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GIANTS OF A GOLDEN AGE: AN APPRECIATION OF PROFESSORS DENNIS COLSON AND CRAIG LEWIS

DONALD L. BURNETT*

To Dean Al Menard, the year 1975 must have seemed like both a tribulation and a triumph. During that year and two years preceding, five of the thirteen full-time law faculty at the College of Law retired or departed. The exodus not only created gaping holes in the course-teaching schedule but also marked the end of what Dean Menard later called a “golden age” of faculty stability, dating back to the 1950s.¹ During that era, faculty with legendary names, such as Bell, Berman, Brockelbank, Peterson, Stimson, Walenta, and others, walked the halls of the University Administration Building, where the law school was located until 1973. Who could possibly replace them?

The task of filling the 1975 vacancies was daunting, but Dean Menard must have been encouraged by the recent completion of the new building and by the concurrent arrival of splendid new faculty members, Sheldon Vincenti and Art Smith. A second “golden age” was unfolding, and it was confirmed when the 1975 hires included four noteworthy figures who would serve the College of Law for three decades or longer: Professor Joann Henderson, who retired in 2005; Professor James Macdonald, who is still active; and Professors Dennis Colson and Craig Lewis, both of whom retired in 2007. With this remarkable “class of 1975,” Dean Menard changed tribulation into triumph.

Through the years, all of our faculty emeriti have contributed indelibly to the success of a law school that is now poised to celebrate, in 2009, a centennial of service to Idaho and the West. What is remarkable about our most recent retirees, Professors Colson and Lewis, is that they arrived together, achieved distinction together, departed together, and yet, were intriguingly different as individuals.

Dennis Colson earned his baccalaureate degree from the University of Northern Colorado where his basketball prowess earned him a place in that university’s Hall of Fame. After earning his Juris Doctor degree *summa cum laude* at the University of Denver, he practiced law in Los Angeles and Denver, and taught law in San Diego and Toledo, before accepting Dean Menard’s invitation to come to Idaho. A gifted public speaker, he was a spellbinding teacher in the classroom, inspiring students on three separate occasions to vote him the recipi-

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1. Albert R. Menard, Jr., *Highlights in the History of the University of Idaho College of Law*, in *JUSTICE FOR THE TIMES: A CENTENNIAL HISTORY OF THE IDAHO STATE COURTS* app. B, at 270, 277 (Carl F. Bianchi ed., 1990).

ent of the Peter E. Heiser Award for personal commitment and encouragement of excellence—what many law schools call their “teacher of the year” award. In recognition of his overall excellence, he also received the Idaho Humanities Council Award for Outstanding Achievement in the Humanities; the Burlington Northern Faculty Achievement Award (a University-wide recognition); the Allan G. Shepard Professorship for 1998–99; and an endowed chair at the College of Law as the James E. Wilson Distinguished Professor of Law, a title he held until retirement.

When Dennis received the Heiser award in 2007, he modestly said the students must have been trying to humor an outgoing senior statesman. The rest of us knew better: he was going out at the top of his game. As one of his Contracts students wrote in a teaching evaluation, “Colson, you’re doing great! Thanks.” In the words of another Contracts student, “Colson is the single brightest individual I have ever had the pleasure to run across; when he speaks I listen and learn.” And in his Indian Law course, a student exclaimed in writing, “Great class! Best yet.”

Dennis was, and is, a walking authority on Indian law, especially on the treaties relating to the Nez Perce (Ni mi’i puu) Tribe. During his tenure on the College of Law faculty, he was called to serve as an expert witness for the Tribe in the Snake River Basin Adjudication and to assist the courts in a host of cases involving federal-state-tribal relations.² Indian law engaged his passion and his personal sense of justice, as any colleague sharing a dinner with him would soon discover. Upon his retirement, a scholarship fund was established in his name for students interested in Indian law.

Dennis also has been captured by—and has his own way of capturing—the drama of the development of the American West. His occasional lectures at the College of Law, and across the University campus, on Lewis and Clark and the Corps of Discovery, have attracted enthusiastic audiences. His scholarship has illuminated the role William H. Clagett, who presided at the Idaho Constitutional Convention and played a role in the shaping of federal legislation that created Yellowstone National Park.³ Perhaps most enduring, however, has been his seminal work on the history of the Idaho Constitution—

2. *E.g.*, *United States v. Webb*, 219 F.3d 1127 (9th Cir. 2000) (analyzing the claim that Nez Perce Reservation was diminished by subsequent treaty); *United States v. Williams*, 898 F.2d 727 (9th Cir. 1990) (recognizing that the Nez Perce have treaty-based hunting rights); *Nez Perce Tribe v. Cenarrusa*, 125 Idaho 37, 867 P.2d 911 (1993) (discussing the appropriate process of amending the Idaho Constitution); *State v. McCormack*, 117 Idaho 1009, 793 P.2d 682 (1990) (discussing the history of state jurisdiction on Nez Perce Reservation).

