

POLISHING THE LAMP OF JUSTICE: A HISTORY OF LEGAL EDUCATION AT THE UNIVERSITY OF TENNESSEE, 1890-1990*

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I. INTRODUCTION

The task of capturing the essence of a century's worth of legal education at the University of Tennessee is an imposing one. So much has changed one might assume that the only discernible pattern was growth in virtually every feature. Thin but strong threads of continuity are interwoven throughout this school's first 100 years of existence, but these threads are as thin as they are strong, so examine closely.

Many of the changes are the effects of technological innovations and historic events. At the end of the nineteenth century, the highest court in Tennessee required that the briefs of counsel should be "written in a large and legible handwriting, with black ink and upon law paper, or printed, or typewritten."¹ One hundred years later, telefacsimile and even paperless computer transmissions of legal documents are within conceptual and practical reach. The two world wars and inflation have also had their impact on the school's history.

Enrollment rose slowly in the first half of the century, then briefly expanded after World War II and literally exploded in the

* The first comprehensive history of the University of Tennessee College of Law was written in 1941 by James D. Hoskins, then president of the University and a graduate of the College of Law. 16 TENN. L. REV. 679-83 (1941). An updated history was compiled for the dedication of the new College of Law building in 1950, authored by faculty members Thomas Roady and Elvin Overton. (Dedication brochure, April 14, 1950).

Subsequent histories were written for the alumni directories published in 1950, 1959, 1976, and 1984. This account draws heavily on those earlier histories, as well as materials discovered and preserved for the College of Law archives. The author also gratefully acknowledges the considerable assistance and contributions of University Historian Milton M. Klein, William B. Eigelsbach of UT Libraries' Special Collections, and Professor Carl A. Pierce.

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1. Sup. Ct. R. 23, 89 Tenn. (5 Pickle) 769, 776 (1891).

1960s and 1970s. Full-time faculty numbers remained quite low (two or three) through the first forty years, then increased to five in 1931. This number fluctuated between five and eight until the mid-1960s when the faculty abruptly doubled in size. The faculty doubled again in the mid-1980s. Student fees remained remarkably low (less than \$200 per year for in-state students) for the school's first sixty-seven years. Fees rose gradually through the 1960s and 1970s in pace with inflation, then tripled during the 1980s in pace with all University fees.

And yet, the most important concerns, those regarding the preparation of students for the profession, seem to belie the outward appearance of change. The rigors of law study, strict grading policies, a distinguished faculty, the struggle for high admission and curricular standards, and even the complaints about faculty salaries are reflected in the records from each era.

The law school was launched on a high standard from the very beginning. Indeed, its standards for graduation have always been higher than the requirements for admission to the bar.² Even so, the percentage of students who failed to maintain a satisfactory academic record was much higher in the middle of the school's first century, when admission standards focused primarily on the amount of pre-law education, than in the years since 1970, when admission standards focused on "success predictors" such as Law School Admission Test scores and undergraduate grade point averages.

The curriculum has also weathered many changes, from an early emphasis on textbook and lecture to the introduction of the case method, then to the more modern emphasis on skills training and courses that offer students a broad perspective on the role of the lawyer in society. Moot court, however, has always been an integral part of the legal education experience and some of the basic courses such as Property, Contracts, and Torts have changed only in minor ways.

This is not a history of a college. A college cannot exist independently of its students, teachers, and administrators. This is a history of the people who, by teaching and by learning, have been weaving the threads of both legal education at UT and the legal profession in the State of Tennessee into a strong and protective cloak of services for its citizens. The weave is not perfect; the design is uneven in places, as any product of the human mind must surely be.

Halfway into the first century, Dean William Wicker predicted that the future of the College of Law would be manifested in the moral and intellectual leadership of its graduates as they mold the

2. Witham, *The History of the College of Law of the University of Tennessee*, 21 TENN. L. REV. 364 (1950).

law: "The Lamp of Justice has a long wick and its oil is precious. The Lamp of Justice must be polished frequently if its light is to make visible the straight but narrow and rugged path that leads to the land of law and order."³ The lamp is still burning and the teachers and students at the University of Tennessee College of Law continue the endless task of polishing it.

II. A HUMBLE BEGINNING

The majority of American lawyers in the 1890s "had seen the inside neither of a college nor of a law school."⁴ Until a state examining board was established by the legislature in 1903,⁵ admission to the bar in Tennessee was open to anyone twenty-one years of age, of good moral character, and who either received certification by the faculty of a law school or could satisfy two state judges that the aspiring lawyer was qualified.⁶

The idea of establishing a law department at the University of Tennessee came from its first dean, Thomas J. Freeman, who served as a justice of the Tennessee Supreme Court from 1870 to 1886.⁷ Freeman was admitted to the bar in 1843 and practiced law in Trenton, Tennessee, before serving in the Confederate Army during the Civil War.⁸ This "tall, angular man with a long beard" had a passion for books and a character that "was above reproach."⁹ By reason of his vigor and independence of thought, which some regarded as "stubbornness,"¹⁰ Dean Freeman became known as "the great dissenter."¹¹

On October 11, 1889, Freeman wrote a letter to the University's new president, Charles W. Dabney, proposing to organize and conduct a law course for the University. Freeman proposed that the Department follow a semi-independent financial life with the fees being used to pay instructional salaries. This idea appealed to Dabney, for as much as he was interested in expanding the professional

3. Wicker, *The Future of the College of Law*, 21 TENN. L. REV. 369 (1950).

4. R. STEVENS, *LAW SCHOOL: LEGAL EDUCATION IN AMERICA FROM THE 1850S TO THE 1980S* 95 (1983).

5. 1903 Tenn. Pub. Acts 575. The 1903 Act deprived judges and law faculties of the privilege of granting licenses and provided for examinations. *Id.*

6. C. Street, *A History of Legal Education in Tennessee* 12-13 (June 1941) (thesis available in Univ. of Tenn. Library) (citing 1860 Tenn. Pub. Acts 56).

7. Montgomery, *The Volunteer State Forges Its University; The University of Tennessee, 1887-1919*, 69 U. Tenn. Record at 49 (Nov. 1966).

8. Green, *The Supreme Court of Tennessee in 1878*, 16 TENN. L. REV. 769 (1941).

9. *Id.*

10. *Id.*

11. Hoskins, *The University of Tennessee College of Law*, 16 TENN. L. REV. 679-83 (1941).

offerings of the University, funds were limited.¹² The fee was \$50 per term or \$100 per year, plus a \$12 incidental fee and a \$2 library fee.¹³ The dean's salary was the total of the tuition fees collected, up to a maximum of \$2500 per year.¹⁴

When UT founded its Department of Law, the nearest law schools outside of Tennessee were located in Lexington, Virginia; Chapel Hill, North Carolina; and Tuscaloosa, Alabama.¹⁵ In Tennessee, there were three law schools in operation: Cumberland University in Lebanon (established in 1847), Vanderbilt University in Nashville (established in 1874), and Walden University in Nashville, which was otherwise known as Central Tennessee College (established around 1880 for "colored" students).¹⁶

The objectives of the law department, as stated by its first dean, were:

First, to educate and train thoroughly young men who propose to practice the law in a knowledge of the elements of learning of the profession; second, to give a knowledge of the practice by moot courts, preparation and pleading, etc., so that they may be able to enter upon their practice with some experience in these essential matters; and third, to continue to labor to elevate the standing of professional learning.¹⁷

With the sounds of Knoxville's first streetcar clanging outside the windows of a downtown office, Freeman held the Law Department's first meeting on February 13, 1890.¹⁸ The class was attended by nine students.¹⁹

In September, 1890, the Department's operations moved to North College on "the Hill,"²⁰ and Freeman devoted himself to full-time teaching. Unfortunately, Dean Freeman's ill health forced his resignation early in 1891, before the end of the first full academic year.²¹ His successor laid the foundation for a strong academic program.

12. Montgomery, *supra* note 7, at 49; Official Correspondence; Constitution of the Law Department (c. 1889) (College of Law Archives).

13. Montgomery, *supra* note 7, at 49.

14. Constitution of the Law Department (c. 1889) (College of Law Archives).

15. Jones, *History of the College of Law at the University of Tennessee*, THE UNIVERSITY OF TENNESSEE SESQUI-CENTENNIAL, 1794-1944 177 (1944).

16. Street, *supra* note 6, at 158. A fourth law school, the University of Nashville, operated from 1854 to 1855 and from 1870 to 1872.

17. Hoskins, *supra* note 11, at 681-82.

18. The office was in what used to be the Deaderick Building on Market Street, next to the old post office building.

19. Montgomery, *supra* note 7, at 49. Only eight were "paid students" according to a data sheet compiled by the University treasurer.

20. Street, *supra* note 6, at 64. North College later became known as Humes Hall. *Id.*

21. Montgomery, *supra* note 7, at 50. He died the following year.

III. THE INGERSOLL YEARS, 1891-1915

The first major strike in Tennessee was held by miners who objected to working with convicts (1891); the Southern Railway began operations (1894); Plessy v. Ferguson was decided (1896); the gunboat "Nashville" fired the first shot of the Spanish-American War (1898); pharmacists in Tennessee campaigned to have cocaine declared illegal (1900); the Wright brothers took their first flight and the first World Series Baseball Championship was won by the Chicago White Socks (1903); San Francisco experienced a major earthquake (1906); the Tennessee prohibition law was passed (1909); The Titanic sank (1912).

An "Independent" Dean

Freeman was succeeded as dean by Henry Hulbert Ingersoll, who held an undergraduate and a master's degree from Yale University and the doctor of laws degree from Washington College. During the twenty-five years of Ingersoll's deanship, the Department's growth was dramatic, as manifested in enrollment, study programs, and admission requirements.

Ingersoll served as judge of the Tennessee Supreme Court Commission (1879-80) and edited the 1886 edition of *Barton's Suits in Equity*.²² He had successfully challenged the authority of courts to require oaths attesting to the "abjuration of the Ku-Klux Klan" and other "obnoxious" organizations as a prerequisite to the practice of law in those courts.²³ UT President Hoskins would later describe Ingersoll as equally an "independent" and "clear" thinker as was his predecessor.²⁴ One history would report that in listening to Ingersoll's lectures, "one . . . could half fancy that somewhere there existed, dwelling in august majesty, a divine embodiment of this religion" called the law.²⁵

In addition to Dean Ingersoll, George A. Beers was the only other regular faculty member during the school's first quarter-century. Beers resigned in 1892 to join the faculty of Yale University

22. 1976 *UT College of Law Alumni Directory* at 6-7 (College of Law Archives).

23. *Ingersoll v. Howard*, 48 Tenn. (1 Heisk.) 246 (1870). Ingersoll stated that he was personally opposed to the Ku Klux Klan and other secretive political organizations, but he believed that the 1868 Act requiring "officers of the courts" to give evidence that they were not associated with such "obnoxious" political organizations should not apply to attorneys. When he refused to give such an oath in criminal court, his name was stricken from the roll of attorneys. The Tennessee Supreme Court agreed with Ingersoll, ruling that attorneys were not "officers of the courts" for the purpose of the 1868 Act. *Id.* at 255.

24. Hoskins, *supra* note 11, at 681.

25. *History of the Law Department*, 50 U. TENN. MAG. 345, 346 (1920).

Law School; Charles W. Turner was his replacement. Professor Turner was reported to have given "all instructions in the school except a few informal lectures" between 1892 and 1900.²⁶

Edward T. Sanford, a future United States Supreme Court Justice and a founding editor of the *Harvard Law Review*, served as a part-time member of the UT law faculty during the first quarter-century. Sanford, who also chaired the UT Board of Trustees' College of Law Committee, lectured at the law school from 1897 to 1916 on such subjects as Corporation Law and Federal Jurisdiction and Procedure. He was later credited with having brought the law school up to standards acceptable by the Association of American Law Schools.²⁷ He was appointed to the Supreme Court in 1923.

Early Admission Requirements

A good moral character, a good education in the English language, and at least nineteen years of age were the admission requirements for all candidates to the University of Tennessee's Department of Law, according to the Constitution approved by the Board of Trustees in 1889.²⁸ It was also suggested that reading John Richard Greene's *History of the English People* and Blackstone's *Commentaries on the Laws of England* would be helpful.²⁹ In 1909, a high school education became a requirement for admission to the study of law.³⁰

The high price of a legal education kept enrollment at a low level during the first few years, so in 1893 the tuition was reduced to \$50 per year—the same as the regular academic departments.³¹ The strategy of reduced tuition was successful; enrollment reached sixty by the year 1900. Ingersoll believed that was the largest enrollment of any two-year law school south of Virginia.³² It fluctuated considerably over the next decade, partially due to increased admission requirements, a lengthened program of study, and competition from the growing list of law schools in the state.³³

26. General History, *1950 UT College of Law Alumni Directory*, at 11-15 (College of Law Archives).

27. Cook, *Path to the High Bench: The Pre-Supreme Court Career of Justice Edward Terry Sanford*, 47-49 (Dec. 1977) (thesis available in Univ. of Tenn. Library, Special Collections).

28. Constitution of the Law Department (c. 1889) (College of Law Archives).

29. Announcements, Department of Law, 1889-90 U. Tenn. Register, at 53 (Univ. of Tenn. Library, Special Collections).

30. Hoskins, *supra* note 11, at 682.

31. UT Board of Trustees Minutes (Nov. 29, 1892) (Univ. of Tenn. Library, Special Collections).

32. General History, *1950 UT College of Law Directory*, at 11 (College of Law Archives).

33. Street, *supra* note 6, at 160-62.

The first students were all from Tennessee: Edward A. Cummings, Gideon S.W. McCampbell, George S. Snyder, and John L. Williams, all from Knoxville, Harvey H. Hannah from Oliver Springs, William B. Hodges from Morristown, James J. Newport from Huntsville, and James Walter Young from Clinton.³⁴ Hannah, Hodges, McCampbell, Snyder, and Young graduated in 1891, apparently under a somewhat accelerated program despite the "two-year" requirement, and Williams graduated in 1893.

The law school's first woman was admitted in 1907, fifteen years after the first woman was admitted to any UT program.³⁵ Maude Riseden Hughett of Wartburg, Tennessee, graduated in 1909,³⁶ earning the distinction of being the first woman law graduate not only at UT, but in the South.³⁷ Even though there were over 1000 women attorneys in the United States as of 1900, as late as 1911 women law graduates were denied permission to practice law in such states as Arkansas and Georgia.³⁸ The numbers of women in law studies at UT were insignificant until the mid-1920s.³⁹

Another notable student during this period was James D. Hoskins. He graduated from the law school in 1897 and eventually became president of the University. Arthur B. Hyman, who graduated in 1901, practiced in New York City, as did 1909 graduate Frederick T. Bonham. George C. Taylor, a 1908 graduate, became a federal judge and a member of the UT Board of Trustees, could not have imagined that his alma mater's building would bear his name nearly sixty years later. Philip D. Harris, 1910 alumnus, became an attorney for the U.S. Treasury Department's Internal Revenue Service. Samuel J. Milligan, Class of 1912, outlived his contemporaries and maintained a thriving practice in Greeneville, Tennessee, well into the 1980s.

