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# A HISTORY OF LEGAL EDUCATION IN DENVER

By HAROLD E. HURST



Harold E. Hurst was awarded an A.B. degree by the University of Colorado in 1936, and the LL.B. degree in 1938; in 1940, he received an M.S. degree in Government Management from the University of Denver.

He joined the faculty of the University of Denver College of Law in 1947. He was Acting Dean of that College in the winter and spring quarters of 1952, and occupies that position today. Many of his articles have appeared in various law reviews.

## FOREWORD

Anyone attempting a history of legal education in Denver is confronted with the task of composing two histories which eventually merge, as two streams, and thence proceed on their common course with double strength and dignity. From very small beginnings, indeed, the streams of legal education at the Westminster College of Law and the University of Denver College of Law have gathered strength and size and have, by their confluence, become a major stream of legal education in the United States, carrying a cosmopolitan student body including honor graduates from the most reputable institutions of higher learning in the United States and abroad. Today, the stream flows on the broadest possible front to provide the only opportunity for both day and evening legal education in the whole Rocky Mountain West from the Mississippi to the Pacific. On the crest of its waves it carries the ambitious objectives of sound professional education, graduate research and instruction, expanded programs of continuing education of the bar in substantive and procedural law and professional responsibility, and persistent research and publication in those areas of the law needing development or reform.

Now, casting off the editorial license enjoyed by authors of introductions and forewords, let us trace the main currents of legal education in Denver. In the following account, much detail has been sacrificed to comply with space limitations.

## THE BEGINNINGS

In 1888, a "Blackstone Class" was organized and conducted in Denver by George C. Manly, A.B., University of Denver, LL.B., University of Michigan, 1887. The archives do not reveal whether this "Blackstone Class" may have been the beginning of the Uni-

versity of Denver College of Law. The venture seemingly was quite modest, for it received no attention in the public press. It is significant, however, that the name of George C. Manly was associated with the College of Law for many years, both as a professor and later as dean. That the "Blackstone Class" was continued in 1892 as the law school of the University is further substantiated by a report from Dean Roger Henry Wolcott in 1939 to a University Senate Committee. Dean Wolcott had long known George C. Manly, the initiator of the "Blackstone Class."

It was Manly and William A. Moore who approached the Chancellor of the University to propose the establishment of a law school in the University. Upon the approval of the curriculum by the trustees, the school opened formally in October 1892, with Judge Albert Eugene Pattison of the Colorado Supreme Court as its first dean.

In addition to George C. Manly, the first class to graduate from the two year course had as its instructors such men as Joseph Church Helm, later a justice of the State Supreme Court, Charles J. Hughes, Jr., and Thomas McDonald Patterson, who later became United States Senators. The faculty was composed of ten lawyers who held the academic rank of professor or associate professor, and of thirty-four special lecturers.

To be eligible for admission, a student must have graduated from a recognized high school or have passed an examination in geography, English grammar, history, composition and arithmetic. In the 1892-93 school year, thirty-four first-year students and eleven second-year students were reported to have been in attendance. The inclusion of eleven students taking second-year courses strongly suggests that the College of Law established at the University of Denver may have been the successor to the earlier "Blackstone Class."

The announcement of the School of Law for 1892-93 recites that "Most of the recitation of the School will be held in the evening. This arrangement has many advantages. It permits the student to attend the courts a part of the day, if he so desires, and to enter a law office as a clerk if dependent somewhat on his own exertions."

Included in the curriculum of that day, in addition to the standard subjects, were courses such as Mexican Land Grants, Railway

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Law, Police Power, Corporate Bonds and Securities, Banks and Banking, Law of Place, and Peculiarities of Colorado Law. The modern emphasis on the relationship between law and medicine was anticipated in the first year of the school's history, as expressed in the first catalogue announcement that "the student may also take the lectures of Medical Jurisprudence and allied subjects given in the School of Medicine of the University of Denver." A moot court was organized in 1893-94. A notable development in the course of study came in the fall of 1904 in the opening of the Legal Aid Dispensary. The catalogue of the following year reported:

"(T)he experiment has been so successful that it will be continued, and work in it by the students made compulsory during the coming year. Meritorious cases of poor persons who are unable to pay the fees ordinarily charged by attorneys are taken, and under the direction of an experienced attorney and with the advice of members of the faculty, the students of the second and third year classes conduct the litigation. Students meet the clients, write up the office docket and diary, keep the office files, prepare the pleadings and defend them in court, brief the cases, examine and cross-examine witnesses and argue to court and jury; in fact conduct the entire litigation."

