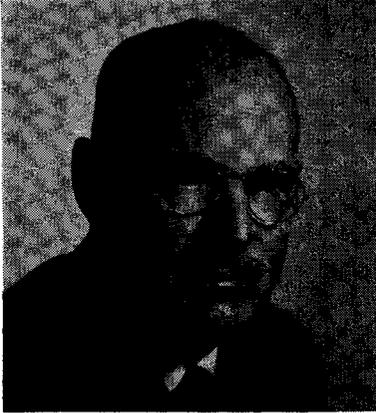


## A HISTORY OF THE UNIVERSITY OF COLORADO SCHOOL OF LAW

BY EDWARD C. KING\*



Edward C. King was awarded the degrees A.B. (1919), LL.B. (1922) and LL.M. (1952) by the University of Denver. He was admitted to the Colorado bar in 1922, and was in active practice in Denver from 1922 to 1929. From 1937 to 1940, he was an instructor at the University of Denver College of Law. Since 1940, he has been Dean and Professor of Law at the University of Colorado School of Law.

In 1957-58, Dean King was a visiting Professor of Law at New York University, assigned as director of the Legal Research Institute at Ankara University, Turkey.

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The catalogue of the University of Colorado published in the spring of 1892 contained the statement that "The regents have decided to open a law school at the University, September next, provided suitable arrangements may be made. Without doubt the department will be opened at that date under the management of the strongest law faculty that Colorado can furnish." Arrangements were completed under the direction of President James H. Baker and the law school opened in the fall of 1892 with a class of twenty-three, of whom twelve finished the required two year course of study and were awarded the degree Bachelor of Laws. The twelve were George Richard Brown, Jr., Jeannette Bennett Dunham, David Elwood Fryer, John Franklin Green, Edward Clawiter Howe, William Bismark Lock, James Douglas Merwin, Norton Munger Montgomery, Albert Augustus Reed, Guy Sternberg, Bethuel Matthew Webster and Milton Ray Welch. John Franklin Green of Greeley, Colorado, who on February 13, 1959 was ninety-two years of age, is the only living member of this first class of 1894.

The first faculty was noteworthy for the learning and legal talent which it represented. The first dean was Moses Hallett, who lectured upon Constitutional Law and Federal Jurisprudence.

Other members of the original faculty, who were denominated

\*The author is indebted to numerous people for items which make up this history but wishes to acknowledge particularly the assistance given him by A. A. Paddock, Editor of the Boulder Daily Camera, William R. Kelly of the class of 1907, Clay R. Apple of the class of 1923, and John Franklin Green of the class of 1894. Acknowledgment is also made for the assistance given by the Records Office and the Office of Admissions at the University of Colorado.

Lecturers, and their subjects, were: Vincent D. Markham, Contracts and Sales; Ebenezer T. Wells, Real Property and Trusts; Willard Teller, Equity Jurisprudence; Hugh Butler, Commercial Law and Code Pleading; Victor A. Elliott, Water Rights and Riparian Privileges; Luther M. Goddard, Patents and Copyrights; Robert S. Morrison, Mines and Mining; John Campbell, Private and Municipal Corporations; Oscar F. A. Greene, Roman Law; Charles S. Thomas, Bailments and Evidence; Charles M. Campbell, Personal Property, Bills of Exchange and Promissory Notes; Merrick A. Rogers, Criminal Law and Procedure, and Guarantee and Suretyship; Alfred C. Phelps, Personal Rights, Torts and Damages; William C. Kingsley, Domestic Relations and Partnership; Henry T. Rogers, Wills and Estates; Robert W. Bonyng, Agency and Insurance; and William Dillon, Conflict of Laws. The following additional faculty members were assistant lecturers or instructors: Herbert B. Shoemaker, Elementary Law and Commercial Law Pleading; William M. Maguire, Constitutional Law; Calvin E. Reed, Real Property; Henry C. Charpiot, Domestic Relations; Edwin B. Morgan, Equity Jurisprudence; Albert S. Blake, Contracts; Lucius M. Cuthbert, Wills and Estates; and Horace G. Lunt, Corporations. Charles E. Lowery was Librarian. The names of the teachers and their subjects are given in detail because both have historical significance.

It is interesting to note that in the first year the number of faculty members exceeded the number of students. As none of the

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members of this first faculty had the title of professor it seems evident that all were engaged in active practice and were part time teachers. Most of them lived in Denver. The trip to Boulder to give lectures must have been a time consuming activity.

The catalogue for the academic year 1892-93 states that Kent Hall was the dormitory for law and medical students and that it contained an ample lecture room for the Law School. The building has disappeared, but seems to have been the one known to later generations as "Music" and to Frank Green and his contemporaries as "the Morgue." It may have taken the latter name from the fact that cadavers, for the use of medical students, were kept in the building.

