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### Founding of the College of Law of the Ohio State University

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*University of Michigan Law School*

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FOUNDING OF THE COLLEGE OF LAW OF THE  
OHIO STATE UNIVERSITY.

It is proper for me to say, in the beginning, that I have been delegated to bear, and I have the honor to present to the College of Law of the Ohio State University, upon this occasion the sincere congratulations and most hearty good wishes of the largest University Law School in the United States—the Department of Law of the University of Michigan.

In addition to this, it is with much satisfaction, and is a very great personal pleasure, that I have the privilege of joining in the festivities of this dedication of the beautiful Temple of Themis, wherein the College of Law is to have its future home. As one who participated in the planting, that has finally borne such excellent fruitage, I have been asked to tell something of the beginning.

Twelve years ago this morning, June 23d, 1891, the University Trustees passed a resolution that gave birth to the College of Law.

This action was the result, consciously or unconsciously, of ideas that had at that time become quite definite, after many years of struggle. These were: (1) That it was the State's duty to provide for the equipment and maintenance of this institution. (2) That this institution should be made into a State University in fact as well as in name. (3) That there should be a Law Department in connection with this University. I can only briefly sketch the growth of these ideas.

## I.

*The State's Duty:* This institution, as you all know, is founded on the National Land Grant Act of 1862, "in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions of life," in such manner as the State might direct, subject to the provision that the leading object should be to teach such branches as related to Agriculture and the Mechanical Arts,

without excluding other scientific and classical studies. No part of the fund or its income was to be applied to the erection or repair of any buildings; the State, by its acceptance, was required to *provide* such an institution as the National Act contemplated.<sup>1</sup> Through the active efforts of the State Board of Agriculture, the act was accepted in 1864,<sup>2</sup> and finally, through the continued activity of the same body, on March 22d, 1870, the Act to establish an Agricultural and Mechanical College in Ohio was passed.<sup>3</sup> For the first seven years the State did nothing toward the support and maintenance of the institution, not even paying the expenses of the Board of Trustees.<sup>4</sup> This magnificent domain which is the home of the University, and the main building, in which we are now assembled, are the gift of the citizens of Franklin County.<sup>5</sup> The operating expenses during this period were paid out of the income of the National fund. If the increase in value of the lands be considered, it is doubtful if the State has yet done as much for the University as have the citizens of Franklin County. The University opened its doors to students September 17th, 1873.<sup>6</sup> In the very beginning Secretary Sullivant had said: "Of the fostering care of the State, we have no right to doubt".<sup>7</sup> In 1875 he argued that it was the *duty* of the State to provide for the equipment of the College.<sup>8</sup> In 1876 he complained that the State had not kept faith.<sup>9</sup> In 1877 he again urged help, and the Legislature made the first appropriation,

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1. Act of Congress, July 2, 1862, §§ 4, 5. First Annual Report Bd. of Trustees, 1872, p. 4; 61 O. L., 7; Hist. O. S. U., p. 9.
  2. Feb. 9. See First Ann. Rept. Bd. Trustees, pp. 6-8; 61 O. L., 7; Hist. O. S. U., (1878) p. 9.
  3. Rept. Bd. Trustees, 1872, pp. 23-30; Hist. O. S. U., (1878) p. 14, and p. 16.
  4. Sixth Rept. Bd. Trustees, 1876, p. 9; Seventh Rept. Bd., p. 11.
  5. Third Rept. Bd. Trustees, 1874, p. 5; Hist. O. S. U., (1878) pp. 19-20.
  6. Third Rept. Board, 1874, p. 6; Hist. O. S. U., (1878) p. 25.
  7. Rept. of Secy., Third Rept. of Bd., 1874, p. 8.
  8. Sixth Rept. of Bd., 1876, p. 9.
  9. *Ib.*

\$4,500 for an outfit for a Department of Mines.<sup>10</sup> In 1878 the name was changed to Ohio State University,<sup>11</sup> and Secretary Allen pointed out how other States had made large appropriations for their institutions of the same kind.<sup>12</sup> In 1879 a visit<sup>13</sup> of the Finance Committees of the Legislature, the Board of Trustees, and several members of the Faculty to the Illinois Industrial University, (now the University of Illinois), resulted in State appropriations of some \$15,800,<sup>14</sup> the establishment of a Mechanical Laboratory,<sup>15</sup> the founding of a Department of History and Philosophy<sup>16</sup>—and for the first time Dr. Orton, very modestly and cautiously pleaded for \$27,000 more, basing the plea not so much on the *duty* of the State as upon its *interest* in providing for the institution.<sup>17</sup> The next year the Secretary and the President merely stated the needs of the institution, apparently too discouraged to urge Legislative action.<sup>18</sup> In 1881, however, Secretary Allen said, "Unless some provision is made, the University will be obliged to close its doors against many applicants for admission",<sup>19</sup> and the new President, Dr. W. Q. Scott, said the increase of students (who pay no tuition) "constitutes an important claim for enlarged equipment resting upon the *pledged faith* of the State".<sup>20</sup> In 1882, there was set forth in tabulated form in the Secretary's report, a statement<sup>21</sup> of what had been done in the various States, for their institutions founded upon the National Land Grant, and it was shown that for the first eleven years of its existence this State had given less than \$60,000 to the University, over \$10,000 of which was for

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10. May 7; Seventh Rept. Bd., p. 9; Hist. O. S. U., 1878, p. 32.

11. Eighth Rept. Bd., 1878, p. 7; Hist. O. S. U., 1878, p. 33.

12. Eighth Rept. Bd., 1878, p. 11.

13. Ninth Rept. Bd., 1879, p. 9.

14. *Ib.*, p. 9.