In its first year of operation, the school had no library of its own, if this is a proper inference from the catalogue statement that: "This school is able to offer better library facilities than a majority of the schools of law in the United States. Special arrangement has been made whereby all students will have free access to the library of the Supreme Court of Colorado, which is one of the largest in the State, containing over 7,000 volumes." In the catalogue for the following year, however, appears the note that "The school has a good working library of text-books and reports of its own and is rapidly adding to it." In three years the library had grown to 2,000 volumes and the Supreme Court library reported a total of 12,000 volumes.

It may be recorded here as an historical fact, to which no further allusion will be made, that from the beginning the school has never been housed in a building planned and suitable for the purpose of organized and concentrated study of the law. Indeed, the adversity suffered by the students from inadequate, makeshift quarters has often been cited by alumni with a note of pride. Graduates of the school frequently mention such distractions as rats, clanging street cars, and odors floating up from the meat market below.

Separate day and night divisions were organized in 1895. In 1898, the course of instruction was lengthened to three years in the day division and to four years in the night division. The night division was abandoned in 1900, the number of students attracted to night study being very small.

Although the earliest mention of the school's being a member of the Association of American Law Schools appears in the 1911-12 catalogue, well-preserved correspondence establishes that the school, with some nineteen other schools, became a charter member of the Association when it was organized in 1900-01.

Dean Pattison died in 1902 and was succeeded by Lucius W. Hoyt, who headed the school until his death in June, 1910. Under

Dean Pattison's leadership, the school grew and prospered, enrolling a total of forty-nine students in 1901-02. The Faculty Prize, an award of \$50 to the member of the graduating class whose entire law course is taken in the College of Law and who receives the highest marks in the regular examinations during the course, was initiated in 1894 and has been continued to this date.

In 1910, George C. Manly was elected dean of the school, a position which he occupied until he retired in 1926.

Two years after Manly became dean, there came into existence a school offering evening courses in Denver. The school, which became popularly known as Westminster Law School, and later as Westminster College of Law, was organized by John C. Murray in 1912, under the authority of the charter of Westminster University Association. The Association, a creature of the Presbyterian Synod of Colorado, was set up to operate a liberal arts college and other departments. It built the red stone building which commands the landscape to the north of Denver, in Westminster, which it sold, when the arts school failed, to a group known as the Pillar of Fire.

The trustees of the Association remained inattentive to the affairs of the Westminster Law School until 1930, when, because of the absence of Murray, it became necessary to reconsider the management of the law school. The few trustees who could be assembled met late in 1930 and elected Hamlet J. Barry to serve as dean of the Westminster Law School. At the same meeting, Clifford W. Mills was chosen to serve as associate dean.

Between the very earliest beginnings and the early 1920's, there seems to have been very little change in the objectives or programs of the two schools, the major attention and energy being given to consolidation. The highlights of these years at the University of Denver seem to have been the adoption, through organized student government, of the "Honor System," and the raising of standards by requiring at least one year of study at an approved college or university for admission. By June, 1920, graduates of the University of Denver numbered 353, and of Westminster, forty-one.

There seems to have been no substantial competition between the University of Denver and Westminster, because they were appealing to two different groups of students—those who could attend classes during the day, and those who were employed during the day and could attend classes only in the evening.

#### THE MIDDLE YEARS

The middle years of legal education in Denver correspond, roughly, with the years between World Wars I and II. For legal education in Denver, these were years of doubt, struggle, and even despair. It was during this period that instructors at Westminster met their classes without remuneration and the faculty at the University of Denver made "voluntary contributions" to the University from their salaries in order to keep the doors open to students seeking a legal education.

Despair and gloom settled upon the College of Law of the University in 1921 when the Association of American Law Schools announced that, to be continued as a member of the Association, a school must employ at least three full-time faculty members and comply with minimum standards in faculty salaries and expendi-

tures for library, plant and equipment. At that time, the College had no full-time teachers. Its library and equipment budget was severely limited. There appeared to be no way of meeting the newly imposed standards of the Association, and to avoid being ejected from membership, the College resigned its charter membership in 1921.

Without tax support, both schools necessarily relied almost entirely upon tuition receipts to finance their programs. Refusing to succumb, both continued to offer sound programs of legal education taught by able faculties. The University of Denver continued to strengthen its library, and set out upon a course calculated to result in reinstatement in the Association. Membership in the Association became increasingly necessary and desirable because the Association had become a recognized accrediting agency. More and more states were limiting admission to the bar to graduates of Association schools, and Association schools would accept credits only from other Association schools.

