table, Association of American Law Schools; member of Committee on Pre-legal Education, Association of American Law Schools; president of Council of Social Agencies of Bernalillo County; member of executive board, New Mexico Conference on Social Welfare; Juvenile Problems Committee of Bernalillo County; executive board of University of New Mexico chapter, American Association of University Professors; budget committee of Albuquerque Community Chest.

9. Professor Bauman took a year's leave of absence to do graduate work at Columbia. He received the degree of LL.M. on October 19, 1951, and is presently doing research on his doctoral dissertation. During the summer of 1952 he traveled extensively in Europe.

Professor Poldervaart spent the summers of 1950, 1951, and 1952 in study and research at the State University of Iowa.