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From Sagebrush Law to a Modern Profession

Kristina J. Running

The decade surrounding World War I brought great change to the landscape of the legal profession in Idaho. Five years before World War I began, an individual aspiring to join the legal community in the state of Idaho simply needed to enter into an apprenticeship with a current lawyer. There was no law school, no bar association and little rule of law. But five years after World War I ended, “sagebrush lawyers” had started to become a thing of the past. The opening of the University of Idaho College of Law gave aspiring lawyers an option for a formal legal education within the state, with a curriculum quite similar to that offered in law schools today. In addition, the growing call to better regulate those entering the profession resulted in the creation of Idaho’s formal, self-governing bar association. Despite setbacks caused by World War I, by 1923 the foundation of the modern profession had been built in Idaho.

Creation of the College of Law

Law schools existed in the United States as early as 1784, but it was not until the American Bar Association began pressing for more rigorous bar admission requirements in the 1890s that formal legal education became more commonplace. However, lawyers in Idaho at the turn of the century were more likely to have “read” the law than attended law school. The Idaho Constitution only required that one be “learned in the law,” even to become a judge. Thus, “[i]f you were a citizen of the United States and of Idaho and could convince the Supreme Court that you could perform reasonably well, you were admitted.”¹ In 1891, the Supreme Court created a three-

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member committee to review applicants, with the basic requirements being the applicant had studied law in a law school or in an apprenticeship and had read certain important books such as William Blackstone’s *Commentaries on the Laws of England* or Christopher Tiedeman’s *The American Law of Real Property*.²

In 1908, James H. Forney, at the request of University of Idaho President James MacLean, prepared a proposal to the Board of Regents for the establishment of a law school.³ In 1909, the Idaho Legislature appropriated \$5,000 for the operation of the law school and \$2,000 for the purchase of books for a law library. The law school welcomed its first class on September 20, 1909.⁴ That first class consisted of 18 full-time students, with one full-time faculty member, John T. MacLane.⁵ Another 18 students enrolled in 1910 and two more law faculty were added,⁶ with MacLane now serving as dean of the law school.⁷

As World War I began to embroil European nations in 1914, the College of Law was admitted as the 46th member of the American Association of Law Schools. From 1909 to 1914, only a high school diploma was required for admittance to law school; however, starting in 1915, the

law school required at least one year of college education, with a minimum of six college credits in American Constitutional History. The University of Idaho Annual Catalog described attributes law candidates should possess, and explained the reasoning for requiring more than a high school diploma:

It is important that students entering the Law School should have learned to think clearly and to express themselves well, both orally and in writing, in correct and lucid English. It also is important that they should have, so far as possible, that breadth of view which comes from culture. . . . A greater knowledge of history, sociology, economics and of natural science, than can be obtained in a high-school study course alone, is desirable for anyone entering upon the study of law.⁸

The prerequisite of one year of college was still quite relaxed when compared with other law schools, such as Harvard, which required a full college education for admittance as early as 1900, but Idaho now had a law school that could offer aspiring lawyers a modern course in legal education.⁹

Life of a law student in the 1910s

The law school was housed in the University of Idaho Administration Building and class sizes ranged from four to 12 students between 1914 and 1919. All University of Idaho students, including law students, were required to take a course in Military Art & Tactics starting in 1914, but otherwise the first year of law school looked remarkably similar to courses required at law schools today. In their first year, students were required to take courses in contracts, torts, property, criminal law, pleading and procedure, persons, agency, carriers and argumentation.

Practical experience was also emphasized, with students of all three classes participating in Law Club, in which “moot points of law [were] briefed and argued under the supervision of the faculty.” Third-year students tried cases before juries made up of first and second-year students and argued “questions of law” before student judges. The curriculum also included a course in “Drafting of Legal Instruments.” The school described its approach to the curriculum as “the Laboratory Method”: “the study of legal principles is coupled, so far as circumstances will allow, with practical application, so as to make legal studies pointed and definite.”¹⁰

Tuition during this time period was \$25 per year, with the proceeds devoted primarily to the expansion of the law library. The university explained that it believed the charging of a small fee to professional students was advisable, “as an earnest of good faith and serious purpose.”¹¹ Room and board was estimated at four to six dollars per week and a fee of \$6.25 per semester was collected for the Associated Students of the University of Idaho.

Life in Moscow, Idaho was not sheltered from the war. On March 21, 1917, the students of the Uni-

versity of Idaho voted to send a telegram to President Wilson stating: “The entire faculty and student body of the University of Idaho earnestly and sincerely assure you that their best services are dedicated to the vigorous support of your efforts for the protection and advancement of human welfare at home and abroad.”¹² The university demonstrated that support by providing special courses to aid the war effort, such as a course in emergency food conservation, and encouraging young men to enlist through resolutions waiving high school graduation requirements for

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seniors who joined the armed forces and granting diplomas to college seniors who joined instead of completing their spring semester.¹³

At the law school, there were no graduates in 1918. Not only did enlisting take students away from the study of law, but many students also returned home to their family farms as the war threatened a massive labor shortage in agricultural areas of the United States.¹⁴ College of Law Professor Charles Henry Wilber also left Moscow to enlist at the beginning of the war. Wilber had studied law at the University of Chicago and worked at the law firm of Seitz,

Bryan & Wilber in Chicago before joining the College of Law faculty in 1910. His name is now on a plaque hung in the University of Idaho Memorial Gym commemorating those who gave their lives during the war. Thirty-one University of Idaho students, including law student Ralph Jamison Gochnour, are also commemorated on that plaque.¹⁵

Following the war, the law school adjusted its curriculum to allow returning students to complete their studies without interruption. Five of the 20 students who were enrolled in the law program at some level in 1917 returned to the law school in 1919.