In these early days some students lived in Kent Hall, some in the new dormitory which then and today bears the name of Woodbury Hall, and some in private rooming houses on the sparsely settled "Hill."

Entering law students were required to present a diploma from a high school or preparatory school or to make satisfactory grades in a written examination. No tuition was charged but students paid a matriculation fee of \$5.00. In addition students living on campus paid for table board \$3.75 per week, and for a room, including light and heat, \$2.00 per month. In the nineties \$200.00 per year would pay all University bills and other expenses for an academic year.

All accounts indicate that William L. Murfree, who came from St. Louis and was elected Professor of Law in 1895, was an important figure in the early development of the school. Under his management, says one article in the Boulder Camera, the department reached a high state of efficiency, the building was enlarged, the requirements for admission revised and the character of the work materially strengthened. In 1898 the law course was increased from two years to three years.

The year 1902 was marked by important changes. It was felt that, while the transfer of legal education from the office to the law school had been marked by great gains, the loss of training in practice afforded by the law office was much to be regretted. To supply this deficiency in the practical aspects of law the regents authorized a practice court, including a court room and a clerk's office, where records and files were kept and proceedings conducted

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in conformity with usage and practice in the district courts of Colorado.

The year 1902 also marked the death of Professor Murfree, and the resignation of Judge Hallett whose wisdom and learning had been an inspiration to both faculty and students. John Campbell, Chief Justice of the Colorado Supreme Court, was then appointed dean and continued in that capacity until 1907, although after 1902, John D. Fleming was the secretary and acting dean. In 1907 John Campbell resigned the deanship and John D. Fleming was officially appointed to fill that office; he served with great distinction until his death in August of 1927.

By 1901 and probably from some earlier date the law school was housed in the west half of the second floor of Hale Science building. Mathematics had the balance of that floor, Biology was next above and Physics was on the ground floor. William R. Kelly, of the class of 1907, reports that in his time Dean Fleming, Albert A. Reed, William Pease and Fred G. Folsom were the full time teachers and that part time lecturers were Edwin Van Cise who lectured on Code Pleading, Robert S. Morrison and Charles S. Thomas, on Mining, James W. McCreery on Irrigation, Ralph Talbott on Criminal Law, Thomas Hardcastle and Hugh Butler on Equity and John H. Denison on Common Law Pleading. He also says that there was no summer school in those days and that law students in summer "struck out for the big money as muckers in the Colorado mines at Aspen, Cripple Creek, Ouray, and Telluride and the Copper Queen in Arizona." This, he says, put shoulders and backs on football candidates. At that time, Mr. Kelly states, "There was just one automobile on the campus. It was that of Professor Walter Duane, head of the physics department (reputed to be very wealthy, of course). We walked our dates to dances and to the Gregory and Blue Bell mountain solitudes. We liked to emphasize those high hills and dales. We lived on mountain scenery and fresh air."

On November 28, 1909 the Guggenheim Law Building, the gift of United States Senator Simon Guggenheim, and thereafter occupied by the Law School until December of 1958, was dedicated before what the Boulder Camera of that day called a "vast audience." Presentation of the building was made by Simon Guggenheim in person and was accepted by President Baker on behalf of the Regents. Lieutenant Governor S. R. Fitzgarrald and Chief Justice Robert W. Steele of the Supreme Court of Colorado delivered speeches of congratulation.

Some idea of the status of the law school during the years when John D. Fleming was dean or acting dean may be gathered from letters in the old files. A 1905 letter from Dean Fleming to a prospective student reported that up to that time no graduate of the law school had failed in a bar examination. A 1907 letter from the Michigan Law School at Ann Arbor revealed that the faculty there was considering a change in admission requirements which were then four years of high school, saying that it seemed desirable to require a more liberal education such "as one or two or more years in college." In his reply Dean Fleming expressed the opinion that such a change should be made as soon as public sentiment became

educated to that point, but that in Colorado such sentiment would not support the more liberal education "just now." The change to a requirement of two years of college work was made in 1912. That this was a daring and progressive step is indicated by a 1916 letter from the Cornell College of Law stating that the faculty there was proposing an increase in the entrance requirements from one year of college work to two years. The letter asked whether Colorado had made the change to two years in one step or two and inquired as to the effect upon registration, student performance and the like. Dean Fleming replied that the change had been made in one step and that it had been highly beneficial.

The law school became a member of the Association of American Law Schools at the first annual meeting of the Association in 1901 and was approved by the Council on Legal Education of the American Bar Association when that agency was founded.

Following the death of Dean Fleming in August, 1927, Professor Folsom acted as dean for the balance of the year. James Grafton Rogers, Denver lawyer and then Dean of the University of Denver College of Law, was appointed Dean at Colorado in December, 1927, and took office on January 3, 1928.