Beginning in 1923, the University's law school required two full years of college study before admission to law study. Dean Manly gave up the deanship in 1926 to devote his full time to teaching. In the year 1926-27, Professor George Edward Tralles acted as dean. James Grafton Rogers was named dean for the 1927-28 academic year and Roger Henry Wolcott was named assistant dean. In that same year, the school engaged Thompson Marsh as a full-time instructor. In April 1928, the school was approved by the American Bar Association Council on Legal Education which had become the second professional accrediting agency for law schools.

In the following year, 1928-29, Roger Henry Wolcott became dean, succeeding James Grafton Rogers who had been elected dean of the University of Colorado School of Law. The full-time teaching staff was increased to three. In addition to Roger Henry Wolcott and Thompson Marsh, the roster of full-time instructors included Laurence Wheeler DeMuth. In December 1929, the law school of the University was re-admitted to membership in the Association of American Law Schools.

Laurence W. DeMuth joined the University of Colorado faculty in the fall of 1929 and was replaced by Odis H. Burns.

At this period of its life, the University of Denver School of Law boasted of a cosmopolitan student body. In one year, of the twenty-six students in school who held four-year degrees, only ten were from the University of Denver, and only thirteen were from Colorado colleges. The other degree-holding students were from colleges in other states and foreign countries, including two from Harvard, two from Yale, one from Stanford and one from Oxford.

Three years of college study were required for admission to the University of Denver School of Law beginning in 1932. This was the year in which Gordon Johnston became a member of the faculty. Both graduate study and evening classes in law were offered by the University beginning in 1933. The graduate program was discontinued in 1936, and the evening program in 1939.

Professor Odis H. Burns was succeeded in 1936 by Albert E. Zarlengo. The same year was marked by the death of Professor and Dean Emeritus George C. Manly who had been a trustee of the

University since 1888, president of the Denver Bar Association (1913), and president of the Colorado Bar Association (1926).

The two law schools in Denver went into the second World War years strong and proud. Progress had been somewhat slower at Westminster which had neither tax support nor a university attachment. It had, nevertheless, continued to strengthen its program and graduated many students who distinguished themselves on the bench and at the bar. Among the more than 350 alumni of the school up to 1940 are found such names as Teller Ammons, governor of Colorado; United States Senator John A. Carroll; associate justice of the Colorado Supreme Court, Edward C. Day; president of Mountain States Telephone and Telegraph Co., Walter Koch; a very respectable number of judges, and a host of distinguished lawyers.

In order to comply with a rule of the Supreme Court concerning admission to the bar, Westminster raised its entrance requirement to two years of pre-law study in 1937.

Selective service and the second World War more nearly brought on the closing of both schools than any prior war or depression.

The University of Denver had only forty-nine students in 1941-42, twenty-one the following year, and only eight in the year before the servicemen began returning. Westminster suffered a similar decimation of its student ranks, reporting at one time only one student in a class.

In 1941, Dean Hamlet J. Barry of Westminster died. Clifford W. Mills succeeded him. In the same year Albert E. Zarlengo left the faculty of the University while Vance R. Dittman, Jr., and Helen Marion Thorp were added. Frances Hickey Schalow was named assistant professor and law librarian at the University law school in 1943-44, and Willson Hurt joined the faculty in 1944. Gordon Johnston was away on leave of absence in 1941-42, serving as advisor to the Section on Legal Education of the American Bar Association, and subsequently was on active duty with the United States Navy. Vance Dittman was also on active duty with the Navy after 1942.

There were numerous changes in the part-time faculty of the University and in the faculty of Westminster, which at that time had no full-time teaching staff.

#### FROM WORLD WAR II TO THE PRESENT

After the culmination of hostilities in 1945, the returning veterans deluged the law schools. Registration at the law school of the University reached nearly 400, and at Westminster nearly 200.

To meet the influx, Westminster sought larger quarters and eventually, in 1950, acquired the Hamlet J. Barry Memorial Building at 1854 California Street. Westminster added a number of part time instructors to its staff, but had no full-time faculty until Irving M. Mehler was employed full-time in 1955.

At the University, Leonard Cornell, Harold E. Hurst, and Charles E. Works were added to the full-time faculty in 1947-48. Mr. Cornell stayed only one year and was replaced by Allen P. Mitchem in 1948. Frances Hickey Schalow resigned in 1953 and Mitchem in 1955. Both were retained as part-time instructors.

The post-war years saw extensive curriculum revision at both

schools. The University's law curriculum was completely revised in 1949 and all beginning students were required to take an English achievement examination and to make up any deficiency disclosed by the examination. Legal Accounting was put in the curriculum as a requirement for students having less than ten quarter hours of accounting in undergraduate study.