Students and Alumni Organize

Student organizations have always played an important role in the College community. As early as 1894, law school classes set up

34. Notes from the Catalog of 1890-91 (Univ. of Tenn. Library, Special Collections).

35. See G. Gaither, *Co-Education at UT*, 54 TENN. ALUMNUS 22, 25 (Fall 1974).

36. 1909-10 U. Tenn. Register 197 (Univ. of Tenn. Library, Special Collections).

37. Gaither, *supra* note 35, at 25. The last record of Ms. Hughett is in the 1957 *UT College of Law Directory*, in which she was reported to be practicing law in Louisville, Kentucky, with Hughett & Hughett.

38. STEVENS, *supra* note 4, at 83.

39. In fact, there were no more than five female students, and generally less than three, until 1952. The numbers did not rise to a significant level until the mid-1960s. See generally U. Tenn. Register (from 1890 to 1966) (Univ. of Tenn. Library, Special Collections).

their own organizations. The first professional fraternity was the "Reese Law Club," founded in 1898 and named for William B. Reese, a justice of the Tennessee Supreme Court. In 1903, the club became a division of Theta Lambda Phi, which later consolidated with Delta Theta Phi. The club became inactive in 1912.⁴⁰

The origin of organized alumni involvement in the law school's progress was the establishment of the Alumni Association of the Law Department as a "permanent organization" around 1911.⁴¹ Apparently initiated by Turner and Ingersoll with the acquiescence of the University's president, the organization's purpose was to help put the law school "on a high plane of efficiency."⁴² Dues were \$10, payable in installments of \$1 per year over ten years. The president of the association was Howard Cornick, Class of 1895, and W.J. Donaldson, Class of 1903, served as secretary.

For the first few years, legal education at UT took place in various buildings on "the Hill," before and after the construction of Ayres Hall. In 1892, South College became the Department of Law's home for two years.⁴³ From 1894 to approximately 1920, Old College—the present site of Ayres Hall—housed the law classes in addition to those of the language department.⁴⁴

The Evolution of a Professional Program

The early law curriculum was fixed at two years instead of the one year program typical of most schools. This was the first of such advanced requirements in this geographic region.⁴⁵ Those who had previously "read law" with a practicing attorney or who did extra work might graduate in one year. For the first decade, the law department itself granted a license to practice in addition to the bachelor of laws degree.⁴⁶

Even prior to the turn of the century, students were coming from fifteen different states to study law at the University of Tennessee. That diversity made it clear that the curriculum needed to be broad

40. Painter, *The Fraternities at the University of Tennessee at Knoxville*, 50 U. TENN. MAG. 433, 434 (1920).

41. Letter from Howard Cornick and W.J. Donaldson to alumni, 1911. There is no further mention of this alumni association in the Archives, so one can only speculate that it was merged with the general university-wide alumni association in later years.

42. *Id.*

43. Street, *supra* note 6, at 64.

44. Memorandum from the president to the dean (Aug. 16, 1916 & Sept. 11, 1918) (College of Law Archives); Street, *supra* note 6, at 64; General History, 1950 *UT College of Law Directory*.

45. U. Tenn. Record, 1928; Street, *supra* note 6, at 64.

46. Announcements, Department of Law, 1896-97 U. Tenn. Register, at 59 (U. Tenn. Library, Special Collections).

enough to prepare students for the practice of law in a variety of jurisdictions.⁴⁷

The curriculum and teaching methods developed in noticeable ways. When the school was founded, the textbook-lecture method of instruction was used. The case method of law instruction was still in the early stages of development in this country. As early as 1893, something akin to the case method was used as a supplement to the textbooks and lectures that predominated at the time.

The first curriculum's law books included Anson on Contracts, Cooley on Torts, Evans on Pleading, Caruther's *History of a Lawsuit*, Greenleaf on Evidence, Schouler on Domestic Relations, Harris on Criminal Law, Bispham's *Equity Jurisprudence*, and Hicks' *Manual of Chancery Practice*.⁴⁸

Seven years later, the first-year curriculum covered Contracts, Personal Property, Domestic Relations, Bills and Notes, Torts, Criminal Law, and Constitutional History.⁴⁹ In the second year, courses included Real Property, Equity Jurisprudence, Corporations, and Constitutional Law.⁵⁰ For those who chose to remain for a third "graduate" year, they would study Bailments, Roman Law, International Law, and the history of the common law.⁵¹

Students could obtain typewritten syllabi of the lectures, "containing brief statements of the principles with cases and other authorities," making it "unnecessary" for students to take notes.⁵² Dean Ingersoll and Professor Turner even published their syllabi for Pleading and Practice, Evidence, Insurance, and Domestic Relations in 1900.⁵³

From the beginning, the curriculum contained moot court work designed to develop skills peculiar to the legal profession.⁵⁴ Moot court was a weekly exercise for all students.⁵⁵ "Daily recitations" were also required and students were encouraged to acquire experience in debate and "to cultivate a clear and concise style in writing and in oral argument."⁵⁶

47. General History, 1950 *UT College of Law Alumni Directory*, at 11.

48. 1890-91 U. Tenn. Register, at 52-53 (Univ. of Tenn. Library, Special Collections).

49. Announcements, Department of Law, 1896-97 U. Tenn. Register, at 58 (Univ. of Tenn. Library, Special Collections).

50. *Id.*

51. *Id.*

52. *Id.*

53. Ingersoll and Turner, *Syllabi* (1900) (College of Law Archives).

54. Dedication: The University of Tennessee College of Law Building (Apr. 4, 1950) (College of Law Archives).

55. U. Tenn. Record, 1907 (Univ. of Tenn. Library, Special Collections).

56. Announcements, Department of Law, 1897-98 U. Tenn. Register (College of Law Archives).

In 1899, the school changed to a quarter system and students were required to pass sixty percent of their exams to be recommended for graduation.⁵⁷ In 1907, submission of a thesis was required prior to graduation.⁵⁸

It is interesting to note that in addition to the bachelor's degree, the law school offered a master's degree in law from 1895 to around 1922. The founders were concerned that the short period of time devoted to the study of law was insufficient to prepare students adequately for the practice of law. As an inducement for this additional study, the school first offered a third year of study free of tuition.⁵⁹ The regular program was increased to three years of study in 1913,⁶⁰ and by 1922, the master's degree had been dropped. Records indicate that only two students actually earned the master's degree in law: Allen Mitchell Burchett in 1915 and John Rhinold Bender in 1922.⁶¹

At the turn of the twentieth century, the UT Department of Law became a charter member of the Association of American Law Schools (AALS).⁶² UT was the only member south of the Ohio river. The AALS suspended UT's membership in 1905 when a third year of study became a requirement for association membership. In a 1904 report to UT President Brown Ayres, Dean Ingersoll lamented the insufficiency of the school's finances to sustain a third year of instruction: "It would certainly require that both of us should give all of our time to the labor of instruction, and at present prices of living we could not even lead the 'simple life' respectively."⁶³ The AALS reinstated membership in 1913 when UT added a third year of study to the curriculum.

Merger and Elevation to a "College"

In the fall of 1907, the law department merged all functions, fees, and professors' salaries with the University administration—a change that assured law faculty of a guaranteed salary.⁶⁴ Dean Ingersoll was paid \$66.66 per month because he served only part-time and Professor Turner received \$133.33 per month.⁶⁵

In 1911, the Board of Trustees voted to elevate the Department of Law to the status of a College, along with the departments of

57. U. Tenn. Record, 1899 (Univ. of Tenn. Library, Special Collections).

58. U. Tenn. Record, 1907 (Univ. of Tenn. Library, Special Collections).

59. General History, 1950 *UT College of Law Alumni Directory*.

60. Street, *supra* note 6, at 65.

61. UT Graduate Records Office.

62. Hoskins, *supra* note 11, at 679.

63. Letter from H.H. Ingersoll to UT President Brown Ayres (Dec. 3, 1904) (College of Law Archives).

64. Montgomery, *supra* note 7 at 50.

65. Budget Reports, 1907-08 (Univ. of Tenn. Library, Special Collections).

medicine and dentistry, which became "Colleges" in 1912.⁶⁶ Although the College of Law program was extended to three years in 1913, students who had completed their junior year in liberal arts could receive credit for the first year of law study, thus enabling them to acquire both the undergraduate and law degrees in six years.⁶⁷

IV. SIGNS OF PROGRESS, 1915-1930

The United States entered World War I (1917); Alvin C. York captured 132 Germans (1918); Jack Dempsey became the World Champion Heavyweight boxer (1919); nationwide Prohibition went into effect and Tennessee became the pivotal state in the nation's acceptance of the nineteenth amendment, giving women the right to vote (1920); horse-drawn vehicles were still the major mode of transportation (1923); the "Scopes Monkey Trial" was held in Dayton, Tennessee (1925); WSM radio in Nashville began broadcasting the Grand Ole Opry (1926); Charles Lindbergh flew across the Atlantic and Babe Ruth set a season home run record (1927); and the stock market crashed (1929).

Upon Dean Ingersoll's death in 1915, Professor Charles Turner was appointed dean. In the history compiled in 1941 by President Hoskins, he proudly observed that Dean Turner "had the happy facility of impressing on all young men who came under his tuition that fine quality of clear, logical, independent investigation and accurate conclusion" and "[o]ur alumni . . . are concrete illustrations of these abilities."⁶⁸ A former Boston lawyer, Turner had served on the UT law faculty almost since its beginning. His daughter, Helen, presided over the expansion of the law library for twenty-six years, from 1922 to 1948. His philosophy of the law was more "scientific" than that of his predecessors. To Turner, the law possessed a "marvelously interesting history running back into the mists of forgotten centuries."⁶⁹

By 1920, the faculty still consisted of only two full-time (Charles Turner and John R. Neal) and four part-time instructors. One of those part-time instructors, Malcolm McDermott, was named dean in 1920 when Turner retired at age seventy-six. McDermott also served as president of the Tennessee Bar Association during the first year of his deanship.

A native Tennessean, a Knoxville practitioner, and a Princeton and Harvard graduate known to have high academic standards,

66. UT Board of Trustees Minutes (Nov. 24, 1911).

67. U. Tenn. Record, 1912. The program continued until 1967, when a bachelor's degree was required for admission.

68. Hoskins, *supra* note 11, at 681.

69. *History of the Law Department*, 50 U. TENN. MAG. at 347.

McDermott had been a part-time lecturer on the UT faculty since 1916. Dean McDermott formally adopted the case method of instruction and led the school to a position of leadership within the bar of Tennessee as envisioned in a report prepared by the Board of Trustees in anticipation of McDermott's appointment.⁷⁰

A "colorful" member of the law school community became a source of frustration for Dean McDermott and a source of fascination for the students. John R. Neal, who held a Ph.D. from Columbia University, had been on the faculty since 1909, during which time he developed quite a reputation as an eccentric. "The epitome of the absent-minded professor, he was said to have slept in his clothes, refused to take baths, and seldom graded students' papers while pursuing a teaching career." He was described as "brilliant, but quixotic."⁷¹

Although very popular among the students, he was not an easy person to supervise. At a public hearing before the Board of Trustees, Dean McDermott testified that Neal had given identical grades to an entire class, failed to keep attendance records, and gave credit for work not performed in the classroom and without examination.⁷² "It was not unusual for an entire class to receive 95 on an exam—needless to say, the examination was never really graded."⁷³ Neal was considered a sage by some and one petition in his favor was signed by over 100 people.⁷⁴

Despite considerable alumni support for Neal, the Trustees voted in 1923 to dismiss him along with six other professors who had challenged the University's authority.⁷⁵ The University's action resulted in considerable public criticism; bitterness affected the University in statewide politics for years to come.⁷⁶

Upon his dismissal from the University, Neal opened his own law school, which thrived for almost nineteen years in Knoxville.⁷⁷ He also helped Clarence Darrow represent biology teacher John T. Scopes in the famous "Monkey Trial" in 1925. Scopes was fond of Neal, describing him as "a much rarer person than most spotless, cleanshaven, and shorn clotheshorses I have seen [with] a keen and

70. Report by Special Committee on the College of Law, E.T. Sanford, H.G. Kyle, W.P. Cooper, and H.A. Morgan, to the Board of Trustees (c. 1920) (College of Law Archives).

71. R. CORLEW, *TENNESSEE: A SHORT HISTORY* 458 (2d ed. 1981).

72. Letter to President H.A. Morgan from Malcolm McDermott (July 20, 1923) (College of Law Archives).

73. Montgomery, *Threshold of a New Day: The University of Tennessee*, 74 U. Tenn. Record at 147 (Nov. 1971).

74. Knoxville Journal, July 17, 1923, at 1, col. 1.

75. Montgomery, *supra* note 73, at 35.

76. *Id.* at 37-78.

77. Hicks, *The Great Objector: The Public Career of Dr. John R. Neal* 143 (Dec. 1968) (thesis available in Univ. of Tenn. Library).

analytical mind.”⁷⁸ Scopes traced Neal’s “lack of pride in his personal appearance” to “his timidity and his lack of self-confidence.”⁷⁹ Darrow and Neal lost the case, but focused national attention on the issue of the teaching of evolution in schools.

This controversial period in the school’s history apparently led Morgan to consider a change in deans in 1925. He offered the deanship to prominent Knoxville attorney John W. Green. Green respectfully declined, commenting that due to his ill health, the “strain would be too much” for him.⁸⁰ McDermott remained dean for another five years.

A Rollercoaster Enrollment

Entrance requirements were increased to one year of college work in 1917 with no noticeable affect on enrollment.⁸¹ Indeed, enrollment surged following World War I, reaching eighty-nine at the time of Dean Turner’s retirement. As UT President and law alumnus James Hoskins noted, this increase was partially due to the “deferment of opportunities for study during the period of army enlistment, and to the intense desire of young men to make their professional adjustments as quickly as possible, once the War was over.”⁸²

Enrollment again decreased with the increase in admission requirements. In 1925, in order to comply with AALS standards, two years of college work were required.⁸³ The enrollment stood at sixty when Dean McDermott resigned in 1931 to join the law faculty of Duke University.⁸⁴

Clifton Bledsoe Cates, who graduated in 1916, became Commandant of the U.S. Marine Corps. A graduate of the Class of 1921, Marion S. Boyd became a judge for the United States District Court for the Western District of Tennessee. Jack Bernard Tate, a 1926 graduate, became associate dean for Yale College of Law.

Fellowship and Initiatives

Originally formed as the McReynolds Club in 1915, the James Clark McReynolds chapter of the Phi Alpha Delta legal fraternity was installed in 1916.⁸⁵ Three years later, the Roosevelt Club, named

78. J. SCOPES & J. PRESLEY, *CENTER OF THE STORM* 64 (1967).

79. *Id.*

80. Letter from John W. Green to H.A. Morgan (June 1, 1925) and from Green to J. Hoskins (June 8, 1925) (available in Univ. of Tenn. Library, Special Collections).

81. Hoskins, *supra* note 11, at 682.

82. *Id.* at 680-81.

