

1-1-1951

# School of Law Annual Report 1949-1951

School of Law Dean

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## Recommended Citation

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BIENNIAL REPORT

For the period January 1, 1949, to January 1, 1951

THE COLLEGE OF LAW  
A. L. Gausewitz,  
Dean

To the President of the University of New Mexico:

This report continues from the period from September, 1947, when the College was established, to January 1, 1951.

FACULTY

Since January 1, 1949, Professor Harvey Hoshour, who is referred to in our previous report as Visiting Professor, has accepted a permanent appointment. The original plan was for a faculty of seven, including the Dean and librarian, supplemented by special lecturers for such subjects as taxation. It became possible, however, to obtain the services of Joseph W. Meek, who is trained both as an accountant and lawyer, and who had been practicing tax law with the firm of O'Melveny and Myers in Los Angeles for the past seven years. With the consent of the administration, he was appointed, and is doing excellent work in taxation and commercial law. This gives us a faculty of eight, with no special lecturers.

Assistant Professor John A. Bauman took a leave of absence in 1949-50 to do graduate work at Columbia University. Owen T. Armstrong accepted a temporary appointment to replace him for the year. We are assuming that Mr. Bauman will return and that we shall be compelled to dispense reluctantly with the services of Mr. Armstrong.

The size of the faculty is intimately related to the problem of teaching load. Our average teaching load is seven and one-half hours per semester. It is highly desirable to keep the teaching load down because we claim that a distinctive feature of the school is an ability to give individual attention to students. The load could be reduced by giving fewer courses. We see no substantial advantage in offering work that students do not take. Of course, we do not offer any course that some students do not take, but it is doubtful whether most students have a sound reason for taking one course rather than another, so that our general principle is to offer elective courses not as courses to be substituted for other courses, but as additional courses for those who wish to take more than the minimum program, and to provide for transfer students in the second and third year.

We are giving more courses than required by this principle, being influenced by the importance of the courses that would have to be omitted. Another obstacle to an ideal teaching load is a reluctance to have that of this College greatly lower than that of the University in general. We are, however, making a mistake in letting that influence us; we should put into effect the teaching load that is the best for our school, without regard to what the teaching load is in other colleges of the University. The Association of American Law Schools apparently had no maximum teaching load specified in its Standards when we established our teaching load of seven and one-half hours a week. In December, 1947, however, it fixed eight hours as a maximum teaching load.

Since the College of Law has no department heads or personnel deans for its peculiar problems, an additional faculty member, or a faculty member with time saved by the omission of a course, could act as Assistant Dean and perform useful work. Vice President Scholes was told informally that we had considered retaining Mr. Armstrong as an additional member of the faculty, with a view to reducing the teaching load and obtaining personnel services from him, but that we had decided against it. We need additional experience and a decision on how many courses we should offer before deciding whether we need an additional faculty member.

The College of Law, in an effort to contribute to the evening course program, gave a course in Patent Law the first semester of this year. The course was surprisingly successful in obtaining a registration of twenty-eight. It was given by Dr. Ralph Carlisle Smith, Assistant Director of the Los Alamos Scientific Laboratory, without cost to the University. Professor Smith was appointed Lecturer in Law, without salary. Eleven students from the College of Law enrolled in Patent Law. The remaining students came from the various engineering colleges, and from Sandia Base.

Sue Mitchell Murphy, General Counsel of the Legal Aid Society, was appointed Supervisor of Legal Aid on the staff of the College of Law, also without salary. Mrs. Murphy is a graduate of the Indiana University School of Law and has been admitted to the Indiana and New Mexico Bars.