Growth of the profession

The end of the war brought a new vitality to the law school and the developing bar in Idaho. Courts began to expand as caseloads overwhelmed existing resources. In 1920, the Idaho Legislature increased the number of justices of the Idaho Supreme Court from three to five to deal with growing caseloads and reduce perceived delays.¹⁶ In addition, in 1923, the small claims court was created as a separate department in justice of the peace courts to help deal with the number of cases being filed.¹⁷

Around this same time, the American Bar Association began “its efforts to regulate access to the legal profession” in 1921, when it “set minimum standards for law school admissions...and declared that only lawyers who were graduates of accredited schools should be allowed to practice law.”¹⁸ The College of Law received its accreditation from the ABA shortly thereafter in 1925. Law school attendance picked back up following the war, with 12 students graduating in 1921. Two members of that class, A.J. Priest and William H. Langroise, went on to prominence in their respective legal communities. Priest became a partner at a

large law firm in New York; an author of leading legal treatises on corporate reorganizations, mergers and liquidation; and eventually a faculty member at the University of Virginia School of Law. Bill Langroise became a deputy U.S. attorney; a founding partner of Langroise, Sullivan, and Smylie; and then chairman of the board and CEO of Continental Life and Accident Insurance Company.¹⁹ Two years after Priest and Langroise graduated, Mary Shelton became the first woman graduate of the University of Idaho College of Law.²⁰

Idaho lawyers began a drive for self-regulation following the war, spurred by the large number of applicants to practice law. By 1921, there were around 600 lawyers in Idaho, 187 of whom were members of a voluntary bar association. The majority of these bar members were from southwestern Idaho, so they faced a challenge in convincing lawyers in other parts of the state to approve a state-wide bar association. A bill for a self-regulating bar association was first introduced to the Legislature in 1921, but the bill died in committee. Bar association members then traveled the state to convince other lawyers that the association provided benefits to them, emphasizing common concerns such as the problems created by untrained and unregulated lawyers in the legal practice, the decline in the public image of lawyers and “the need for quick, impartial justice.”²¹

In 1923, another bill for a self-regulating bar association was introduced and bar members found a powerful supporter in the chairman of the Senate Livestock Committee, John McMurray. He was said to have agreed to sponsor the bill because his committee “had jurisdiction over all predatory animals.” The Act passed and called for the election of a three-member Board of Commis-

sioners by bar association members. The new commissioners then began examining applicants to the Idaho State Bar, developing rules of professional conduct and taking disciplinary action against attorneys.²²

Conclusion

The short period of time from five years before World War I to five years after the end of the war was perhaps the most formative time period for the legal profession in Idaho. In 1914, aspiring lawyers “read” the law to enter the profession and there was little formal regulation of lawyers once they were admitted to practice. By 1923, Idaho had a robust law school, a self-regulating bar association and a rapidly growing legal system. “Sagebrush lawyers” became a relic of the pre-World War I era as Idaho moved toward a modern profession.

Endnotes

1. Byron J. Johnson, *Constitutional Convention: The First State Courts*, in JUSTICE FOR THE TIMES 24, 56 (Carl F. Bianchi ed., 1990).
2. *Id.* at 56-57.
3. Robert McCoy, *From a Sagebrush Era to a Statewide Mission: Idaho’s Law School Spans 100 Years*, 52 ADVOCATE 16, 16 (2009).
4. Scott W. Reed, *Turn of the Century: A Time of Trial, Troubles, Travail, and Triumphs*, in JUSTICE FOR THE TIMES 60, 96 (Carl F. Bianchi ed., 1990).

5. Albert R. Menard, Jr., *Appendix B: Highlights in the History of the University of Idaho College of Law*, in JUSTICE FOR THE TIMES 270, 272 (Carl F. Bianchi ed., 1990).
6. *Id.* at 273.
7. *Annual Catalog of the University of Idaho 1912-1913*, VIII UNIVERSITY OF IDAHO BULLETIN, 16 (March 1913).
8. *Annual Catalog of the University of Idaho 1918-1919*, XIV UNIVERSITY OF IDAHO BULLETIN, 175 (June 1919).
9. McCoy, *supra* note 3, at 17.
10. *Annual Catalog of the University of Idaho 1918-1919*, 174-75.
11. *Id.* at 177.
12. Daily Star-Mirror, March 21, 1917.
13. Terry W. Soule, *The Moscow Home Front in World War I*, 18 LATAH LEGACY 23, 25 (1989).
14. *Id.*
15. Alex Greig, *The Memorial Grove: A World War I Reminder*, 44 LATAH LEGACY 26, 28 (2017).
16. *Idaho Law in the Interwar Years*, Idaho Legal History Society Newsletter, Vol. V, Issue 2, at 4 (2013).
17. *Appendix D: Important Events in Idaho Judicial History*, in JUSTICE FOR THE TIMES 303, 304 (Carl F. Bianchi ed., 1990).
18. Donna Fossum, *Law School Accreditation Standards and the Structure of American Legal Education*, 3 AM. BAR FOUND. RES. J. 515, 517 (1978).
19. Menard, *supra* note 5, at 274.
20. *Idaho Law in the Interwar Years*, at 4.
21. *Idaho Bar One of First to Self-Regulate*, Idaho Legal History Society Newsletter, Vol. II, Issue 3, at 4 (2010).
22. *Id.* (citing Madeline Buckendorf, BUILDING A PROFESSION: A HISTORY OF THE IDAHO STATE BAR 1860S TO 1950S (1992)).

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