83. Montgomery, *supra* note 73, at 147.

84. Hoskins, *supra* note 11, at 680-82.

85. Painter, *supra* note 40, at 440.

for President Theodore Roosevelt, was granted a charter by the Phi Delta Phi (PDP) legal fraternity as "Roosevelt's Inn."⁸⁶ Inactive during World War II, PDP was reactivated in 1946.⁸⁷ The Student Bar Association was organized prior to 1920 to represent all of the students.⁸⁸

The first honorary fraternity was called "The Chancellors." Founded in 1918-19, members were chosen from the senior class based on scholarship, character, and ability. An average of ninety was required and only the top ten percent of the graduating class was eligible.⁸⁹ The fraternity was designed along the lines of a national society, the Order of the Coif, of which UT was not yet a member.

Students of the College of Law made a significant statement of their role as public servants in 1915. Members of the first-year class set up a Free Legal Aid Bureau, a precursor of the College's Legal Aid Clinic. The students pledged themselves to "spend a certain amount of time each week in the assistance of the poor and needy citizens of Knoxville, whose wrongs would otherwise go without righting."⁹⁰ Their headquarters was in the Hunter Settlement House and Justices of the Peace allowed students to plead cases before them.

A New Service to the Bar

The first issue of the *Tennessee Law Review* was published in 1922 with the financial support of prominent Knoxville lawyer and member of the UT Board of Trustees, T. Asbury Wright. He and his family continued to support the publication until approximately 1940.⁹¹

Among the six editors of the inaugural issue was future United States Congressman Howard H. Baker, Class of 1924. George B. Schaeffer served as chairman, John A. Mitchell served as business manager, and Morton L. Deitch, G. Hugh Gallagher, and R.L. Bass were the other members of the first editorial board. According to the initial editorial, they were selected on the basis of scholarship and "general ability."⁹²

86. *Id.* at 440-41.

87. Faculty Minutes (Nov. 11, 1946) (College of Law Archives).

88. The "Heritage" of U-T Law Alumni, 1959 *UT College of Law Alumni Directory*, at vii (College of Law Archives).

89. Painter, *supra* note 40, at 445. If there were less than 30 members in the senior class, then the three highest ranking students were elected to membership. *Id.*

90. The "Heritage" of U-T Law Alumni, 1959 *UT College of Law Alumni Directory* at vi.

91. See generally successive issues of the TENN. L. REV., 1922-1940.

92. 1 TENN. L. REV. 1 (1922).

The stated purpose of the *Review* was to enable the College to "carry to the lawyers of the State the benefit of research work done here and elsewhere by students, faculty and the profession," and thus help the College to be of "real service" to the bar of Tennessee.⁹³ It was designated the official publication of the Tennessee Bar Association and remained as such until the TBA began its own, separate publication in the 1950s.⁹⁴

The first issue of the *Review* was mailed to every lawyer in the state, with continuing subscriptions available at the price of \$1 per year.⁹⁵

The Case Method Introduced

In 1916, the case method was adopted as a regular method of instruction at the University of Tennessee.⁹⁶ By the 1920s, it was said that "anybody who was anybody in the law school 'industry' used the case method."⁹⁷

C. Raleigh Harrison, Class of 1901, established a gold medal prize for the graduate "who stands highest in scholarship."⁹⁸ This prize was added in 1922 to match, in classroom recognition, the Hugh Lawson McClung medal for proficiency in moot court.

The law library's holdings had increased to 4500 volumes by 1920—a far cry from the library founded with Dean Freeman's 1890 budget of \$300 and updated by Dean Ingersoll with about \$50 in 1904.⁹⁹

At least two other auspicious changes came to the College of Law during Dean McDermott's tenure. In 1926, the College of Law joined the list of law schools approved by the American Bar Association.

The second involved the school's location. The law classes remained in Old College until 1920, when the law school and library were moved back to South College and then to the basement of

93. *Id.*

94. Faculty Minutes (July 7, 1953).

95. 1 TENN. L. REV. 1 (1922).

96. "General History," 1950 *UT College of Law Alumni Directory*. The case method had been instituted at Harvard by Dean Christopher Langdell in the late 1800s and had been accepted by 1900 due to its "consistency" and "adaptability" for the "academically-superior" student. STEVENS, *supra* note 4, at 52-64.

97. STEVENS, *supra* note 4, at 123.

98. *Editorial*, 1 TENN. L. REV. 69 (1922). Records indicate that the earliest prize offered was free tuition for the senior year for the student who attended classes regularly and attained the highest average. U. Tenn. Record (College of Law Archives).

99. The "Heritage" of U-T Law Alumni, 1959 *UT College of Law Alumni Directory*, at viii.

Ayres Hall in 1921.¹⁰⁰ From 1922 to 1926, the school occupied two classrooms in Ayres Hall, with the library in the basement.¹⁰¹ Then, in 1927, the College of Law moved into its first real home.

Tennessee Hall, located on West Main Street near Henley, had formerly served as the East Tennessee Female Institute. It was vacated by the home economics department and remodeled as "the permanent home of the College of Law."¹⁰² For the first time, the UT College of Law had its own building.

V. GROWTH AND SURVIVAL, 1931-1944

Nazis took power in Germany, Franklin Delano Roosevelt's "New Deal" was inaugurated, and the Tennessee Valley Authority was established (1933); law alumnus James D. Hoskins became president of the University of Tennessee (1934); World War II began in Europe (1939); the Japanese attacked the United States fleet at Pearl Harbor (1941).

The First of the Three W's

Henry B. Witham had joined the faculty as Assistant Professor of Law and Secretary in 1926. "A worthy young doctor in the law,"¹⁰³ Witham was a former high school principal who earned his law degree from the State University of Iowa in 1925.¹⁰⁴ Witham became the fifth dean of the College of Law after McDermott resigned to join the law faculty of Duke University.

Henry B. Witham served as dean from 1931 until 1944 when he left to become associate dean of the Indiana University Evening Branch in Indianapolis.¹⁰⁵ When he began his term, the school had five full-time and five part-time instructors for its sixty students. This was the best faculty-student ratio in over thirty years—practically since the school's creation. In addition to Witham, the full-time faculty featured William Raymond Blackard, Raymond J. Heilman, Robert M. Jones, and Harold C. Warner.¹⁰⁶

Concerned about the quality of the legal profession, Witham argued vehemently for higher standards both for law schools and for

100. Street, *supra* note 6, at 64.

101. Wicker, *My Years at the University*, 34 TENN. L. REV. 566 (1967).

102. The "Heritage" of U-T Alumni, 1959 *UT College of Law Alumni Directory*, at v.

103. Hoskins, *supra* note 11, at 681.

104. Notes in College of Law Archives.

105. *The University of Tennessee Alumni Directory, 1890-1976*, at 7.

106. *Id.*

admission to the bar in Tennessee.¹⁰⁷ The faculty apparently sensed a responsibility for educating the public about the law, as evidenced by the participation of five or more members of the faculty in radio broadcasts in the late 1930s. On the air, the faculty discussed such subjects as "Who Should Study Law" and "The Jury."¹⁰⁸

Experimentation and Competition

During Witham's deanship, the University of Tennessee reportedly experimented with an admissions test for law school. The experiment proved unsuccessful because "although [the test] could demonstrate inherent ability to some degree, it gave no indication of the 'will to work.'"¹⁰⁹ Yale had introduced the first of such law school aptitude tests in 1928.¹¹⁰

The 1932 graduating class included one Rafael M. Bandujo, who became a magistrate in Havana, Cuba. Twelve years later, Angel Manuel Ciordia graduated and set up practice in Puerto Rico.

Other notable alumni from this era include 1931 graduate and future UT Trustee "Colonel" Tom Elam of Union City, Tennessee, philanthropists Lindsay and Robert Young of Knoxville, both Class of 1935, and successful Baltimore businessman Williford Gragg, Class of 1936, and his classmate L. Clure Morton, future federal judge.

One student would find his future on the faculty of the law school: John C. Baugh, Class of 1937, served as Professor of Law and University Counsel from the late 1940s to the mid-1960s. William H.D. Fones, a 1940 graduate, became a member of the bench of the Tennessee Supreme Court. Frank W. Wilson, Class of 1941, served with distinction as a United States District Court judge for twenty-one years. John A. Parker, Class of 1942, retired from the FBI and served lawyers throughout East Tennessee as Supreme Court Clerk for many years.

Low enrollment was a problem in the late 1930s as the country was still in the grip of the Depression. In addition, intense competition from the unusually large number of schools in the state kept enrollment under 100.

War or Peace

The opening of the College's third quarter-century was characterized by a third of the law student population embroiled in con-

107. Witham, *What Is Legal Education?*, 14 TENN. L. REV. 426 (1937); Witham, *Some Observations on Legal Education*, 16 TENN. L. REV. 434 (1940).

108. Faculty Minutes (June 22, 1937) (College of Law Archives).

109. 25 ILL. L. REV. 446 (1931); STEVENS, *supra* note 4, at 169 n. 54.

110. STEVENS, *supra* note 4, at 160.

trovery over the prospect of war. The headline of *The Knoxville News-Sentinel* on May 14, 1940, read: "35 U-T Law Students Write FDR To 'Be Less Belligerent'—Cease Non-Neutral Blasts—Lest He Get U-S into War."

In response to President Roosevelt's public statements about Hitler's goal of world domination, the students' letter to the President warned that "[t]he emotions of man are highly inflammable [sic] and dangerous and should not be needlessly or unduly aroused, for it is of such hates and fears that wars are born."¹¹¹ Although the students tried to make it clear that they were speaking as individuals and not representing the College of Law, the letter sparked a series of newspaper debates on its propriety and a withdrawal of alumni support. The dean even received an anonymous request to post a notice of a "German Bund" meeting, signed only by a swastika.

Dean Witham defended the students' right to express themselves, right or wrong: "In twenty years from now history will show what is the right course now but the best we can do at the present is to make up our own minds as we see the facts."¹¹²

Aspiring to Higher Standards

In 1936, *all* UT alumni passed the Tennessee bar exam while only forty percent of the non-UT applicants throughout the state passed.¹¹³ Not one to let the students and faculty rest on their laurels, Dean Witham suggested that "too much loafing was done by the students" during the 1935-36 year and that professors should grade their students on a daily basis to ensure that they prepared properly for class.¹¹⁴ Worried that some of the grades were too high, the dean urged the faculty to follow a grading system that would give a reasonable number of A's, B's, C's, D's, and F's. Professor Robert Jones balked at the interference with faculty prerogative and threatened to go into private practice rather than follow someone else's plan of grading.¹¹⁵

This concern for conservative grades continued to be a major topic of conversation at faculty meetings. The grades for 1936-37 for most teachers were higher than the normal curve, with more A's than F's and mostly C's.¹¹⁶ The dean suggested that "theoretically sound grading" would approximate twenty-two to twenty-five percent B's and D's, fifty percent C's, and two to five percent each A's and

111. Knoxville News-Sentinel, May 14, 1940, at 2, col. 7 and at 8, col. 8.

112. Letter from Dean Witham to T. Asbury Wright, Jr., (Sept. 30, 1940) (College of Law Archives).

113. Montgomery, *supra* note 73, at 148.

114. Faculty Minutes (Sept. 25, 1936) (College of Law Archives).

115. *Id.*

116. Faculty Minutes (Sept. 25, 1937) (College of Law Archives).

F's.¹¹⁷ The grade distribution for all students in 1937-38 was:

A	8.39%
B	24.1%
C	42.3%
D	14.9%
F	3.6% ¹¹⁸

During the 1937-38 academic year, the College of Law instituted "the 1.6 rule": students who failed to average 1.6 on their work each semester, except for the first, were required to withdraw from school.¹¹⁹

The new curriculum approved in 1939 included many of the courses that are now standard in modern law schools. The new additions included Administrative Law, Briefing, Criminal Procedure, Credit Transaction, Office Practice, Probate and Decedents' Estates, and Trial and Appellate Practice. Courses such as Mortgages, Municipal Corporations, Public Utilities, Sales, and Suretyship were dropped. Except for four lectures on the subject, Legal Ethics was also deleted from the course offerings.

The first-year required courses were Agency, Common Law Civil Procedure, Contracts, Criminal Law and Procedure, Equity I, Legal Bibliography, Personal Property, Persons and Domestic Relations, Real Property I, and Torts. Faculty members were also encouraged to collaborate with one another more closely "to prevent duplication of materials."¹²⁰

Budget Problems

In 1931, the holdings of the Knoxville Bar Association's library (10,000), which had informally merged with the College of Law collection, were formally transferred to the College of Law.¹²¹

The Knoxville Bar Association agreed to help present to University administrators the need for additional funds to support the library's purchase of the state reports not currently included in the library's holdings. In return, the College of Law agreed to allow the local judiciary and the sixty-one KBA library stockholders, and their assignees, the right to use the library free of charge.¹²² The stock

117. *Id.*

118. Faculty Minutes (Nov. 9, 1938) (College of Law Archives).

119. Faculty Minutes (Feb. 13, 1937 & Feb. 7, 1938) (College of Law Archives).

120. Henry B. Witham, Application to the Order of the Coif (Mar. 16, 1939) (available at Univ. of Tenn. Library, Special Collections).

121. UT Business Manager's Papers (Aug. 22, 1931) (available in Univ. of Tenn. Library, Special Collections).

122. *Id.*

shares, each valued at \$200, were transferred to Dean Witham that same year.¹²³

In 1938, the College's annual budget (aside from salaries) was \$500. The total budget was \$26,042 for ten professors and the highest salary was Witham's: \$4700 for the year.¹²⁴ Tuition was \$60 per quarter.

Dean Witham's report to President Hoskins in 1938 urged \$10,000 in additional funds, plus \$3000 annually, to expand the library's 18,000 volumes to 40,000. He also emphasized the need for better salaries for the faculty. Finally, he presented arguments for a new building for the law school, a need not realized until a decade later.¹²⁵

In his 1941 report to UT President James Hoskins, Dean Witham proudly noted that 100% of the nineteen UT graduates who took the January 1941 bar examination passed, compared with a fifty-three percent passage rate for all applicants.¹²⁶ The dean soon had to turn his attention to enrollment problems as the United States involvement in World War II, a move feared by so many students a year earlier, became a reality.

In a letter to President Hoskins in 1943,¹²⁷ Dean Witham confronted the issue of whether or not the College of Law should suspend operations during the war years. Enrollment decreased from 102 to sixty-six, thirty-three, and finally to a low of nineteen after the United States entered the War. Admitting some bias because of his closeness to the school, Dean Witham urged its continuation for several reasons, such as, the perpetuation of professional contacts through the *Tennessee Law Review* and the Annual Law Institutes, competing for quality faculty once their employment was suspended, and retaining the high standards for bar admission established statewide by UT's example just prior to the War. The dean also emphasized the important role that law-trained individuals would play in assuring a "proper government in the future," regardless of the per-student cost. He concluded his arguments with this statement: "Our job will be well done only when we can accomplish what is best *for* Tennessee and therefore what is best *in* Tennessee."¹²⁸

123. Stock Certificates (available in Univ. of Tenn. Library, Special Collections).

124. Letter to the President from Dean Witham (Aug. 22, 1938) (College of Law Archives); *see also* Budget Files, 1938-39 (College of Law Archives).