#### FACULTY RESEARCH

The matter of faculty research is related to the teaching load. Professors Clark, Seed, and Weihofen are

all working on books. Professor Clark is writing a book on Community Property in New Mexico; Professor Seed, a book on Water Law; and Professor Weihsen is collaborating with Dr. Manfred S. Guttmacher on a book on Psychiatry and the Law. We have been able to give these three men some assistance by way of reduction of teaching load in the following ways: Professor Clark was teaching courses in Engineering Law to engineers, and in Pharmacy Law to pharmacists. Dean Farris said that he could get along without the course in Engineering Law, thus relieving Mr. Clark. The other method of relief was fortuitous and arose from the fact that our curriculum had to be changed as we added years of work. Sometimes courses were changed from the second to the third year, and when that was done the course was omitted for one year because the Seniors would have had it.

A number of changes in the Standards of the Association of American Law Schools will come up for consideration at the annual meeting in December, 1950. Some of these relate to faculty and teaching load. The proposals are:

1. An increase in the annual dues of members, which are now \$85.00, to \$100.00, plus ten cents per student enrolled in the fall semester preceding the date of payment;

2. That beginning in the fall of 1952, three years of prelaw study be required (we have required three years since the establishment of the school, except for veterans, and will apply that requirement to veterans after the fall of 1952).

3. To require four full-time instructors in addition to the Dean;

4. To require one full-time teacher per fifty students;

5. To require the establishment of faculty committees and the preparation of annual reports to be filed with the Dean;

6. To require that the faculty be provided with adequate secretarial service. The proposal is one full-time secretary for every four full-time faculty members or major fraction thereof. We have six full-time teachers, not counting the Dean and librarian. The Secretary of the school does stenographic work for the Dean, and we have a half-time Library Secretary who does stenographic work for the librarian. For the six faculty members we have three-fourths of the time of one stenographer, who gives a small amount of that time to the Dean. If this legislation is passed, we should have to have two full-time stenographers for the faculty, if two faculty members be considered a major fraction of four. We can probably get along with one full-time stenographer; one and one-

half would be better. We should not be considered to violate the proposed standard if we had one and one-half. It is doubtful that the legislation will be passed.

7. To require each school to report exclusions for scholastic deficiencies to the Secretary of the Association, for distribution to all schools.

### PUBLICATIONS

Professor Bauman collaborated with two other men in an article titled "Judicial Control of Administrative Action by Means of Extraordinary Remedies," in Minnesota Law Review, 33, 569, 685 (1949).

Professor Clark is writing a book entitled "The Law of Community Property in New Mexico." No study has ever been made of this subject in New Mexico. The Research Committee of the University awarded him a grant of \$100.00 for this project. The first four sections of this small book have been completed. A popularization of the introduction and the first section have been accepted for publication in the New Mexico Quarterly. Two other sections of the book are being submitted to law reviews in California. These law review sections, of course, will appear in the book when it is completed. The plan is to have the book completed in mimeographed form for use in the course in Family Law and Community Property. Some time thereafter Professor Clark hopes to submit the manuscript to the Publications Committee of the University and the New Mexico Press. Professor Clark reviewed Professor Chester H. Smith's "Survey of the Law of Trusts," in the Rocky Mountain Law Review, 22, p. 104 (Winter of 1949-50).

The Dean has had published a book review on the "Encyclopedia of Criminology," by Dr. Vernon C. Branham and Dr. Samuel B. Kutash, in the Missouri Law Review, 15, No. 2, p. 200-206 (April, 1950); an article, "Realistic Punishment," in the Virginia Law Weekly, Volume I, 1948-49; and a book review in the Law Library Journal on Leach, "Handbook of Massachusetts Evidence, 42 Library Journal, p. 82-83, (1949). His paper on "Teaching Legal Method and Analysis", presented at the Boulder Conference (1950) on Legal Education and Admissions to the Bar was published in the Rocky Mountain Law Review, 23, Number One, p. 67-71 (Summer 1950).

Professor Hoshour's article, "The Restatement of Contracts in New Mexico," was published in the Rocky Mountain Law Review, Volume 23, Number Two, (December, 1950), p. 172-180.

Professor Seed signed a contract early in the summer of 1950 for the preparation of a comprehensive textbook on the subject of the Law of Water Rights. It is

anticipated that this will be a work in encyclopedic form, consisting of several volumes. It will be a treatise in a field in which there has been no complete textbook published since 1912. It is probably that this work will require a minimum of two to three years for completion.