Under Dean Rogers, publication of the *Rocky Mountain Law Review* was commenced and work leading to advanced degrees was made a part of the curriculum. In March, 1931, Dean Rogers was granted leave to accept appointment as Assistant Secretary of State and Robert L. Stearns became acting dean. After an absence of two years in Washington, Dean Rogers returned to the law school and Dean Stearns resumed the practice of law in Denver. In 1935, Dean Rogers resigned as dean to accept an appointment as Master of Timothy Dwight College at Yale and was succeeded by Robert L. Stearns, who was dean until 1939 when he became President of the University.

There followed a short period in which the school had no dean and was governed by a faculty committee of three, consisting of Professors Frederic P. Storke, Laurence W. DeMuth and Henry Weihofen.

The present Dean, Edward C. King, took office in September, 1940, and has served since that time save for two leaves of absence, the first during World War II when Professor Milton Green and then Professor Storke acted as dean. The second leave was for a year in 1957 and 1958 when he served as co-director of a legal research institute at the Ankara, Turkey, School of Law. During this latter period Professors Don W. Sears, Albert R. Menard and Clyde O. Martz in turn served as acting dean of the law school.

No account of the law school would be complete without reference to certain professors who served for long periods of time, were known to generations of students, and became a veritable part of the history of the school. Among these were the late Fred G. Folsom and Albert A. Reed, Professors Emeritus William R. Arthur and Benjamin S. Galland, and present faculty members Frederic P. Storke and Laurence W. DeMuth.

Under Professor Folsom an excellent and unique moot court was developed which has been carried on and expanded by Professor William O. DeSouchet. In 1948 a legal aid clinic was estab-

lished to give advice to indigent persons in the community. It has been highly successful and does a large volume of business.

The student body is efficiently governed by its Student Bar Association which, in addition to its administrative functions, operates an advisory service for students. It is also responsible for the school's excellent honor system and the student publication known as *Quaere*. The law library, now containing approximately 60,000 volumes, was administered for many years by the beloved Cicely Sherwood, now retired, who was known as "Sadie" to generations of law students.

A chapter of the national legal fraternity of Phi Delta Phi was established at the law school in 1907, and of Phi Alpha Delta in 1910. Professor DeMuth has been National Secretary of Phi Delta Phi since 1924 and this year John L. Griffith of the class of 1923, is National President of Phi Alpha Delta. In 1942, the law school was granted a charter by The Order of the Coif, the national honorary legal fraternity.

The Rothgerber Appellate Briefing and Argument Competition is supported by a fund created by Ira C. Rothgerber, Jr. in honor of his father who was a member of the class of 1901. Each year a team from the law school competes in "The National Moot Court Competition." In 1954, such a team, competing with teams from ninety other schools, won the Harrison Tweed Bowl for the best brief. Colorado teams have also won four regional competitions and reached the semi-finals of the national competition in 1956. In 1955 Adrian S. Coen established a trust fund in memory of her husband, the late John R. Coen, the income from which is used to support an annual lecture series.

The law school has various scholarships, grants-in-aid, and loan funds available to deserving students and awarded on the basis of financial need, scholarship and character. Among these are the Lasky Scholarships, the Fleming Scholarships, the Rothgerber, Appel and Powers Scholarships, the John Duncan Scholarships, the Olinger Scholarships, University Fellowships and Grants, Law Alumni Educational Grants, the Alvin Rosenbaum Memorial Loan Fund and the John D. Fleming Memorial Loan Fund. There are also prizes and awards available to students on a competitive basis. Among the most important of these are the Rothgerber Competition prizes, Central Bank and Trust Company Scholarships, and Rocky Mountain Mineral Law Foundation prizes.

The law school is noted for the excellence of its summer sessions. The summer faculties customarily include three or four distinguished visiting lecturers from the nation's leading law schools. The Charles Inglis Thomson Fund, created by Olivia Thomson in memory of her husband, enables the faculty to bring to the law school for each summer session a leading world authority in some selected field of law. Thomson Guest Professors since 1948 have been:

1948—Dr. Hersch Lauterpacht, D.J., D.Sc. (Vienna), LL.D. (London), Whewell Professor of International Law at Trinity College, University of Cambridge, London, England; subject, International Law.