125. Letter from the dean to President Hoskins (Aug. 3, 1938) (Univ. of Tenn. Library, Special Collections).

126. Letter from the dean to President Hoskins (July 8, 1941) (College of Law Archives).

127. Letter from the dean to President Hoskins (June 9, 1943) (College of Law Archives).

128. *Id.*

In spite of the drain on University finances, a far-sighted administration kept the College of Law open throughout World War II as it had during World War I.

Immediately following World War II, "the G.I. Janes and G.I. Joes" came marching back and enrollment skyrocketed to 304, five years after the low of twenty-three recorded upon Dean Witham's retirement in 1944. The increase was due partially to some accelerated credit allowed for "study and intellectual growth in the armed forces."¹²⁹

Alumnus Robert L. Derrick recalled how he and his fellow war veterans were "a mixed bag of walking wounded."¹³⁰ Their nerves were frayed to the point that Judge Robert Jones sent several of them scrambling for cover on the floor when he smashed a heavy law book on the hard oak of his lecture table. Although he was merely "dressing down" a student for the incorrect briefing of a case, the sound emulated a bursting artillery shell.¹³¹

Constant Re-evaluation

The Annual Law Institute was established in 1938 in honor of former Dean Charles Turner. Alumni could become members of the Institute with donations of \$5 or more.¹³² It was soon to become a high standard for continuing legal education in Tennessee. The Institute brought together practitioners, judges, and educators to address changes in the law and the legal profession.¹³³

Between 1936 and 1940, the law school briefly changed to the semester system used prior to 1899. In 1945, the school returned to the quarter system to make it easier for World War II veterans to complete their studies.¹³⁴ The faculty recommended against a return to the semester system in 1950 and again in 1957.¹³⁵

In 1940, the faculty restated the objectives of the UT College of Law:

First, that students be equipped with sufficient technical knowledge of both procedural and substantive law to fit them, upon graduation, to begin the practice; second, that students will be impressed with

129. 1945 Law College Announcement (College of Law Archives). Students could complete their LL.B. requirements in 27 calendar months by attending summer school. *War Time Program*, 18 TENN. L. REV., back cover (Feb. 1944).

130. Letter from Robert L. Derrick to Scott Fountain (Nov. 5, 1988) (College of Law Archives).

131. *Id.* at 4.

132. Flyer from Turner Memorial Committee (c. 1940).

133. 1959 *UT College of Law Alumni Directory* at viii.

134. Faculty Minutes (Jan. 8, 1945) (College of Law Archives); Wicker, *Legal Education Today and In the Post-War Era*, 18 TENN. L. REV. 700-08 (1945).

135. Faculty Minutes (Apr. 5, 1950 & Oct. 13, 1957) (College of Law Archives).

high regard for the duty which, as lawyers, they owe to their clients and to their state, so that from the beginning of their practice of the law they will be aware of the responsibilities which the profession places upon them.¹³⁶

Hoskins characterized the "high purpose" of legal education in his 1941 history of the school: "[T]o turn into the channels of governmental activities young people devoted to care and accuracy and independence, well prepared, and worthily grounded in the ethics of this fundamental profession of human relationships."¹³⁷

VI. A FOCUS ON STANDARDS IN THE TENNESSEE BAR

By 1937, the Tennessee Bar Association had become concerned about the proliferation of unaccredited law schools in the state and requested a study by the American Bar Association's Section on Legal Education and Admissions to the Bar. There were at least twelve law schools in the state at the time with a total of approximately 913 students, but only two received the investigating committee's seal of approval: UT and Vanderbilt.¹³⁸

The 1937 ABA report included the following observation about the law school at the University of Tennessee: "With high admission requirements strictly enforced, good standards of scholarship, competent teaching personnel, and an excellent library, the school ranks well among the better law schools of the South."¹³⁹ The high number of competing law schools in the state, however, kept UT's law school enrollment small. By 1939, it had expanded to only 100 students.¹⁴⁰

The report led to increased bar admission requirements in 1938—two years of law study following two years of pre-law study.¹⁴¹ By 1949, there were only eight law schools in the state,¹⁴² the enrollments of many schools having been seriously depleted by World War II.

VII. DEAN WICKER'S VISION, 1944-1963

The Nazis and the Japanese surrendered and the charter of the United Nations was signed (1945); Shelley v. Kraemer was decided,

136. Hoskins, *supra* note 11, at 681-82.

137. *Id.* at 682.

138. *The Law Schools of Tennessee; Report of the Survey Committee*, 15 TENN. L. REV. 311 (1938) [hereinafter *Law Schools*].

139. *Law Schools*, 15 TENN. L. REV. at 354.

140. Montgomery, *supra* note 73, at 149.

141. Witham, *The History of the College of Law of the University of Tennessee* 21 TENN. L. REV. 364, 366 (1950).

142. Cheatham, *The Law Schools of Tennessee, 1949*, 21 TENN. L. REV. 283 (1950).

Arabs attacked Israel, and the Chinese communists defeated Chiang Kai-Shek (1948); the Korean War began (1950); the first Holiday Inn opened in Memphis (1952); Brown v. Board of Education was decided (1954); Clinton public schools were ordered to desegregate (1956); Castro seized power in Cuba (1959); the Berlin Wall was built (1960); a Soviet cosmonaut orbited Earth (1961).

The Second "W"

In 1944, a Yale and Harvard graduate with a long history of teaching law at the University of Tennessee (since 1925) was appointed dean. William H. Wicker served with distinction for nearly twenty years. Former UT President Andrew (Andy) Holt, in his tribute to Dean Wicker,¹⁴³ noted that "Yale and Harvard didn't rob him of his delightful Southern drawl" and that he "stubbornly refused to compromise on quality" as dean. "Bill had a notion that the U.T. College of Law should rate just as high academically as Yale and Harvard"¹⁴⁴

Dean Wicker was remembered very fondly by a former student, John R. Stivers of the Memphis bar, as a teacher with "a profound knowledge of his subject which he transmitted with a simplicity and a gentle humor that showed he had an equally profound knowledge of his students."¹⁴⁵

Wicker was regarded as "a student's professor," and he echoed respect for the students: "My teaching creed is that law students deserve the best, and the best is not coddling, but an education which is both as relevant and as demanding as the best the students can give."¹⁴⁶ Wicker recalled lighter moments such as his first day of teaching in the fall of 1925 when he walked into a classroom in Ayres Hall and heard a student (whom he later identified as Clarence Kolwyck) whisper to another, "What are they giving us for a teacher, a freshman?"¹⁴⁷ Apparently, he looked even younger than his approximate thirty years.

In 1950, Dean Wicker proudly described the school's faculty as "talented" and "industrious," selected with the aim of "bringing together a group of well-qualified men whose pedagogical, social, and political ideas were diverse, so that our students might be beneficially exposed to a wide range of opinions and inspirations."¹⁴⁸

143. Holt, *Dean Wicker as a Member of the University Faculty*, 34 TENN. L. REV. 555 (1967).

144. *Id.*

145. Stivers, *Dean Wicker as a Law Teacher*, 34 TENN. L. REV. 562 (1967).

146. Wicker, *supra* note 101, at 567.

147. *Id.* at 566.

148. Wicker, *supra* note 3, at 370.

Professor and longtime librarian Martin J. Feerick joined the faculty in 1949 and served until he died of a heart attack in October, 1973. Feerick and his wife Kathleen "labored" for the *Tennessee Law Review* for more than two decades and he was said to have had "[a] determination to 'go first class' in every facet of his lifelong career."¹⁴⁹ A 1941 graduate of Columbia Law School and a former New York practitioner, Feerick taught Legal Bibliography, Domestic Relations, Trade Regulations, Torts, and Unfair Trade Practices. He was described as "an exceptionally able teacher,"¹⁵⁰ evinced by the fact that he received the 1972 Harold C. Warner Teaching Award (\$1000). A first-quarter law student spoke about his character:

His gruffness and his blunt remarks intimidated some, but slowly we recognized that those qualities were inseparable from his integrity. I think we first began to appreciate him through his jokes, which were scandalous but delightful . . . Last Thursday in class, apropos of nothing in particular, he talked of his concern about the ease with which people seem to ignore each other and to treat the sufferings of others with indifference. . . . None of us ever saw him again.¹⁵¹

From 1925 to beyond 1950, the judge of moot court was Knox County Chancellor Robert M. Jones. The 1950 building dedication program noted that "[m]any are the lawyers in the state who tried their first case with him upon the bench."¹⁵² His philosophical assertions "were repeated by several generations of attorneys who moved through this court and entered practice."¹⁵³

An alumnus of UT, but one who passed the bar without benefit of a formal legal education, Jones served as Chancellor of the 11th Division of the Tennessee Chancery Court from 1926 to 1934.¹⁵⁴ He became a part-time professor of law at UT in 1921 and continued to serve in that capacity throughout his chancellorship. From 1934 until his retirement from active teaching in 1949, he was a full-time professor of law at the College of Law. Upon his death in 1960 at the age of ninety, he was described as "a delightful and inspiring teacher."¹⁵⁵ Judge Jones was "the confidant and the understanding friend of the reasonably prudent law student," but he was also able "to produce a fine pyrotechnic display of Jovian wrath for the

149. *Memorial Resolution by the Law School Faculty Concerning Martin J. Feerick*, 41 TENN. L. REV. 413-14 (1974).

150. *Id.* at 413.

151. *Alumni Headnotes* (Fall/Winter 1973-74).

152. Dedication: The University of Tennessee College of Law Building (Apr. 4, 1950) (College of Law Archives).

153. Montgomery, *supra* note 73, at 148.

154. Green, *Judge Jones as a Lawyer*, 21 TENN. L. REV. 225-26 (1950).

155. *The U-T Law Letter* (Apr. 1961).

benefit of transgressors," such as students who came to class late.¹⁵⁶

Selectivity in Admissions

Enrollment increased dramatically after World War II: from twenty-three in 1944 to 154 in 1946, 229 in 1947, and 304 in 1949. In fact, the surge in applications forced the College to set admission priorities in favor of former students and Tennessee residents.¹⁵⁷ Enrollment decreased slightly in 1952 when three years of college work were required for admission, but enrollment was back up to 192 by 1956.

Admission standards at law schools throughout the United States became more selective in the 1950s. According to one historian, "standards leaped and structures hardened" in the years after World War II.¹⁵⁸ By 1950, three years of college education was the general prerequisite for admission to law schools, by the 1960s, four years was the norm.¹⁵⁹ By the 1970s, selective admission programs were standard.¹⁶⁰

In 1958, the College added the Law School Admissions Test (LSAT) to the three years of college work already required for admission to UT law school. The admission test had been available for general use in the United States for ten years.¹⁶¹

The LSAT was not used to screen applicants on a uniform basis. Instead, its primary use was to evaluate the prospects for success of students who had already been admitted but were experiencing academic problems, as evidenced by the extraordinary number of exclusions reviewed by the faculty in their regular meetings. Despite the pressures of an "open door" policy for the state's public law school and the statewide competition for students, minimum admission standards were finally introduced under Dean Warner's administration in 1964.

A Future National Leader, Among Others

One alumnus from this era surpassed his father's precedent of considerable achievement to become an eighteen-year veteran of the United States Senate, Senate Minority and Majority Leader, and White House Chief of Staff: Howard H. Baker, Jr., Class of 1949.

United States District Court Judge Thomas G. Hull was a member of the Class of 1951. H. Theodore Milburn, who graduated in 1959,

156. Wicker, *Robert M. Jones as a Colleague*, 21 TENN. L. REV. 228 (1950).

157. 51 U. Tenn. Record, Special Number (College of Law Archives).

158. STEVENS, *supra* note 4, at 206.

159. *Id.* at 209.

160. *Id.* at 221.

161. *Id.* at 221 n.38.

was later appointed to the United States Court of Appeals for the Sixth Circuit. The first woman to be appointed as a regional solicitor for the United States Department of Labor (in 1976) graduated from the UT College of Law in 1961: Bobbye D. Spears.¹⁶²

Associations with the University of Tennessee abound from this period. The executive secretary of the UT Alumni Association and UT's unofficial "ambassador of good will," John M. Smartt, was a member of the Class of 1948. An atypical choice of careers in sports broadcasting led one 1953 graduate to become the "Voice of the Vols": John H. Ward. The future general counsel for the University of Tennessee, Beauchamp E. Brogan, attended classes in the late 1950s.

Grade Pressures

Grading and exclusion standards were a high priority for Dean Wicker. Grades have always been a sensitive subject in law schools and a notice in the May 1948 issue of the alumni newsletter showed that C's were quite common in the Winter Quarter of 1948:

	<i>Cumulative</i>			
	<u>1st Year</u>	<u>2nd Year</u>	<u>3rd Year</u>	<u>Averages</u>
A's	43	24	39	11%
B's	129	110	63	32%
C's	226	137	91	48%
D's	46	23	7	8%
F's	6	0	0	1%

In March of that year, the faculty approved a report suggesting that grades "were likely to" fall in the following categories:

A	5-12%
B	12-25%
C	48-60%
D & F	10-25%

The report also noted that students' average grades were expected to improve in their senior year.¹⁶³

In 1948, the resources of the school were stretched to the limits to accommodate the World War II veterans. The faculty was concerned about poor class attendance and preparation,¹⁶⁴ and the dean received an anonymous letter alleging widespread cheating among the student body.¹⁶⁵

162. *Alumni Headnotes* (Fall 1976).

163. Faculty Minutes (Mar. 8, 1948) (College of Law Archives).

164. Faculty Minutes (Nov. 16, 1948 & Dec. 8, 1948) (College of Law Archives).

165. Faculty Minutes (Dec. 8, 1948) (College of Law Archives).

Some evidence of the high academic standards of the College can be found in the January 1949 issue of *The U-T Law Letter*: "It is still quite difficult to secure an A grade in the College of Law as only 23 were given to third-year men, 34 to second-year men, and 44 to the freshmen who comprise the most numerous group." Several of the first-year students failed their first term; there were twenty-three grades of F and seventy-seven D's in the first-year classes.

Dean Wicker initiated the practice of faculty meetings to discuss students' grades each term, "to clear up doubtful cases" and to provide "a greater degree of uniformity in the marking system."¹⁶⁶ The practice was discontinued six months later, primarily because there were so many students that the faculty no longer knew their "individual capacities." It was also noted that the students misunderstood the purpose of the meetings and thought that the practice kept students in "categories" of estimated capabilities.¹⁶⁷

Students whose average fell below 2.0 (on a letter-grade scale) were told to cease all extra-curricular activity, and if employed, they could be required to adjust their academic load. In addition to the 1.6 rule,¹⁶⁸ students were required to withdraw if they failed to maintain a 1.9 quality point average for three consecutive quarters.¹⁶⁹

Prior to 1946, the faculty held a formal vote to approve conferral of the LL.B. degree, but thereafter the students merely needed to meet the graduation requirements.¹⁷⁰

Strict Curriculum Requirements In Force

In 1949, required courses such as Domestic Relations and Personal Property occupied sixty-nine percent of the 120 quarter credit hours required for graduation.¹⁷¹ In the first year, students were required to take Contracts, Criminal Law and Procedure, Domestic Relations, Judicial Administration, Legal Bibliography, Personal Property, Real Property I, and Torts. Second-year requirements were Real Property II, Constitutional Law, Equity, Evidence, Tennessee Procedure, and Wills.