Professor Weihofen is presently engaged in writing a book on the subject of Psychiatry and the Law, in collaboration with Dr. Manfred S. Guttmacher, Chief Medical Officer of the Supreme Bench of Baltimore. It is expected that this book will be published late in 1951. He has also published an article on "Eliminating the Battle of Experts in Criminal Insanity Cases," Michigan Law Review, 48, p. 961-982 (1950), and an article on "Examination Techniques" in the Rocky Mountain Law Review, 23, Number One, p. 110-118 (Summer 1950), as well as book reviews in the Yale Law Journal, 59, p. 815 (1950), and in The Industrial and Labor Relations Review, 3, P. 600 (1950).

### STUDENTS

The first class was graduated in June, 1950. There were twenty-seven graduated out of fifty-eight who had been candidates for the degree with this class. Twenty-five of them took the New Mexico Bar Examination. Twenty-one of them passed. Four, or 16%, failed, as compared with 24% failure of the thirty-one applicants who had graduated from other law schools. Most of these students have already found a place in the life of the community, although not all of them are doing strictly legal work. We are not able to maintain up-to-date information about it, but the following is a summary:

Of the twenty-one graduates admitted to the New Mexico Bar:

- 14 are practicing law in law offices
  - 1 is an Assistant District Attorney
  - 1 is a clerk in the office of Judge Bratton
  - 1 is employed in a title and abstract office
  - 1 is an insurance adjuster
  - 1 is employed by the State Tax Commission
  - 1 has been called to service
  - 1 is in Illinois, and we have not heard what kind of work he is doing.

Two did not take the New Mexico Bar Examination. Of these, one took and passed the Minnesota Bar Examination, and is now practicing in Minnesota. We do not know if the other graduate took a bar examination elsewhere.

ENROLLMENT AND SUSPENSION FIGURESSemester I, 1949-50

First-year students	37
Second-year students	44
Third-year students	30
Part-time students	3
Special students	1
	<u>115</u>

Suspensions, end of Sem. I, 1949-50: 4

Semester II, 1949-50

First-year students	35
Second-year students	40
Third-year students	31
Part-time students	2
Special students	4
	<u>112</u>

Suspensions, end of Sem. II, 1949-50: 14

Semester I, 1950-51

First-year students	54
Second-year students	33
Third-year students	44
Part-time students	3
Special students	2
	<u>136</u>

In Semester I, 1950-51, 11 women were enrolled in the College of Law.

The present Senior class is rather large. The second-year class small, judging on the basis that an entering class of about fifty is normal for the present. This was not due to admitting transfer students, but we expect to be more selective in admitting transfer students, especially to the third year. We cannot account for the drop in first-year enrollment in the fall of 1949.

It is believed that the students have had a wholesome attitude toward the school and their work. There have been no violations of the Honor Code, except for the publication of an anonymous letter in the Daily Lobo, which the students think was written by a law student, and which some students think was a violation of the Honor Code. The writer of the letter has not been identified.

The students voluntarily inaugurated a plan to have student luncheons every two weeks throughout the year, to which they invite outside persons to speak. These luncheons

have been a great success, -- so much so that we have abandoned some of the plans we had made for special lectures.

The students also inaugurated a Book Exchange this year, which appeared to work well, but is probably still in the experimental stage.

Ever since the school was opened, a Law Review has been under consideration and advocated by some of the students. We have handled this by letting the students organize and work as though they had a Law Review, telling them that if they produced materials worthy of publication and thus demonstrated the capacity of the school to maintain a Review, effort would be made to establish one. Thus far they have not demonstrated the requisite capacity.

The students are all organized into the Student Bar Association, which has functioned satisfactorily through its Executive Committee and other committees. They seem to have settled upon an adequate but conservative business and social program.