After the war, the law school of the University was set up as a College of Law, under Dean James Price who came on in 1945 to fill the vacancy created by Dean Wolcott's retirement in 1944. Dean Price resigned in 1948 to be followed by Gordon Johnston who served as dean of the College until his death in April 1958, when Harold E. Hurst was requested to serve as acting dean.

At Westminster, Dean Clifford W. Mills retired in 1955, along with Albert L. Vogl and Charles H. Haines. The teaching of each of the three men had been continuous since 1917 or earlier. William Hedges Robinson, Jr., was appointed as dean in July 1955.

Each school interested itself in improving standards and initiating programs calculated to broaden the educational experience of the students. Westminster increased its evening law course from three years to four in September 1952, and organized its Student Bar Association in 1955. In that year and following, part of the instruction at Westminster was by its first full-time instructor, Irving M. Mehler. Required pre-law college study was extended to three years.

At the University of Denver, the "two quarter exclusion rule" was adopted, requiring students to maintain a scholastic average of C at the end of each quarter beginning with the second to remain in good standing and eligible to continue beyond a probationary term of one quarter. A Law Wives Club was organized to afford a means of informing students' wives of the circumstances surrounding law study. Arrangements were made with the Supreme Court for honor students to serve without pay as clerks for the members of the Court. The legal aid program, with students engaged as assistants in the Legal Aid Society clinic, was intensified; and the justice court and police court programs established. In the latter two programs, students act as counsel for indigents needing legal assistance in the respective courts—a limited public defender system made possible by a special rule of the Supreme Court and the co-operation of the judges of the municipal courts. The Law School Admission Test was made compulsory for every student entering upon the study of law at the College, and student memberships on Denver and Colorado Bar Association committees were arranged. The College arranged for its students to participate in the work of the United States District Attorney as student assistants. An honorary legal society, called the Order of St. Ives after the lawyers' patron saint, was established as a means of recognizing senior students in the upper ten percent scholastically. In 1949, the College of Law became a charter member of the American Law Student Association sponsored by the American Bar Association. In the same year, the College entered into an association with the Colorado and Denver Bar Associations for the joint publication of *DICTA*, formerly the official journal of the Denver Bar Association. A student editorial board, under the supervision of a faculty representative, manages



and edits the publication.

In these more recent years, the student body was still made up of students from many other states and foreign countries. In 1953 there were enrolled 224 students, only 101 of whom had previously studied non-legal subjects at the University of Denver. A total of ninety-four institutions of higher learning were represented in the student body. Two were from Harvard, four from Yale, three from Hawaii, one from Erlangen, Germany, one from Oxford University, three from Dartmouth, two from Princeton, and one from the University of Budapest.

Perhaps a future history will mark the last few years as the point in time when legal education in Denver reached maturity. By the occurrence of two events, legal education in Denver has been tremendously strengthened. The first, the merger of the University of Denver College of Law and Westminster College of Law, came in June 1957. The second was the commitment by the University to build a new law center building, the raising of the necessary funds, and the marking of the beginning of the construction by groundbreaking ceremonies.

The two law schools in Denver were merged into a single College of Law with approved day and evening divisions, the only such institution in the whole Rocky Mountain region. The merger became effective with the entering class of September 1957. All graduates after September 1957, received the University of Denver diploma and were recognized as eligible for admission to practice in any state. Former Westminster graduates had been eligible for admission only in Colorado. Dean William Hedges Robinson, Jr., became Associate Dean of the new College. Mr. Mehler was retained as a full-time teacher in the new College, as were many of the part-time instructors from Westminster. To perpetuate the memory and traditions of Westminster, the law library in the new building has been designated the Westminster Law Library. A Westminster Foundation was established in 1957 to hold the assets of Westminster in trust for the improvement of evening legal education. The curricula of the day and evening divisions have been integrated, and the evening division will be staffed by full-time instructors in the same proportion as the day division. To more adequately staff the expanding programs, Jim R. Carrigan and John Phillip Linn were appointed as full-time teachers in 1957 and 1958 respectively.

The new Law Center Building is presently being constructed at Fourteenth Avenue and Bannock Street. In addition to the College of Law, the building will house the offices of the Denver and Colorado Bar Associations, a 500 seat auditorium, and complete facilities for efficient legal education, research and publication.

In a new and modern building to be occupied in 1960, and with the combined resources of both former law schools supporting it, legal education in Denver will be expanded with the addition of a graduate program and more intense and useful continuing education for the bar. Research and publication will be undertaken to serve the profession and the public, to the end that the lawyer may increase the efficiency of his practice, the administration of justice may be improved, and freedom may be safeguarded under law.