In their third year, students could choose from among nineteen elective courses: Administrative Law, Bankruptcy, Conflict of Laws, Federal Procedure, Future Interests, Insurance, Labor Law I and II, Legal Aid Clinic, Legal Writing, Legislation, Mortgages, Private

166. Faculty Minutes (Sept. 26, 1946) (College of Law Archives).

167. Faculty Minutes (Mar. 21, 1947) (College of Law Archives).

168. See *supra* note 118 and accompanying text.

169. Faculty Minutes (May 23, 1956) (College of Law Archives).

170. Faculty Minutes (May 31, 1946) (College of Law Archives).

171. Pierce, Curricular Revision at the College of Law, 1949-1987, at 155-56 (1987 Report of the Curriculum and Academic Standards Committee) (College of Law Archives).

Corporations, Quasi-Contracts, Suretyship, Taxation I and II, Trade Regulation, Trial and Appellate Practice, and Trusts.¹⁷²

By 1950, the case method was supplemented by the use of the problem method, smaller seminar classes, tutorial instruction, and lecture. Through the years, the need to develop skills peculiar to the legal profession was recognized, and from the beginning, the curriculum contained moot court work designed to accomplish this objective. The attention given to "skills" courses had varied periodically. The substantial emphasis given to this aspect of legal education in 1950 was evidenced by courses in Legal Clinic, Trial Practice, Moot Court, Legal Writing, and Legal Drafting.

The November, 1950 issue of *The U-T Law Letter* reported the "new moot court setup":

Beginning this quarter, members of the Knox County Bar Association will preside over each bi-weekly session of Moot Court. The uptown lawyers are assigned by their president to this billet, the objective being to choose the lawyer most fitted by experience to the type of trial scheduled for the particular session. Already listed for hearings during this quarter are the president of the association, Frank Creekmore, [as well as] William P. O'Neil . . .

Moot Court students are presented with cases that have actually undergone litigation in the Tennessee courts with the testimony of each witness being narratively briefed, and each party having witnesses to whom the other side is denied access. . . . The students are responsible for their cases from the issuance of summons to the denial of certiorari.

Throughout the school's third quarter-century, moot court meetings were held once a week and cases were assigned to students to be prepared and tried as if before a true court of law. In November 1953, the College of Law entered the National Appellate Moot Court Competition for the first time and the team of Alvin Bell, Robert Weiss, and A. Stanley Robinson reached the semi-finals. Through the coming years, this competition would showcase the oratorical talents of many UT law students.

A Period of Innovation and Steady Growth

One of the most significant developments in this school's history occurred in 1947 with the formal establishment of the Legal Aid Clinic under Charles A. Miller's direction. The Legal Clinic, primarily a teaching device in which the student is introduced to the practice of law by direct contact with clients and their problems, started with

172. *Id.* at 155.

twenty-three students, one part-time attorney, one secretary, and Mr. Miller.¹⁷³

Professor Miller's basic philosophy of clinical education was summed up in the Fall-Winter, 1973-74 issue of *Alumni Headnotes*: "To study the phenomena of law in society without books is to sail an uncharted sea, while to study books without clients is not to go to sea at all."

UT's Legal Aid Clinic was only the second legal clinic to be established in the United States. The first clinic was started at Duke University. Just three years later the UT Clinic became the first American clinic to have its own offices designed specifically for teaching purposes in a law school building. At one point, student participation was such that UT's Clinic was called "the largest law office operated south of Washington, D.C.," and it was evaluated as "the best in the nation."¹⁷⁴

The November 1948 issue of *The U-T Law Letter* reported 222 cases received in the clinic's first year, including eleven economic problems, eighty-three family problems, and thirty-one property cases.

During Wicker's tenure as dean, the library's holdings grew to over 52,000 volumes. According to Harold C. Warner, "the library grew substantially in quality and quantity."¹⁷⁵

In 1951, the College of Law was admitted as a chapter to the prestigious "Order of the Coif," the law equivalent of the Phi Beta Kappa honor society.¹⁷⁶ Election of graduates to the Order is made by the law faculty and is the highest academic honor conferred by the College of Law.

From Castle and Church to a New Home

Professor Elvin "E.O." Overton recalled the physical plant of the College of Law "castle" at this time: The building at 720 West Main Street was "so run down that students were not allowed on the top floor because of the fire hazard syndrome (faculty were deemed more expendable or at least more fire resistant)."¹⁷⁷ The physical plant was so limited that the administrators rented a top floor room from a local church in order to handle the influx of returning veterans.

173. *Report of the Legal Aid Clinic of the University of Tennessee*, 20 TENN. L. REV. 514-20 (1948).

174. Wicker, *supra* note 101, at 565.

175. Warner, *Dean Wicker as a Colleague*, 34 TENN. L. REV. 557 (1967).

176. *The Order of the Coif Installation*, 22 TENN. L. REV. 291-93 (1952). In 1939, the College's application for admission to the Order was denied because of the low number of students enrolled at that time.

177. Personal Interview (June 7, 1989) (College of Law Archives).

As early as 1946, the law librarian had argued vehemently for a new law library. The reading room seated only fifty students and enrollment was at 123 and rising. "Students, finding the library crowded, are now going to other parts of the building to study."¹⁷⁸ In addition, there was virtually no shelving space left.

On April 14, 1950, the faculty and students moved into the brand new building on Cumberland Avenue, designed and built for law school purposes for less than \$781,000.¹⁷⁹ The dedication brochure promised that "[w]ithin its Collegiate Gothic walls of brick and native Tennessee stone will be found both beauty and utility."¹⁸⁰

Tennessee Supreme Court Justice Hamilton S. Burnett summarized the awe inspired by this new facility: "One cannot walk through this building—the library, the moot court room, classrooms, and all—without walking straighter, without feeling proud of our profession and our state."¹⁸¹ The new law school building merited a full-page pictorial feature in *The Knoxville Journal*.¹⁸²

The College in Court: Equal Protection in Issue

A successful constitutional challenge in 1951 forced the University of Tennessee to grant admission to Blacks. Two students applied for admission to the College of Law and two others to the graduate school. All were denied admission by the Board of Trustees on the basis that the laws of Tennessee required segregation of the races in schools.¹⁸³ It was agreed that they were otherwise qualified for admission but for their race.¹⁸⁴

The students' complaint stated that they could not obtain their graduate or law educations at any other state institution; thus, they were being denied equal protection guaranteed by the fourteenth amendment to the Constitution. The state law requiring separate but equal education for Black citizens was alleged to be unconstitutional.¹⁸⁵

Ironically, the challenged statute was enacted in 1941 in order to render moot an earlier challenge to the admission policies of the University and the law school. The "separate but equal" doctrine controlled in this earlier case of *State v. Witham*.¹⁸⁶ Six Blacks,

178. Open letter from Walter B. Garland (July 10, 1946) (College of Law Archives).

179. Faculty Minutes (Apr. 14, 1949) (College of Law Archives).

180. Dedication: The University of Tennessee College of Law Building (Apr. 4, 1950) (College of Law Archives).

181. *Dedication of the Law College Building*, 21 TENN. L. REV. 354 (1950).

182. *The Knoxville Journal*, Apr. 9, 1950 (Sunday Magazine), at 1.

183. *Gray v. Board of Trustees*, 100 F. Supp. 113 (E.D. Tenn. 1951).

184. *Id.*

185. *Id.*

186. *State v. Witham*, 179 Tenn. (15 Beel.) 250, 165 S.W.2d 378 (1942).

including Joseph M. Michael who had been denied admission to the College of Law in September of 1939, filed suit to compel their admission to the postgraduate and professional schools of the University of Tennessee, including the law school.¹⁸⁷ While the case was pending, the state legislature passed a statute requiring equivalent training for Blacks and ordered the appropriation of funds for that purpose.¹⁸⁸ The Chancellor then ruled the suit moot and the Tennessee Supreme Court affirmed, even though funds were never appropriated.¹⁸⁹

The United States District Court for the Eastern District of Tennessee held that the 1951 case presented a question of discrimination under the fourteenth amendment, not a question of the constitutionality of state statutes requiring race segregation in education, and thus, should be heard by a one-judge court, not a panel of three judges.¹⁹⁰ Judge Robert L. Taylor found in favor of the students primarily because the 1941 statute referred to in *Witham* had never been implemented, but Judge Taylor never entered an order.¹⁹¹ The students appealed the decision of the three-judge court declaring that this case should be heard by a single district court judge.¹⁹² By the time the case was heard by the United States Supreme Court in January of 1952, admission policies had changed. The University's attorney stated at argument that the students would be admitted to the school as requested. The United States Supreme Court ruled the case moot.¹⁹³

One of the two who had applied to the law school was not able to avail himself of the opportunity due to changed circumstances, but Lincoln Anderson Blakeney of Knoxville, the other plaintiff who had applied to law school, attended the Spring Quarter of 1952.

It was not long before the College of Law graduated its first Black, R.B.J. Campbelle, Jr., Class of 1956.¹⁹⁴ Only three more Blacks were admitted over the next fifteen years. Beginning in the early 1970s, the law school aggressively sought minority students by offering special admission and training opportunities for students who otherwise might not qualify for admission.¹⁹⁵

187. *Id.* at 252, 165 S.W.2d at 379.

188. *Id.* at 253-54, 165 S.W.2d at 380.

189. *Id.* at 258, 165 S.W.2d at 378, 382.

190. 100 F. Supp. 113 (E.D. Tenn. 1951).

191. *Gray v. University of Tennessee*, 97 F. Supp. 463 (E.D. Tenn. 1951).

192. Among the counsel for the students was New York attorney, Thurgood Marshall, the first Black appointed to the United States Supreme Court.

193. *Gray v. Board of Trustees*, 342 U.S. 517 (1952).

194. UT Law College Student Records Office.

195. *See infra* notes 260-64 and accompanying text.

VIII. THE WARNER YEARS, 1963-1971

John Kennedy was assassinated (1963); North Vietnamese attacked the United States fleet in the Gulf of Tonkin, leading to an intensified Vietnam War (1964); UT law graduate Howard H. Baker, Jr., was elected to the U.S. Senate, and Miranda v. Arizona was decided (1966); Civil rights leader Martin Luther King, Jr. was killed by a sniper in Memphis (1968); United States astronauts walked on the Moon (1969).

The Third "W"

The last milestone of this school's third quarter-century was the appointment of Harold C. Warner to the deanship in 1963. The next twenty-five years under Warner and his successors would bring an unprecedented increase in the size of the student body and faculty, an addition to the facilities, several innovations in legal education, and reflections on the needs of the legal profession in the school's second century.

A member of the faculty since 1928, Dean Warner's forty-three year tenure on the faculty was interrupted only by his service during World War II as a colonel in the Army Judge Advocates General Department. To this day, he is remembered affectionately as "Colonel" Warner. He served until his retirement in the fall of 1971.

Colonel Tom Elam, Class of 1931, fondly recalled the panic induced by the "wicked" cross-examinations of Harold Warner. Elam described him as "a tremendous fellow, but one who also reminded his students that, when they entered the portals of his class, all friendship ceased."¹⁹⁶ Warner was described as "a great human first" and "learned in the law second," as well as "absolutely honest and forthright."¹⁹⁷

Joseph G. Cook, who joined the faculty in 1965, recalls his initiation to the school with the twice daily trek of the faculty across Cumberland Avenue to the Ellis & Ernest Drug Store. Those faculty included many names familiar to more than one generation of law students: Martin Feerick, Colonel "Mac" Gray, tax law wizard Durward Jones, property law specialist Jack Jones, Forrest Lacey, Charlie Miller, Dix Noel, and E.O. Overton. Donald F. Paine, evidence expert and 1963 UT law graduate, and Toxey Sewell, with his "ever-present pipe," joined the faculty in 1966. Jerry J. Phillips, complete with a melodious voice and an educated sense of humor, joined this memorable group the following year.

196. *Alumni Headnotes* (Winter 1982).

197. Derrick, *supra* note 130, at 5-6.

Before his retirement in 1983, Forrest W. Lacey had tormented and delighted UT students for thirty-two years. Indeed, a colleague often remarked that "Socrates was the first teacher to use the Lacey method."¹⁹⁸ Alumnus Paul Campbell, III observed that he and his fellow students could not get an answer from Lacey because he was trying to teach them that "we were the answer."¹⁹⁹ Lacey championed several first amendment causes through the years, including a particularly tense proposal to locate the Highlander Folk Center²⁰⁰ in Knoxville in 1967. He even carried a "PEACE" sign during a student demonstration against United States troops being sent into Cambodia during the Vietnam War.²⁰¹

Professor Dix Noel, a Harvard law graduate, taught at UT from 1946 to 1974. Colleagues wrote that he was "widely recognized as a distinguished scholar and teacher. To us, however, he is eminently known as a human person. His gentleness, his subtle sense of humor, and his firm reasonableness have endeared him to us through times of hardship as well as happiness."²⁰²

During twenty-two of his twenty-eight years on the faculty, Dix Noel served as faculty advisor to the *Tennessee Law Review*. He became a nationally-recognized authority in the area of tort law, specifically products liability, and authored numerous articles frequently cited in the decisions of the nation's courts. It was said that his name had become "a hallmark of reasonableness" in tort law.²⁰³ He was the first law professor to be honored with a permanent plaque in the University's James D. Hoskins Library.

"Irrepressively expressive" was the description of Professor Elvin E. "E.O." Overton upon his retirement in 1977. Secretary to the College of Law and in charge of admissions throughout much of his thirty-two year tenure on the faculty, this Harvard law graduate earned a reputation for getting his students' attention by somewhat unorthodox means.

He was reported to have tap-danced on a tabletop, showered a classroom of students with imaginary machine-gun fire, and to have lain prostrate on the floor, "levelled by the incoherence of a student."²⁰⁴ He viewed Equity as an important key to the history of the

198. Cook, *Forrest Lacey: A Tribute From a Colleague*, 50 TENN. L. REV. 219 (1983).

199. Campbell, *Forrest W. Lacey: A Retrospective Tribute*, 50 TENN. L. REV. 230 (1983).

200. A support center for civil rights activities.

201. Keenan, *Forrest Lacey: Libertarian*, 50 TENN. L. REV. 225-27 (1983).

202. Dix Noel: *Reflections By His Colleagues*, 42 TENN. L. REV. 6 (1974).

203. *Id.* at 5.

204. Penegar, *Professor Elvin Overton: The Irrepressible Teacher*, 44 TENN. L. REV. 921 (1977); *A Tribute to Elvin E. Overton From His Colleagues*, 44 TENN. L. REV. 925-26 (1977).

common law and taught the course with a flair. E.O. is also reported to have been a superb billiards player who could be found exercising that skill with students or in a local competition.