The faculty and students are planning for an annual Law Day or Alumni Banquet Day in the spring, at which alumni and interested lawyers can be made acquainted with the activities of the students and with the school. Chief Justice Brice has agreed to speak at the first of these affairs, to be held this spring.

The class that graduated last June has organized an Alumni Association which promises to be successful and an asset to the school, as well as a support to the general Alumni Association. They realize that they should do nothing that would detract from the importance of the general Alumni Association.

None of the legal fraternities has been established here, although a number of them have indicated a desire to have a chapter. The students rejected one because it had a discrimination clause in its constitution. The Dean and the Faculty have taken the position that the matter of fraternities is exclusively for the students, and, therefore, have taken no action beyond suggesting that there is no hurry, and that it should be remembered that conditions, while we have so many veterans with subsistence allowances, and so many married students, are not normal.

We are very anxious to improve the quality of our entering students. We hope and expect that the new building will assist us in this.

The College of Law has just established an Adviser system for first-year and transfer students. It is

expected that this early and personal advisement will be of substantial value to the entering student.

#### LEGAL AID

A substantial amount of time was put in by the Dean in collaboration with the committee of the Albuquerque Lawyers Club and the Albuquerque social agencies to establish a Legal Aid Society in Albuquerque. The Society was formally incorporated and opened an office in the Courthouse on August 1, 1950. Although it is still in the experimental stage, it promises to be successful and an important agency, of special importance to the Bar, and in College of Law relations with the Bar. It is an independent corporation, unaffiliated with the University, except that the Dean of the College of Law is the present President of the Society; that Senior law students serve in it; that the Secretary of the College of Law is the present Secretary of the Society; and that the University appointed Sue Mitchell Murphy, the General Counsel of the Society, to the staff of the College of Law, as Supervisor of Legal Aid.

The Society, to some extent, meets the need for clinical experience by law students, and should give the students an insight into social problems and the obligations of their profession that they would not otherwise obtain.

#### LAW BUILDING, EQUIPMENT, AND FACILITIES

Although the provision of a new building has been delayed, the University has done remarkably well in providing the physical facilities for a law school. In selecting the site for the new building, it is hoped that space will be left for a law dormitory, if there is any prospect that additional dormitories will be built in the future, so that there would be no additional cost in having a separate dormitory for law students.

The Dean believes that he has been more frugal than the Administration would desire if they knew all of the circumstances, but no essential equipment or service has been omitted.

Mimeographing is important. A used machine was purchased in 1947 and gave stellar service but at an excessive cost in repairs and operation. The University mimeographing service has been used substantially. We have now turned the mimeograph machine in on a Ditto machine, which will give

better and cheaper service. This item is mentioned to emphasize the importance of such a service and of adequate secretarial service in a law school. We have probably been remiss in not exploiting such services fully.

### TRAVEL

Travel expense has been limited to the annual meetings of the Association of American Law Schools, and the Dean and several members of the faculty have attended each annual meeting of the New Mexico State Bar. The Dean has attended only one meeting of the American Bar Association, and he and members of the faculty have declined invitations to attend meetings of the American Law Institute.

### LIBRARY

The law library increased its holdings from 18,726 to 24,372 volumes during the biennium, exclusive of duplications, being deterred from greater expansion largely due to a lack of adequate facilities. The library efforts were chiefly directed toward filling in gaps in the files of legal periodicals, reports prior to the Reporter system and in current legal treatises. Many generous exchanges and gifts, particularly of periodicals and statutory material, were received from all parts of the country, and a particularly fine collection of legal literature was donated to the library by Edwin C. Crampton of Raton. Additional details relative to the law library and its operation are included in Professor Polderwaard's report to the University Librarian and may be found elsewhere in this publication.

It is doubted by us that the substantial extent to which the law library is integrated with the general library is working to the benefit of the University. This has been taken up with Vice President Scholes.