3. Dennis C. Colson, *William H. Clagett and the Yellowstone National Park Bill*, 13 W. LEGAL HIST. 239 (2000).

"the tie that binds."⁴ In that landmark work he brought constitutional history to life through the words of the framers in 1890, drawing upon the only verbatim record made of a state constitutional convention up to that time.⁵ He also provided a cogent, richly footnoted analysis of issues that have persisted from the nineteenth century to the twenty-first century in Idaho. Today, no serious discussion of a state constitutional question gets far before someone asks, "What does the Colson book say about it?" Not surprisingly, Dennis also has been in demand as an expert witness in cases posing constitutional issues framed by history.⁶

In his public speaking and writing, Dennis has combined intellectual rigor with a powerful style of expression. For that reason perhaps, he has become not only a scholar of William Clagett—a formidable orator in his own time—but also an oft-requested impersonator. In 2003, for example, both houses of the Idaho Legislature stopped their work and gathered to see "Clagett" reappear from the pages of history, clad in nineteenth century garb, wielding the actual gavel of the 1890 constitutional convention, and lecturing on constitutional law in the inimitable voice of Dennis Colson. The legislators responded with a standing ovation. Upon reflection, they must have marveled how a law school could contain such a treasure.

If Dennis Colson has been a scholar with a flair for memorable expression, his colleague Craig Lewis has been a "lawyer's lawyer" on our faculty—connecting the law school with the courtroom and the practitioner's office. Craig earned his baccalaureate degree from Northwestern University and his Juris Doctor from Yale. He practiced law in Denver until 1975 when Dean Menard persuaded him to embark upon an academic career in Idaho. It was a stroke of good fortune for Idaho legal education. Craig soon played a pivotal role in developing the Legal Aid Clinic, one of the College's most distinctive assets.

With a scholar's understanding of the principles underlying rules of evidence and procedure, and a litigator's grasp of how the rules

4. DENNIS C. COLSON, *IDAHO'S CONSTITUTION: THE TIE THAT BINDS* (special legislative ed. 2003).

5. Indeed, the connection of a work of scholarship with such a rare verbatim record caught the interest of U.S. Supreme Court Justice Ruth Bader Ginsburg, who expressed interest in the book during her visit to the College of Law as the Sherman J. Bellwood Memorial Lecturer in 2003.

6. *E.g.*, *State ex rel. Higginson v. United States*, 128 Idaho 246, 912 P.2d 614 (1995) (discussing the relative powers of the Legislature and Supreme Court over rules of evidence and procedure in the district courts); *Sweeney v. Otter*, 119 Idaho 135, 804 P.2d 308 (1990) (analyzing whether the Lieutenant Governor has the power to break a tied vote during the Senate's organizational session).

should be applied, Craig became one of the faculty's most respected teachers—often convening his classes in the law school courtroom rather than in a classroom. A winner of the Peter E. Heiser award for outstanding teaching, he created and supervised a mock trial program that produced teams with formidable records of success in regional competitions. He received an endowed chair at the College of Law as the Margaret Wilson Schimke Distinguished Professor of Law, a title he held until his retirement. When the retirement occurred, our students voted to perpetuate the memory of his contributions to trial practice by naming the intra-College mock trial competition for him.

Much of Craig's high-impact teaching took place outside the College of Law. Along with his friend and colleague, attorney Merlyn Clark of Boise, he provided a series of "Lewis and Clark" CLE programs for lawyers and CJE programs for judges. As a co-author of many provisions in the Idaho Rules of Civil Procedure, and as primary editor of the Idaho Rules of Evidence with related commentary, Craig brought unparalleled immediacy and authenticity to his teaching for professional audiences. When Idaho's most complex litigation in history—the Snake River Basin Adjudication—was in need of special rules to be drafted by a steering committee, the call for help went to, and was answered by, Craig Lewis.

Craig's service to the bench and bar also has included membership on the Idaho Judicial Council; Judicial Education Committee; Continuing Legal Education Advisory Committee; Idaho State Bar Long-Range Planning Committee; Idaho Supreme Court's Civil Jury Instructions Committee, Evidence Rules Advisory Committee, and Local Rules Committee; U.S. District Court North Idaho Facilities Committee; Idaho Trial Lawyers Association Board of Directors; and the Idaho Partners for Justice Project, which he has co-chaired. In 2005, in light of this remarkable record of unselfish service, Craig received the Professionalism Award from the Idaho State Bar.

In lawyers' offices and judges' chambers around the state, visitors will find dog-eared copies of Craig's trial handbook and his treatise on pre-trial civil procedure.⁷ In the reports of Idaho's federal and state appellate courts, readers will also find citations to a wide array of Craig's law review and professional journal articles on topics ranging from long-arm jurisdiction⁸ to bubble-bursting presumptions.⁹ These technical subjects are the tools of justice, and no one has paid

7. D. CRAIG LEWIS, IDAHO TRIAL HANDBOOK (1995); D. CRAIG LEWIS, IDAHO PRE-TRIAL CIVIL PROCEDURE (1982).

8. D. Craig Lewis, *The Current Validity of Personal Jurisdiction Doctrine in Idaho*, 25 IDAHO L. REV. 223 (1989).

9. D. Craig Lewis, *Should the Bubble Always Burst? The Need for a Different Treatment of Presumptions Under IRE 301*, 32 IDAHO L. REV. 5 (1995).

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closer attention than Craig Lewis to the fair and effective use of those tools.

We are fortunate that Dennis Colson and Craig Lewis, giants of a law school “golden age,” are still among us, albeit each at a retiree’s distance that allows them to choose how they spend their time. They have earned their new opportunities, and we gratefully wish them well. Part of them will always be with us. For the College of Law, 1975 was a very good year.