Minimums Finally Instituted

The ABA and the AALS inspections of the College of Law during the years prior to 1964 revealed two criticisms: low admission standards and a low exclusion rate, considering the low admission standards.²⁰⁵ Fall term admission numbers had grown rapidly: thirty-four in 1959, fifty-six in 1961, seventy-seven in 1963, and 113 in 1964.²⁰⁶ Under such accreditation pressures and in response to the rise in applications, the faculty approved the first "minimum" admission standards, to be effective in 1964: a 2.0 pre-law grade point average or a score of at least 400 on the Law School Admissions Test.²⁰⁷

A faculty committee had initially recommended that combined minimums be required, but there was a concern that such minimums would have excluded twenty-eight of the 128 students who entered over the previous year, seven of whom had succeeded in their studies. Under the approved proposal, only twelve students would not have been admitted, all but one of whom had either withdrawn from school, been excluded, or were doing unsatisfactory work.²⁰⁸

Within months of the implementation of the new minimums, the faculty decided that the initial recommendation of combined minimums was correct. Further study revealed that the minimums appeared to be accurate predictors of success in law school and that the 400 LSAT score was low in comparison to other schools.²⁰⁹ For the Fall 1965 entering class, a 2.0 pre-law grade point average *and* at least a 400 Law School Admissions Test score, or a combined index of at least 700 (the GPA multiplied by 100 plus the LSAT score), would be required.²¹⁰

A distinction was drawn between minimums for in-state and out-of-state applicants in 1967. The GPA would be multiplied by 200 for nonresident applicants and by 100 for Tennessee residents, then added to the LSAT score to arrive at the index. As of Winter Quarter, residents needed a combined index of at least 625; nonresidents were required to have a 425 LSAT *and* their combined index had to be at least 900.²¹¹

205. *Data in Support of a Proposal to Introduce a Nominal Admission Standards*, Faculty Minutes (Jan. 8, 1964) (College of Law Archives).

206. *Id.* at 2.

207. Faculty Minutes (July 23, 1963) (College of Law Archives).

208. *Id.*

209. *See*, Faculty Minutes *supra* note 205.

210. Faculty Minutes (Oct. 26, 1964) (College of Law Archives).

211. Faculty Minutes (Jan. 28, 1966) (College of Law Archives).

Throughout the 1960s, a dramatic increase in enrollments at law schools all across the United States forced schools to make a choice of increasing admission standards considerably, improving their facilities and faculty numbers in order to handle the influx of students, or at least to settle for a combination of the two measures.

A report prepared by Professor Overton showed how UT's enrollment increases were surpassing the national average. He predicted enrollment might reach 700 by 1975.²¹² In fact, the student body more than tripled from 135 students in 1960 to 416 in 1970 and peaked at 726 in 1972.²¹³ The numbers stayed in the 600s for the remainder of the 1970s, until the College faculty decided to limit the first-year class size during the 1980s.²¹⁴

A Bachelor's Degree and the J.D.

Beginning with the Fall Quarter of 1968, all entering students were required to have a bachelor's degree from a four-year college.²¹⁵ The "three-three program," whereby the A.B. or B.S. degrees and the LL.B. could be earned in six years (three in pre-law and three in law), was discontinued. At the same time, the degree conferred by the College was changed from the LL.B. to the J.D., or "doctor of jurisprudence," in accordance with a national trend towards such "doctoral" status.²¹⁶

In 1966, the law fraternity of Delta Theta Phi, last seen in 1912, was re-established. In January 1967, Master Scholar Earl R. Stanley of Washington, D.C. installed the John Catron Senate, which provided legal assistance for any student appearing before any university administrative tribunal and presented mock trials for area high school students.²¹⁷ This was apparently a precursor to the Student Legal Assistance Program (SLAP) established in 1974.²¹⁸

Notable graduates of this era abound. Examples are future Tennessee Attorney General William M. Leech, Class of 1966, and nationally-known Atlanta entertainment law attorney Joel A. Katz, Class of 1969. Two other graduates would later serve for many years on the faculty as adjunct professors of Trial Practice: Thomas S. Scott, Jr., Class of 1967 and Robert E. Pryor, Class of 1969.

212. Overton, Report of the College of Law Building Committee (c. 1965) (College of Law Archives).

213. UT Law College Student Records Office.

214. See *infra*, notes 246-48 and accompanying text.

215. *The U-T Lawyer* (Fall 1965).

216. Faculty Minutes (June 30, 1967 & July 7, 1967) (College of Law Archives).

217. Letter from Dean Warner (College of Law Archives).

218. Faculty Minutes (Oct. 16, 1974) (College of Law Archives).

Electives and Perspectives

Over the twenty years since 1949, considerable changes were made in the curriculum, such as an increase to 126 quarter hours of coursework required for graduation and in the number of required hours (fifty-three hours in required courses plus forty-two hours in area and seminar requirements, as opposed to eighty-three hours). It was also during this period that the core first-year courses with which modern law graduates are quite familiar took shape: Contracts I and II, Real Property I and II, Torts I and II, Criminal Law and Procedure, and Legal Bibliography. Constitutional Law, Legal Profession, and Legal Clinic I were taken during the second or third year.²¹⁹

Deleted from the list of specifically-required courses were Judicial Administration and Tennessee Procedure, Agency, Partnership, Bills and Notes, Domestic Relations, Equity, Evidence, and Wills. In place of these specific requirements, each student was required to earn forty-two credit hours in five areas: Business Organizations, Commercial Law, Procedure, Property and Estates, and Public Law. One seminar class was also required.²²⁰

The elective curriculum in place in 1969 was much more varied than the program previously available. To fulfill their remaining thirty-one credit hours, students could choose from such traditional seminars as Labor Law, Estate Planning, Land Use Law, and Sales, as well as less traditional courses such as Jurisprudence, International Law, Legal Clinic II, Legal Draftsmanship, Government Contracts, Municipal Corporations, and Social Legislation. These courses reflect an increased emphasis on "skills" and "public law." Jurisprudence and International Law were the first "perspectives" courses, where students were encouraged to see their roles in a broader context than traditional classroom instruction allowed.²²¹

Standards Raised Even Higher

The 1.6 and 1.9 exclusion rules were revised in the Summer of 1967 with the requirement that students maintain a 2.0 average on all work, after the first twenty hours, as well as a 2.0 average on the work in any given quarter. Failure to do so resulted in the student being placed on probation. When a student's work fell below 1.6 in any quarter, or when the student failed to remove his or her probationary status in a succeeding quarter, that student was excluded.²²²

219. Pierce, *supra* note 171, at 156.

220. *Id.* at 156-57.

221. *Id.* at 158.

222. Faculty Minutes (Apr. 6, 1967) (College of Law Archives).

In 1969 the College of Law instituted a numerical grading system, based on tenths on a 0.0 to 4.0 scale, as opposed to the University's letter-grade system. The change had been approved by the College of Law faculty in 1965 to allow greater distinction among the various grades of C and B and arguably to improve the students' averages. The new grading system, however, was not approved by the University Senate until 1969.²²³

In the Winter 1971 issue of *The U-T Lawyer*, Dean Warner noted that graduation requirements traditionally included two quarters in the Trial Moot Court program. The three sections at that time were presided over by Judge James M. Haynes, Class of 1950, Judge Chester R. Mahood, Class of 1948, and Judge T. Edward Cole, Class of 1948. The College's reputation for Trial Advocacy training was such that in 1970 the International Academy of Trial Lawyers awarded a plaque to the College, instead of to individual students, as a symbol of its high regard.

The George C. Taylor Law Center

On November 15, 1966, the College of Law building was named "The George C. Taylor Law Center" in honor of George Caldwell Taylor, a federal judge for the Eastern District of Tennessee and president of the Class of 1908. The Municipal Technical Advisory Service and Bureau of Sociological Research had vacated the basement and moved into other quarters in 1965. Dean Warner estimated that with the additional space, the school could adequately handle an enrollment of 450 students.²²⁴ He also envisioned greater offerings in continuing legal education, hence the title, "law center."

In the Fall 1966 issue of *The U-T Lawyer*, Warner noted that

[a]ll across America, students in unprecedented numbers are pursuing the study of law In the fall of 1966, we tried to limit the entering class to 195. This policy will be continued until the building is expanded The proposal to expand the present College of Law building has been approved by the Trustees and

223. Faculty Minutes (Nov. 19, 1965, Nov. 13, 1967, & Jan. 9, 1969) (College of Law Archives). The correlation to letter grades was stated in a memo to the faculty:

3.6 to 4.0 = A
2.6 to 3.5 = B
1.6 to 2.5 = C
0.6 to 1.5 = D
0.0 to 0.5 = F

Memorandum to the Faculty (Aug. 3, 1973) (College of Law Archives). A grade of 0.9 or below was deemed "a failure" by the faculty in 1980. Faculty Minutes (Apr. 16, 1980) (College of Law Archives).

224. *The U-T Lawyer* (Fall 1965).

the architect is working on the preliminary drawings The addition will be in harmony with the present style of architecture In addition to the expansion of the law building, plans are being prepared for a three story parking facility to be built in the rear of the law building on the space now being used as the College parking area.²²⁵

Professor Overton's report concerning dramatic increases in enrollment made a convincing case for a new building. He predicted physical limitations and traffic flow difficulties with a mere addition to the existing structure.²²⁶ The ultimate choice, however, was an annex connected to the existing structure on two floors, plus renovations to the older facility. The renovations completed in 1971 admittedly added badly needed square footage, but the annex was poorly integrated with the older building; consequently, structural problems haunted the College into the 1990s.

The Need for More of Everything

It was reported in 1968 that interviews for jobs were being held at the College of Law in "increasing" numbers. Formal placement services had first been mentioned in the 1961-62 College of Law *Bulletin*. The growth in the profession and in the student body necessitated the opening of a placement office in the law building, separate from the University's placement office. In the mid-1960s, the *U-T Lawyer* began publishing students' pictures and biographical sketches on an annual basis. This practice led to an entirely self-contained publication called *UT Lawyers* in 1970.²²⁷

A self-study conducted in 1970 indicated that the primary needs of the College of Law were "greater resources for its programs, additional faculty members, more scholarship funds, a larger library staff, and a substantial increase in book appropriations."²²⁸

The UT Annual Giving Program's first mailing, at least for the College of Law's benefit, was in December, 1965. Alumni and friends were asked to designate their gifts for the College of Law Scholarship Fund. Ray Moseley, Vice-President of the Law Alumni Association, suggested creation of a College of Law Centurion Endowment to strengthen programs, scholarships, and financial assistance.

The first letter to alumni designed to accomplish this objective was mailed in the Fall of 1966 from UT College of Law Alumni President, T. Mack Blackburn. Later renamed the Harold C. Warner

225. Dean's Report, *The U-T Lawyer* (Fall 1966).

226. Overton, *supra* note 212.

227. College of Law Archives. The publication ceased operations in 1975 and was revived as *Lawyers of the Future* in 1979.

228. Self-Study Report, UT College of Law (1970) (College of Law Archives).

Centurion Fund, hundreds of law alumni pledged \$100 a year for three years. By 1989, the fund had grown to a corpus of more than \$313,000.

IX. BROADENING THE HORIZONS, 1971-1989

National Democratic Party headquarters were burglarized in the Watergate hotel (1972); Roe v. Wade was decided (1973); President Nixon resigned (1975); Elvis Presley died in Memphis (1977); the United States Supreme Court temporarily blocked the completion of the Tellico Dam to protect the snail darter and historic Indian lands (1978); a World's Fair was held in Knoxville (1982); the space shuttle "Challenger" exploded, and the U.S.S.R. experienced a nuclear plant accident at Chernobyl (1986); citizens in "Iron Curtain" countries in Europe began their push for democracy (1989).

A Diplomatic Mission On a National Scale

In the Fall of 1971, after an extensive search, a new dean was selected to follow Colonel Warner. The initial search resulted in candidates who failed to satisfy both the "Old Guard" and the "Young Turks" on the faculty as well as the University administration.²²⁹ They finally discovered someone they could agree upon—a man who conceived a broad mission for the College, one of service to the profession, the community, and academia on a national scope. Kenneth Laws Penegar was to serve for fifteen years through the College's greatest period of growth in faculty, budget, private support, and national influence.

Penegar earned his J.D. degree at the University of North Carolina and the LL.M. at Yale. He practiced law with a prominent Washington, D.C. law firm after spending the 1967-68 year as a visiting professor at the University of New Delhi, India.

Under Penegar's "careful, diplomatic guidance,"²³⁰ the faculty doubled in size from fourteen full-time teachers (as of 1969) to twenty-eight (as of 1974) and enrollment reached its peak. The College's focus "expanded beyond the borders of the state" while continuing to provide "an excellent legal education for Tennessee residents."²³¹ By the time Penegar resigned in 1986, Professor John Sebert reported that "[o]ur students are now sought after not only by firms in Tennessee but also by the most prestigious firms and agencies throughout the country."²³²

229. Phillips, *A Man for All Seasons*, 54 TENN. L. REV. xi-xiv (Winter 1987).

230. *Id.* at xii.

231. Sebert, *Kenneth L. Penegar—A Tribute From a Colleague*, 54 TENN. L. REV. vii (Winter 1987).

232. *Id.*

One of Penegar's main objectives, improving the faculty-student ratio, met with remarkable success. The numbers changed from 33:1 in 1971 to 19:1 in 1985, with excellent prospects for a 16:1 ratio by 1989—"a ratio among the most favorable in the nation."²³³ International ventures were also initiated by Dean Penegar, who encouraged faculty and student exchanges with universities in Brazil, Germany, and England.

There was only one interruption in Dean Penegar's service. In the 1980-81 academic year, Dean Penegar took a year's leave of absence. Faculty member and former dean of the Ohio State University College of Law James C. Kirby, Jr. accepted the post of Acting Dean for the year. Kirby, who had held tenured faculty status at five different law schools, joined the faculty in 1978 and served until his retirement in 1989, shortly before his death.

The first female law professor at UT, Judith B. Ittig, was hired in 1972. She left the faculty in 1975 and in 1989 she and her husband Gerald, Class of 1975, were reported to be presenting construction law seminars in Saudi Arabia, Greece, and other foreign countries.

In 1973, the faculty hired one of its own: that year's outstanding graduate Martha S.L. Crow Black, who had excelled in the classroom as well as in the moot courtroom. The first woman to become a tenured member of the faculty, "Marty" Black stayed on for nine years before joining her husband in the practice of law in Maryville. The number of women on the faculty did not increase significantly until the 1980s. By 1987, there were seven full-time female faculty and administrators, including the dean.

In 1982, the school's first Black professional administrator and first Black law professor were hired: 1980 alumnus N. Douglas Wells was appointed Assistant Dean and assigned the primary responsibility for recruiting minority students; J. Otis Cochran was appointed Associate Professor of Law.

More Paper, More People

One characteristic of this period in the school's growth in faculty, students, services, and programs was a dramatic increase in the burdens upon, and consequently the size of, the administrative staff. The dean, the secretary, and the library and clinic directors managed the operations of the law school through the 1950s and 1960s. Two assistant deans, a business manager, three professional librarians, and a full-time placement director were added during Dean Penegar's administration. A full-time director of the public law program was hired in the late 1970s, about the same time the "secretary" position was eliminated.