1949—Elliott E. Cheatham, LL.B. (Harvard), LL.D. (Boston

- University), professor of law, Columbia University; subject, Conflict of Laws.
- 1950—Zechariah Chafee, Jr., LL.B. (Harvard), LL.D. (St. John's University), LL.D. (Brown), D.C.L. (Boston University), Litt.D. (Colby College), Langdell Professor of Law, Harvard Law School; subject, Civil Liberties and Human Rights.
- 1951—Austin W. Scott, LL.B. (Harvard), LL.D. (Rutgers), LL.D. (Harvard), professor of law, Harvard; subject, Trusts.
- 1952—Edmund M. Morgan, LL.B. (Harvard), Royall Professor of Law Emeritus, Harvard; subject, Evidence.
- 1953—George E. Osborne, LL.B., S.J.D. (Harvard), professor of law, Stanford; subject, Securities.
- 1954—Lewis M. Simes, J.D. (Chicago), J.S.D. (Yale), LL.D. (Southwestern College), Floyd Russell Mechem Professor of Law, Michigan; subject, Future Interests.
- 1955—Kenneth C. Davis, LL.B. (Harvard), professor of law, Minnesota; subject, Administrative Law.
- 1956—Julius Stone, S.J.D. (Harvard), D.C.L. (Oxford), Challis Professor of Jurisprudence and International Law, University of Sydney, Australia; subject, Jurisprudence.
- 1957—James Wm. Moore, J.D. (Chicago), J.S.D. (Yale), Sterling Professor of Law, Yale; subject, Creditors' Rights.
- 1958—Alexander H. Frey, LL.B., J.S.D. (Yale), professor of law, Pennsylvania; subject, Corporations.

Summer institutes which attract lawyers from all parts of the country, are an important feature in the school's program of continuing legal education. In recognition of its expanding responsibilities in this area, and in organized postgraduate research and professional leadership, the law school joined with other regional law schools, and oil and gas, mining, and bar associations in the spring of 1955, to establish an annual three day Mineral Law Institute of national importance on topics of regional interest. The first such institute in the summer of 1955, drew 600 persons to the University campus from twenty-nine states and led to the incorporation of the Rocky Mountain Mineral Law Foundation on December 10, of that year. Organized to conduct professional institutes and workshops at regional law schools, to encourage and supervise student and professional research activities and to establish scholarships and fellowships, this foundation now occupies offices in the Fleming Law Building. Kenneth E. Barnhill, Jr. became its first full time director in 1958. During four years of rapid growth, it has conducted four institutes, published four volumes of research papers derived from such institutes, and provided research fellowships at the member schools. It has held annual student essay contests since 1957, and commenced weekly publication of the Gower Federal Service on January 1, 1959. It is currently engaged in the preparation of a manuscript for a five volume treatise on mining law.

The present faculty of the law school consists of Emeritus

Professors William R. Arthur, Benjamin S. Galland, and Robert L. Stearns, and Professors William J. Bowe, B.A., Fordham University, LL.B., Harvard University; Homer H. Clark, Jr., B.A., Amherst College, LL.B., LL.M., Harvard Law School; Laurence W. DeMuth, B.A., M.A., LL.B., University of Missouri, LL.M., University of Colorado; Edward C. King, (Dean) B.A., LL.B., LL.D., University of Denver; Clyde O. Martz, (Assistant Dean) B.A., University of Nebraska, LL.B., Harvard University; Albert R. Menard, Jr., B.A., University of Georgia, LL.B., Columbia University; Quigg Newton, B.A., LL.B., Yale University; Austin W. Scott, Jr., B.A., LL.B., Harvard University; Don W. Sears, B.S., LL.B., Ohio State University; Frederic Putnam Storke, B.A., Colorado College, LL.B., University of Colorado, S.J.D., Harvard University; Associate Professors William O. DeSouchet, B.A., LL.B., Northwestern University; and Douglas H. Parker, B.A., LL.B., University of Utah; and Assistant Professor and Librarian Howard C. Klemme, B.A., LL.B., University of Colorado.

In January, 1959, classes were first held in the new Fleming Law Building, named in honor of John D. Fleming. The dedication of the building is to be held on June 24, 1959, with Chief Justice Warren of the United States Supreme Court as the principal speaker.

The Fleming Law Building, of native stone, is not only beautiful but highly functional. Its total cost of \$925,000.00 was derived chiefly from mill levy funds, but many of its special features were the gifts of alumni or friends of the school. Among these special features are the Henry S. Lindsley Memorial Court Room, the Walter W. Land Legal Aid Suite, the William R. Kelly Natural Resources Room, the James Grafton Rogers Seminar Room, the Dean's Suite, the Robert L. Stearns Law Review Suite, the Ira C. Rothgerber Appellate Briefing and Argument Room, the George H. Shaw Legal Periodical Lounge, and the Wiley B. Rutledge Students' Lounge. Provision for the improvement of basic research collections in the law library was made by a grant of \$30,000.00 from Mrs. Millikin and her husband, the late United States Senator Eugene D. Millikin of the class of 1913.

In this centennial year the school has a student body of 150, all candidates for the LL.B. degree. In its new quarters it has capacity to serve efficiently a student body of 250. It is not the intention or desire of the law faculty, however, that the school shall grow much beyond this latter figure. Emphasis will be upon quality in teaching and research, upon excellence in scholarship, upon professional responsibility, upon improvement in the administration of justice, and upon service to the Rocky Mountain community and the nation.