### CURRICULUM

It was found that the students were incapable of doing independent written work along the lines suggested in the last report. We have, therefore, instituted a three-hour course called Legal Writing, in which they are drilled in Legal Research and Writing. We have added materials on Legal Method, found to be necessary to initiate students into the study of law. We have excellent courses in the modern fields of Administrative Law, Labor Law, and Taxation. We have dropped the course called Practice Court, at least until

we get a building and can shake the curriculum down or otherwise get more faculty time. We continue other "writing courses" and have added a one-credit course on New Mexico Probate Practice, a practical though not a "trade school" course. We offer as "broadening" or cultural courses for lawyers, also of great "practical" value to them, Law and Society, 5 credits, and Legislation, 2 credits (actually a broad and butter course for lawyers, but not always taught in a separate course or philosophically). We should have a course in International Law or in that field, but would have to make it a required course; for it would be difficult to make students see its value. Indeed, we may have to make Law and Society, or part of it, required for the same reason. Next year we shall list a suggested, but not required, minimum program, with other courses listed separately. This should assist the students, serve, to some extent, the purpose of requiring courses, and serve to help with the curriculum.

Conclusion: It can be reported that the atmosphere and tone of the school is still one of happy busy-ness, and that student-faculty, inter-student and inter-faculty relations are wholesome and pleasant. Some students drop out as they find the work discouraging or not to their taste, and one or two have left the impression of feeling that the fault is not wholly theirs. But the advisory system we have instituted correlates with the University system, we use Counseling and Testing, and are doing everything we can to give each student careful thought and assistance. But we are determined to graduate none but good lawyers, so far as we can judge at this stage of their careers.

#### PUBLIC AND BAR RELATIONS

The College of Law cooperated with the Albuquerque Lawyers Club to bring Professor E. M. Morgan, outstanding authority on the law of evidence, to Albuquerque for a talk on the law of evidence. It has also brought to New Mexico, Vice Chairman Charles Walker, of the Federal Communications Commission, for a lecture on his Commission, and Dr. Manfred S. Guttmacher, psychiatrist on the Supreme Court of Baltimore, for a lecture on the control of sex offenses. Cautious and tentative steps are being taken to institute a study by a state-wide committee of the basic problems of the criminal law in New Mexico, and it is hoped that the State Bar Association will take an active, if not leading, part in this study.

Professor Weihsen and the Dean have accepted invitations to speak on a few occasions, including papers read at the American Bar Association National Conference on

Legal Educations and Admissions to the Bar.

Professor Poldervaart is continuing his membership on the State Bar Committee on Neurology, is a member of the State Library Commission of New Mexico, and during the past biennium has served as a member of the Committee on the Index to Legal Periodicals, a member of the Editorial Board of the Law Library Journal, and as a member of the Committee on Cooperation with Latin America Libraries of the Association of American Law Libraries.

The Dean has been asked to serve in soliciting funds from the National Probation and Parole Association, and he is on the Committee on Sentencing, Probation, and Parole, of the American Bar Association, and a committee on bar examination review courses, of the Association of American Law Schools.

Professor Seed was a member of the Committee on Arrangements for the meeting of the State Bar Institute in Albuquerque, in May, 1950. He is also First Vice President of the Heights Lions Club. He, with the Dean, will attend the meeting of the Association of American Law Schools in Chicago, December 27, 1950.

Professor Clark addressed the Albuquerque Lawyers Club (the local Bar Association) on the subject of Community Property Law, on November 13, 1950. His talk was a comment on a paper read by the Honorable Irwin S. Moise, member of the local Bar, before the State Bar Convention at Carlsbad. Professor Clark discussed "Presumptions in the Law of Community Property" and the nature of a cause of action for personal injuries to the wife.

Professor Weihofen is a member of the Committee on Prelegal Education for the Association of American Law Schools, a member of the Round Table on Crimes, of the Association of American Law Schools, and a member of the Committee on Juvenile Delinquency of the Council of Social Agencies, Bernalillo County. He has addressed the Santa Fe Bar Association, and gave a lecture on the law of arrest before the Police School, sponsored by Federal and State law enforcement agencies, at Gallup, New Mexico.

*A. L. Gausewitz*

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