Over the next ten years, positions were created or redesignated as priorities changed for outreach, alumni activities, fundraising, student recruitment, and library and public services. The professional administrative staff in 1989 consisted of the dean, one half-time associate dean for academic affairs, two full-time associate deans (one for student affairs and the other for external affairs), four full-time directors (admissions and financial aid, career services, development, and the library), the director of the legal clinic, and a business manager. Throughout this period, the administration implemented policies established by the faculty, the true governing body of the law school.

A Focus on Scholarship and Service

Dean Penegar perceived a direct correlation between the reputation of the school and the scholarship activities of its faculty. Increased emphasis was placed on the importance of faculty scholarship for the purposes of promotion and tenure, with continued recognition of the importance of classroom teaching.

At the same time, faculty salaries were increased, reaching a median of \$52,000 for full professors in 1985-86, a substantial increase from the average of \$19,600 proposed for the 1970-71 year.²³⁴ Also, the hours of teaching required of each member of the faculty were reduced, and a released-time program was instituted.²³⁵

A sampling of the many notable publications of faculty in this era and the rewards of such achievements reflect this emphasis on scholarship.

In addition to numerous articles in such publications as the *Alabama*, *Fordham*, and *Vanderbilt Law Reviews*, Joseph G. Cook wrote a three-volume treatise on the *Constitutional Rights of the Accused* as well as a book on *Criminal Procedure* with Paul Marcus. He also co-authored a six-volume treatise on *Civil Rights Actions* with Professor John L. Sobieski, Jr. Neil P. Cohen and James J. Gobert collaborated on a *Criminal Law* coursebook and teachers' manual as well as *The Law of Probation and Parole* and *The Rights of Prisoners*. Individually, they wrote articles for several journals including those of *Columbia*, *Harvard*, and *Vanderbilt*.

Joseph H. King, Jr. wrote nutshell books on the subject of medical malpractice in addition to articles in the *Pennsylvania* and *Yale Law Reviews*, among others. Numerous articles on constitutional law in the publications of schools such as *New York University*,

234. Proposed 1970-71 Budget, UT College of Law and Proposed 1986-87 Budget UT Business Office Records.

235. Phillips, *supra* note 229, at xiii.

Ohio State, and North Carolina were authored by James C. Kirby, Jr.

Professors Jerry J. Phillips and Dix W. Noel co-authored casebooks on Torts and Products Liability. Phillips independently wrote the second edition of the Products Liability casebook as well as a three-volume treatise on the same subject. Indiana, Michigan, and North Carolina universities published just a few of Phillips' many articles.

Fredrich Thomforde co-authored a significant article on legal education in *Obiter Dictum*. John A. Sebert, Jr. wrote articles for the UCLA, Pennsylvania, and Notre Dame Law Reviews, among others, and he authored a casebook on Remedies with Robert S. Thompson.

Joseph Cook was honored in 1980 with the College's first independently-funded professorship, the Williford Gragg Professorship, named after a 1936 graduate and established with a \$100,000 gift from U.S. Fidelity & Guaranty.²³⁶ The University had already established several "Distinguished Service Professorships" held by Dix Noel, Elvin Overton, Forrest Lacey, and in 1983, Joseph King.²³⁷ Those professorships were followed by the William P. "Buck" Toms Professorship, established by the Toms Foundation in honor of a Class of 1907 graduate and awarded to Professor Jerry Phillips.²³⁸

Lindsay Young, a 1935 alumnus, endowed a professorship in law as well as other departments of the University in 1980. It was first awarded to Fredrich Thomforde, then transferred to John Sobieski in 1987 following Professor Thomforde's resignation to practice law.²³⁹

Controlling the Numbers

New minimum admission standards were in effect by 1971: 2.3 grade point average on a 4.0 scale; 475 LSAT on an 800 scale, and a combined index of at least 1000.²⁴⁰ The 2.3 minimum GPA was eliminated in 1979.²⁴¹ The following year, the "substantial equivalent policy," when applicants whose combined scores fell within an 85-point range could be considered "substantially equivalent," was reduced to a seventy-point range (735-1350), allowing for a margin of error in the test scores. Effective in 1981, the minimum index was 830 based on a new formula.²⁴²

236. *Alumni Headnotes* (Spring 1980).

237. *Alumni Headnotes* (Summer 1983).

238. *Alumni Headnotes* (Spring 1979).

239. *Alumni Headnotes* (Summer 1987).

240. Law College Bulletin, 1971-72. Based on the formula of Index = (GPA x 200) + LSAT.

241. Faculty Minutes (June 27, 1979) (College of Law Archives).

242. *Id.* Index = (GPA x 130) + LSAT.

When the LSAT was converted to a forty-nine-point scale in 1982, the faculty decided not to establish a minimum LSAT score for admission purposes.²⁴³ The faculty adopted a six-point "substantial equivalent" zone for the combined index based on the new LSAT scores.²⁴⁴

In 1972, the College restricted entering classes to the Summer and Fall terms²⁴⁵ and enrollment reached an all time high: 726.

Beginning in 1983, the College of Law voluntarily reduced its entering class enrollment to 180 to help improve the faculty-student ratio, to adjust to the declining applicant pool and thereby improve the academic qualifications of the student body, and to provide greater flexibility in the curriculum.²⁴⁶ The number was further reduced to 150 in 1987.²⁴⁷ The nationwide increase in law school applications in 1988 and 1989 made it difficult to guess how many of the applicants to UT would actually accept offers of admission; consequently, entering classes in those years exceeded the 150 mark.

The Honor Code and National Champions

The Student Bar Association drafted an honor code which was approved by the students and faculty in 1974.²⁴⁸ A committee draft of an honor code had first been distributed in 1968, prompted by several instances of alleged plagiarism.²⁴⁹ It was not until the mid-1980s that a University-approved Code of Academic Conduct was finally instituted for the College of Law.²⁵⁰

For the second year in a row, the UT National Moot Court Team won the regional and placed well in the New York national finals. The 1972-73 team was composed of Marty Crow (who later joined the College's faculty), William Myers, and Frank Pinchak.²⁵¹

Students William Henning and Kenneth Miller won the first Advocates' Prize Competition, established in 1975 by an anonymous donor in honor of six Knoxville lawyers: John Doughty, Clyde W. Key, Ray Jenkins, William P. O'Neil, Frank Montgomery, and

243. Faculty Minutes (Nov. 24, 1982) (College of Law Archives).

244. Faculty Minutes (Feb. 9, 1983) (College of Law Archives). The new combined index calculation was $(\text{GPA} \times 13) + (\text{LSAT} \times 1.25)$.

245. Faculty Minutes (Apr. 25, 1972) (College of Law Archives). Summer entering classes were abolished in 1979, which left only the Fall term for entering classes.

246. Faculty Minutes (Oct. 12, 1983) (College of Law Archives).

247. Faculty Minutes (Apr. 13, 1985 & June 26, 1985) (College of Law Archives).

248. *Alumni Headnotes* (Fall 1974).

249. Faculty Minutes (Oct. 3, 1968) (College of Law Archives).

250. Code of Academic Conduct, UT Law College Student Records Office.

251. *Alumni Headnotes* (Winter 1973).

Herbert McCampbell, Jr.²⁵² UT's National Moot Court Teams won all the honors at successive regional tournaments in the Fall of 1974 and 1975: best team, best brief, best individual advocate.²⁵³

The College's strong reputation in moot court garnered national attention in 1976-77 when UT's National Moot Court Team won the premier national competition in New York. The team members were Sue B. Bohringer, Gregory G. Fletcher (best oralist), and Daniel G. Lamb, Jr. The advisors were Professors Joseph G. Cook and Marty Black. United States Supreme Court Justice Byron White presided over the final argument between Tennessee and Duke.²⁵⁴

The 1981-82 National Moot Court Team won the national championship, giving UT its second national championship in a five-year period. The team members were Wanda Glenn, Tom Slagle, and Louann Prater Smith. Advisors were Professors Joseph Cook and John Sobieski.²⁵⁵ UT almost repeated this feat in 1982-83, when the team of Slagle, Smith, and Scott Rose placed second in the nation. The 1983-84 National Moot Court Team won the regional, and UT's national reputation as a powerhouse in appellate advocacy was well-established.²⁵⁶

The first Ray H. Jenkins Trial Competition was held the next Spring as a part of the annual Law Week celebration. The competition, organized by student Mike Kinnard and supported by the Jenkins and Jenkins law firm, was named after the famous trial attorney whose biography was entitled, "The Terror of Tellico Plains." The winners were Skip Jones and Stuart A. Wilson.²⁵⁷

Students Take the Faculty to Court

The faculty of the UT College of Law found themselves on the defending side of a lawsuit in 1975. It was filed by "citizens of the general public" on behalf of thirteen students seeking to have the recently passed Tennessee Open Meeting Law apply to meetings of the law faculty and its committees. The faculty resisted this interpretation because it did not consider itself a "governmental" body—politically responsive to public at large.²⁵⁸ The chancellor agreed with the students, but the Tennessee Court of Appeals reversed, holding such meetings to be outside the purview of the open meeting statute

252. *Alumni Headnotes* (Fall/Winter 1975-76).

253. *Alumni Headnotes* (Spring/Summer 1976).

254. *Alumni Headnotes* (Spring/Summer 1977).

255. *Alumni Headnotes* (Spring/Summer 1982).

256. *Alumni Headnotes* (Spring 1984).

257. *Alumni Headnotes* (Summer 1985).

258. *Fain v. Faculty of the College of Law*, 552 S.W.2d 752 (Tenn. Ct. App. 1977).

because the faculty did not constitute a "governing body" within the meaning of the Sunshine Law.²⁵⁹

Several graduates of this time period served their fellow citizens in the United States government. Matthew V. Scocozza, a 1973 graduate, served as Assistant Secretary for Policy and International Affairs in the United States Department of Transportation. Robert H. Brumley, II, who graduated in 1977, became the confidential assistant to the general counsel for the United States Department of Commerce.

The top graduate in 1979, Frances L. Ansley, returned to her alma mater almost ten years later as a member of the faculty. The percentage of female students had not increased significantly until the mid-1960s, but throughout the 1970s and 1980s women occupied from thirty to forty percent of the student body.

Minorities in Legal Education

An increase in minority admissions was a major concern of the faculty and administration during the late 1970s and the 1980s. For some years, the College of Law had been a participant in the Council on Legal Education Opportunity programs, where summer training and scholarships enabled otherwise unqualified students to prove themselves capable of succeeding in law school.

From 1977 to 1981, the school also presented "Admission by Performance Institutes" with Memphis State University.²⁶⁰ The institutes permitted students otherwise academically ineligible for admission to most Tennessee law schools to prove their abilities in summer law classes. The Spring/Summer 1977 issue of *Alumni Headnotes* reported fifteen Black students in the first-year class. The Black enrollment fluctuated somewhat until the mid-to-late 1980s, when the number of Black students in the first-year class averaged fifteen.²⁶¹

The faculty approved a new plan for increasing numbers of Black candidates for admission beginning in 1978. Over the next few years, steps were taken to attract competitively-admissible minority applicants: out-of-state Black applicants were admitted on the same basis as in-state students²⁶² and additional funds were allocated for minority scholarships.²⁶³ Later, special minimum admissions criteria (22 LSAT

259. *Id.*

260. Faculty Minutes (May 20, 1981 & May 25, 1981) (College of Law Archives).

261. A Review of Legal Education in the United States, ABA Section on Legal Education and Admission to the Bar (Analysis of Successive Annual Reports 1978-89).

262. Faculty Minutes (Mar. 4, 1981) (College of Law Archives).

263. Faculty Minutes (May 20, 1981 & May 25, 1981) (College of Law Archives).

and 69 combined index) were approved for applicants identified through a court-ordered desegregation measure designed to prepare Black students for professional education: the Tennessee Pre-Professional Program.²⁶⁴

Curriculum Changes Continue

Curriculum revisions in 1972 included intensive development of oral and written communication skills for first-year students in a three-course research and writing sequence, a reduction in required courses and area requirements in the upper-level curriculum, and the addition of a number of new courses such as Environmental Law and Law and Mental Health. These changes and additions afforded students greater options, and effectively, the opportunity to design their own courses of study.

The first-year curriculum consisted of the following:

<u>1st Quarter</u>	<u>2nd Quarter</u>	<u>3rd Quarter</u>
Contracts I	Contracts II	Civil Procedure I
Torts I	Torts II	Criminal Law
Legal Process	Property I	Property II
R & W I	R & W II	R & W III
		Seminar ²⁶⁵

The first-year seminar, Problems and Perspectives in Law, was a new creation.²⁶⁶ The required upper-level courses were Constitutional Law (one of a two-course sequence was required), Legal Clinic, Legal Profession, and Trial Moot Court.²⁶⁷

Area requirements were not significantly different in substance from those in 1969, but fewer hours were required (twenty-four to thirty two as opposed to forty-two). Students also had more flexibility in course selection to satisfy area requirements. Students were required to take two courses from each of four groups:

Group I: Commercial Law, Business Organizations, and Taxation

Group II: Social Concern, Perspective, and Individual Rights

Group III: Procedure, Estate Planning, and Clinic

Group IV: Business Regulation, Property, and Public Law²⁶⁸

As noted by Professor Carl Pierce in his 1987 report for the Curriculum and Academic Standards Committee, it was possible for a

264. Faculty Minutes (Nov. 19, 1986) (College of Law Archives).

265. Pierce, *supra* note 171, at 160.

266. *Id.*

267. College of Law Archives.

268. Pierce, *supra* note 171, at 161.

student in 1972 "to satisfy area requirements without taking any courses in Business Organizations, Procedure, or Public Law areas," a feat that was not possible three years earlier.²⁶⁹

Professor Douglas Q. Wickham conducted an alumni survey in 1972. Two major skill deficiencies were identified: draftsmanship and negotiation. The majority stated that they spent ten to fifty percent of their time in drafting and negotiation. There was a negative reaction to large classes (71.6% unfavorable) and 74.1% believed that the Clinic program made a significant contribution to their own legal education.²⁷⁰

On the occasion of the Legal Clinic's twenty-fifth anniversary in 1972, Dean Penegar observed that with the Clinic's annual caseload at 4500, a reorganization was necessary to ensure adequate supervision of the student-attorneys. In 1973, Professor Miller had three other full-time faculty members and seven full-time staff attorneys in the Clinic teaching about 100 students each quarter. Clinic had been a required course since 1969, but it was dropped as a requirement in 1974 because there were not enough faculty to handle the large number of students.²⁷¹

Between 1972 and 1980, area requirements were eliminated as well as the Problems and Perspectives in Law seminar. Trial Moot Court and Legal Clinic were also dropped from the list of required upperclass courses. New offerings included American Legal History, Antitrust, Intellectual Property, Negotiation and Dispute Settlement, Race and Sex Discrimination, and Trial Practice. The clinical curriculum was expanded and more credit hours were assigned to the basic Clinic course (from three to five). Also, students could take up to three "law-related" courses offered by other departments within the University.²⁷²

The result of these changes was that a student in 1980 would complete virtually all required coursework during the first year, with the exception of Constitutional Law, Legal Profession, and a seminar.²⁷³ Professor Pierce noted in his 1987 study that a student could graduate having taken no "skills" or "perspectives" offerings past the first year and, for example, avoid all classes involving Commercial Law, Business Associations, or Tax.²⁷⁴

Some changes in the curriculum were instituted as a result of the shift to the semester system in 1981: Civil Procedure was expanded from one four-hour course to two three-hour courses, pushing the

269. *Id.*

270. *Alumni Headnotes* (Winter 1973).

271. *Alumni Headnotes* (Fall/Winter 1973-74); Faculty Minutes (Apr. 30, 1974) (College of Law Archives).

272. Pierce, *supra* note 171, at 163.

273. *Id.*

274. *Id.* at 163-64.

Property sequence to the second and third semesters; Constitutional Law I (judicial review and power, governmental powers and immunities, substantive due process, etc.) was designated as the required Constitutional Law course; Income Tax I became a required course; and an upper-level writing requirement and "perspective" requirement were established.²⁷⁵

Major curriculum revisions, including a five-day "introductory period" for first-year students, were approved by the faculty, effective the Fall of 1988.²⁷⁶ The Property sequence was combined into one four-hour course, Evidence became a third-semester requirement, credit hours for Legal Profession were increased from two to three, an additional course in advanced constitutional law was required beyond the second-year requirement of Constitutional Law I, one course was required in the area of interviewing, counseling, and dispute resolution, and another course was required in the area of planning and drafting.²⁷⁷ The total hours required for graduation were also increased from eighty-four to eighty-nine, in accord with the requirements of peer institutions.

In the Summer/Fall 1978 *Alumni Headnotes*, librarian Bardie Wolfe described an innovative legal research technique: computerized databases such as LEXIS and WESTLAW.²⁷⁸ In the Fall of 1980, LEXIS was added to the library's resources,²⁷⁹ then WESTLAW replaced LEXIS in the Fall of 1982.²⁸⁰ A decade later, these legal research tools had become an essential element of the legal scholar and practitioner's library, and the law library featured both systems. Training in computerized legal research was required of all students as of 1989.

Anonymity and the Mandatory Mean

A "blind" grading system was approved in 1972, in which numbers instead of names would be used to identify students taking exams.²⁸¹ The faculty approved a joint J.D.-M.B.A. degree program with the College of Business Administration in 1975.²⁸² A total of forty-one such degrees were awarded between 1975 and 1988.²⁸³

275. *Id.* at 164-66.

276. Faculty Minutes (May 13, 1987) (College of Law Archives); *Alumni Headnotes* (Fall 1987).

277. *Taylor Times*, 2-9 (Oct. 14, 1987) (College of Law Archives).

278. *Alumni Headnotes* (Summer/Fall 1978).

279. *Alumni Headnotes* (Spring 1981).

280. *Alumni Headnotes* (Fall 1982).

281. Faculty Minutes (Feb. 28, 1972) (College of Law Archives).

282. Faculty Minutes (Oct. 15, 1975) (College of Law Archives).

283. A Review of Legal Education in the United States, ABA Section on Legal Education and Admission to the Bar (Analysis of Successive Annual Reports 1978-79).

Another joint degree program was added in 1988. In addition to the J.D.-M.B.A., students could earn simultaneously, a master's degree in Public Administration from the Department of Political Science and a J.D. from the College of Law.²⁸⁴

By a close vote in 1976, the faculty decided to impose a mandatory average of 2.4 to 2.6 for all grades in first-year classes.²⁸⁵ The "mandatory mean" was declared a mistake and rescinded in the Spring of 1978 by a voice vote.²⁸⁶

The pride of UT was bolstered by a *Nashville Banner* article on November 28, 1980, in which the bar passage rates of the four Tennessee law schools were compared. In the five Tennessee bar exams between July 1978 and July 1980, UT fared considerably and consistently better than the other schools with zero to nine percent failure rates for graduates of UT. All of the UT graduates taking the February 1980 bar exam for the first time passed.²⁸⁷ Over the next decade, the passing percentage for UT graduates averaged eighty-one percent, compared to a statewide passing percentage of sixty-four percent.²⁸⁸

Expansion and Retrenchment in the Legal Clinic

By the time Jerry Becker, who had succeeded Charles Miller as director of the Legal Clinic in 1975,²⁸⁹ resigned in 1978 to go into private practice, the Clinic had grown into three offices with a total staff of forty-one, serving Knox, Loudon, Blount, and Sevier Counties.²⁹⁰

The Legal Clinic separated from the Knoxville Legal Aid Society in the Fall of 1982 following a controversial suit on behalf of prison inmates brought by the Clinic staff against the State of Tennessee, in which attorneys' fees were sought. The controversy resulted in an arrangement whereby the Clinic, in addition to maintaining its own low income clientele, accepted cases referred from the Knoxville Legal Aid Society. A decision by the Board of Trustees prohibited the Clinic from bringing significant cases against the State of Tennessee on behalf of any clients, nor could the Clinic seek funds from the Legal Services Corporation because it required its grantees to pursue such actions.²⁹¹

284. J.D.-M.P.A. Program, Faculty Minutes (Mar. 2, 1988) (College of Law Archives).

285. Faculty Minutes (May 3, 1976) (College of Law Archives).

286. Faculty Minutes (May 24, 1978) (College of Law Archives).

287. *Alumni Headnotes* (Summer/Fall 1980).

288. UT Law College Student Records Office.

289. *Alumni Headnotes* (Fall/Winter 1975).

290. *Alumni Headnotes* (Spring 1979); Faculty Minutes (May 17, 1978) (College of Law Archives).

291. Order, Board of Trustees (Aug. 11, 1981) (Univ. of Tenn. Library, Special Collections).

The staff of the Clinic was dramatically reduced by this action, but the referral arrangement enabled Clinic faculty to select cases for their educational benefit and also to control the caseload. Clinical faculty were soon placed on the same tenure track as the rest of the faculty.

An Age of Firsts

The next few years were characterized by a number of firsts. With the help of Congressman John Duncan, the law library was designated an official United States Government Depository in 1971.²⁹²

The first Hooding Ceremony for law graduates was held on June 7, 1973, featuring Judge L. Clure Morton of the United States District Court for the Middle District of Tennessee.

A Distinguished Visiting Professorship was established in 1974. The first so honored was Professor John Ritchie, who had retired from the University of Virginia faculty.²⁹³ The first annual Alumni Distinguished Lecture in Jurisprudence featured Harry W. Jones, Cardozo Professor of Jurisprudence at Columbia. He spoke on "Our Uncommon Common Law" on April 2, 1975.²⁹⁴

The first Distinguished Counselor-in-Residence, Peter Coogan of Ropes and Gray in Boston, visited in 1975. That same year the first Distinguished Jurist-in-Residence arrived—the Honorable Roger Traynor, formerly Chief Justice of the California Supreme Court.²⁹⁵

The first College of Trial Advocacy was held in 1977 as one of many continuing legal education programs sponsored by the College of Law through the 1970s.²⁹⁶ Throughout the next decade, however, the College of Law's continuing education activities decreased in number due to the proliferation of programs offered by other professional organizations in the state, such as the Tennessee Bar Association and the Tennessee Trial Lawyers Association. It was not until twelve hours of continuing education annually were mandated for licensed Tennessee attorneys in 1987 that the College began to offer more than one or two programs a year once again.

The first Charles H. Miller Lecture in Professional Responsibility was given by Thomas Ehrlich of Stanford University on October 25, 1978.²⁹⁷

292. College of Law Archives.

293. *Alumni Headnotes* (Fall 1974).

294. *Alumni Headnotes* (Spring/Summer 1975). See 42 TENN. L. REV. 443 (1975).

295. *Alumni Headnotes* (Fall/Winter 1975-76).

296. *Alumni Headnotes* (Summer/Fall 1978).

297. *Id.* See 46 TENN. L. REV. 713 (1979).

Public Law Program

The College of Law faculty made a concerted effort to expand its public service activities with the establishment of the Public Law Research and Service Program in 1973. Assistant Professor Grayfred B. Gray coordinated its first several years of legislative and judicial education projects.

By the 1976-77 academic year, the Public Law Research and Service Program was conducting regional seminars for the judiciary and court support personnel, publishing the *Tennessee Judicial Newsletter* for judges and clerks, and had produced three books, the *Tennessee Law of Crimes*, *Criminal Procedure*, and *Children* under a grant from the Tennessee Law Enforcement Planning Agency. The program also placed law students with the Legislative Committee of the Tennessee General Assembly, and conducted an education program entitled, "Bringing the Laws to the People."

In 1978-79, the Public Law Institute (formerly the Public Law Research and Service Program) sponsored the first statewide high school mock trial competition in Tennessee.²⁹⁸ The competition was later adopted as a project of the Tennessee Young Lawyers Conference and spread across the state in a matter of a few years. Law students continue to serve as advisors to local high school students in this law-related education event.

A reduction in the availability of external funding for such programs led to considerable limitations on public law program activities. In 1989, when the State assumed formal responsibility for the education of judicial personnel, including general sessions judges, consideration was being given to the dissolution of the Institute.

Returning to Semesters, Again

The Moot Court Room was renovated and reopened in the Spring of 1976 as a showplace courtroom and lecture hall, featuring the superior wood-working skills of University carpenters.²⁹⁹

The College of Law Library became autonomous on July 1, 1979 as a result of a reinspection in 1977 by the American Bar Association. It was determined that a separation from the central library system of the University was advisable for both financial and administrative reasons.³⁰⁰

298. 1978-89 Tennessee Street Law Mock Trial Competition, Public Law Institute (College of Law Archives).

299. *Alumni Headnotes* (Spring/Summer 1976). Thirteen years later, the room was renovated once again to improve acoustics and the air conditioning system.

300. *Alumni Headnotes* (Fall 1979); Faculty Minutes (Apr. 18, 1979) (College of Law Archives).

In the Fall of 1981, the College of Law changed its schedule again, from quarters to semesters.³⁰¹ The remainder of the Knoxville campus followed suit in 1988.

In the mid-1970s, the Career Planning and Placement Office initiated workshops on the identification of values and skills as well as on resume-preparation and interviewing techniques. Some off-campus interviewing programs were also available. The first mention of UT's participation in the Southeast Law Placement Consortium, the nation's oldest, was in 1975. An off-campus interviewing conference in Nashville was organized by UT and other schools in the region in 1987.³⁰²

Alumni Affairs and Development

The Alumni Advisory Council was established in 1973 with twenty alumni leaders: Frank Crawford, chairman, Jere Albright, Charles Anderson, R. A. Ashley, Bernard E. Bernstein, Leon Burns, Jr., Jack Draper, Edward Duke, M. W. Egerton, Bruce E. Foster, James M. Glasgow, Lowry Kline, Carl H. Langschmidt, Virginia Moore, Ray Moseley, David Pack, Francis Stewart, Edwin Treadway, Jack Whitson, and Robert Worthington. The council's purposes were to keep alumni informed about developments in the College and to involve alumni in discussions about the directions of legal education.³⁰³

Clarence Kolwyck, Class of 1928, donated his historical law book collection to the library in March of 1976 and dedicated it to Dean Emeritus William H. Wicker.³⁰⁴

A \$1.25 million law college campaign was announced as part of the University-wide Tennessee Tomorrow Campaign. Senator Howard H. Baker, Jr., Class of 1949, was honorary national chairman, and Bernard Bernstein, Class of 1958, served as state chairman.³⁰⁵ Finally concluded in November 1981 under the leadership of 1950 graduate Herbert M. Bacon, the campaign surpassed its goal, obtaining over \$1.5 million in pledges.³⁰⁶

The first Alumni Outstanding Public Service Awards were presented at the 1984 Homecoming celebration, recipients were: Howard H. Baker, Jr., Class of 1949; Harry W. Laughlin, Jr., Class of 1935;

301. Faculty Minutes (June 27, 1979) (College of Law Archives); *Alumni Headnotes* (Spring 1981).

302. *Alumni Headnotes* (Summer 1987).

303. Alumni Advisory Council Established, *Alumni Headnotes* (Spring/Summer 1973).

304. *Alumni Headnotes* (Winter/Spring 1978).

305. *Alumni Headnotes* (Fall 1979).

306. *Alumni Headnotes* (Winter 1982).

L. Clure Morton, Class of 1936; and Frank W. Wilson, Class of 1941.³⁰⁷

X. PREPARING FOR THE SECOND CENTURY

A Significant First for UT

Ken Penegar resigned as dean to accept a similar appointment at Southern Methodist University Law School in 1986 and Professor John A. Sebert, Jr. served as acting dean for the 1986-87 year. Effective in August of 1987, Marilyn Virginia Yarbrough accepted the appointment as dean of the UT College of Law.

A graduate of the University of California, Los Angeles, where she was editor-in-chief of the *Black Law Journal*, Yarbrough came to UT after eleven years as professor of law and University administrator at the University of Kansas. At the time, she was serving a two-year term as president of the Law School Admission Council. Marilyn Yarbrough became one of the first female deans of a major American law school and, as of 1989, the only Black woman dean of an ABA-approved law school.

Hints of the Future

By 1989, enrollment had levelled at between 450 and 500, but increases in application numbers were leading some members of the faculty to discuss increasing the size of the entering class. Although the number of applications were still considerably short of the 1627 received for the 1972 entering class, there had been a steady increase since the modern low of 628 in 1986. Over a thousand applications were received for the 1990 entering class.³⁰⁸ Admission standards were also undergoing a thorough review.

Minor renovations to the law school building were made in 1985, to ease the pains of a decreasingly inadequate facility. Additional minor renovations in 1989 were funded by the University's central administration. These renovations included rearrangement of classroom space, new furnishings, and reorganization of administrative offices. In 1989, the University administration announced its intention to seek funds for an entirely new law center facility, thanks largely to the efforts of Dean Yarbrough, Professor Patrick Hardin, and certain alumni leaders.

Personal computers were introduced in the law school in 1985. By 1988, Dean Marilyn Yarbrough had made it possible for each

307. *Alumni Headnotes* (Fall 1984).

308. See UT Law College Admissions Office and Reports to the American Bar Association (College of Law Archives).

member of the law faculty and the administrative staff (save one who chose not to use the marvel) to have a personal computer in his or her own office for word processing as well as remote access to the LEXIS and WESTLAW databases. The Legal Clinic exchanged its dedicated word processing system for a microcomputer network with terminals for each Clinic faculty member. A microcomputer lab for students was opened in 1989.

In keeping with the trend in professional schools toward dependence on private financial support, the College of Law appointed its first full-time Director of Development in 1988: Scott Fountain. The school's first annual report was published that same year, outlining admissions trends, faculty, student, and alumni activities, and gifts to the school. The Dean's Circle, consisting of influential members of the bar and friends of the school, was established to bolster the school's development efforts. It was predicted by many that the future of the school would turn upon the success of its efforts to raise private funds to enhance its program.

The Circle Closes

In his remarks at the February 23, 1990 centennial event celebrating women in the law, Professor Joseph Cook noted that perhaps the best example of the magnitude of change over the past century was the fact that the school's first dean was a veteran of the Confederate Army and its ninth dean was a Black woman. And yet, both deans, together with those who served in the interim, shared lofty aspirations for their law school and the people whom they served.