15. *Ib.*, pp. 9, 19.

16. *Ib.*, pp. 11, 18.

17. Ninth Rept. Bd., 1879, pp. 15, 24.

18. Tenth Rept. Bd., pp. 12, 20.

19. Eleventh Rept., p. 13.

20. Eleventh Rept., p. 18.

21. Twelfth Rept., pp. 8, 13.

expenses of the Board of Trustees.<sup>22</sup> In 1883 the new President, Dr. W. H. Scott, set forth and elaborately argued "The true policy of the State",<sup>23</sup> urging that the University be granted a permanent tax of 1-20 of a mill upon the dollar, upon the tax duplicate of the State, as Michigan had done for the University of Michigan for ten years. No clearer, better, or more forcible argument, in support of such a worthy cause, so far as my observation goes, has ever been made. Year after year,<sup>24</sup> Dr. Scott and Captain Cope urged, argued, and pleaded with the Governors to recommend, and the Legislature to extend, this aid. Yet it took eight long years to reach the desired result, and then only after the Alumni threw their strength and enthusiasm into the work also.

The constitution of the Alumni Association provided for a committee on college affairs, composed of five members with undefined duties; this committee was in a state of "innocuous desuetude" for a number of years, and in 1888 no member was appointed. In June, 1889, F. W. Sperr of the class of '83 moved a vote of censure upon the committee for inactivity. The Association retaliated by electing Prof. Sperr a member, and upon request, refused to give the committee instructions as to what its duties were. Failing here, the committee held a meeting soon after Commencement; Mr. Sperr '83, Mr. Higby '83, and Mr. Wilgus '82 were present, when the latter proposed that the committee take up and push forward Dr. Scott's plan to put the University upon the tax duplicate for 1-20 of a mill.<sup>25</sup> The services of this committee were tendered to the President, but the time did not seem ripe and matters dragged. The committee, however, met frequently, and systematically went to work to ascertain the attitude of members of the general assembly

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22. *Ib.*, p. 12.

23. Thirteenth Rept., p. 30.

24. See Repts. of Bd., 1884, pp. 19, 27; 1885, pp. 18, 26; 1886, pp. 20, 27; 1887, pp. 25, 46; 1889, pp. 22, 32; 1890, pp. 10, 41.

25. See *Appendix*, No. 1, Prof. Sperr's Account. An account by the writer was printed in the *Lantern*, April 17, 1891.

toward the University.<sup>26</sup> This was found to be almost exclusively friendly. General plans<sup>27</sup> of a campaign were considered, which were submitted to, and approved by, the Alumni Association at its June meeting in 1890, and from that time on, one member of the committee devoted nearly the whole of his time and labor, and all of the other members a great deal of their time, to the work of organization of the Alumni and ex-students, securing detailed information as to the members of the Legislature, especially their educational history and leanings and their views concerning the University; collecting information as to what other States had done and were doing; and providing for keeping constantly before the people of all sections of the State the work and the needs of the University. The State was divided into eleven districts of eight counties each and a resident Alumnus or an ex-student, was placed in charge to direct and continuously to urge the work within his district.<sup>28</sup> The committee furnished authentic information as to the work and needs of the University, in such shape as to be used by students and ex-students in communications to be printed by their home papers,—and these began to appear regularly in nearly half the counties of the State. Much material was printed in the *Lantern*, and it was regularly exchanged with nearly five hundred newspapers, and sent to nearly two hundred High Schools in the State. Attempt was made to anticipate, and have in hand the power to answer and overcome by argument, friendly persuasion, or social pressure, every objection that could be made to the proposed legislation, and the material was kept available for immediate use. On December 24th 1890, the committee submitted to Governor Campbell a short statement,<sup>29</sup> prepared by one of their number, suitable to be embodied in the Governor's message if it met with his approval. This he adopted nearly in the language<sup>30</sup> used by the committee, in his message, recom-

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26. See *Appendix*, No. 2, copy of letter sent.

27. *Appendix*, Nos. 3-6, Minutes of Meeting of Resident Alumni, Letter to Alumni, Rept. to Board, and Its Approval.

28. *Appendix*, No. 7, List of districts and assignments.

29. *Appendix*, No. 8, Memorandum for use of the Governor.

30. *Appendix*, No. 9, Extract from Governor Campbell's Message.

mending favorable consideration, to the Legislature, which met January 5th 1891. He also recommended that Speaker Hysell should be requested to introduce such a bill; Mr. Hysell consented to present and push, as his own, the bill<sup>31</sup> (House Bill 1070) prepared, as I understand, by Captain Cope. The material collected by the committee relating to "State Aid to Higher Education" was placed in printed form<sup>32</sup> in the hands of the members, and so thoroughly and completely had the work of the organization of the Alumni been done; so faithfully had the Faculty helped; so vigilantly had the Board watched the interests of the University; and so valiantly had all the friends worked, that the bill passed the House on February 4th 1891, by a vote of seventy-four to eighteen.<sup>33</sup> It met with more opposition in the Senate,<sup>34</sup> but the same methods prevailed there, and March 19, 1891, it passed by a vote of twenty-one to eight, and the next day was duly signed,—and in this way the State finally concluded to perform its duty and provide for "higher, agricultural and mechanical, education, including manual training,"<sup>35</sup> at the Ohio State University. In all this struggle the loyalty of the Alumni, their growing power, their efficient service, and their necessary help were manifest. While the Alumni can justly claim, and have been accorded, a very large share of the honor of securing this generous State recognition,

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31. *Appendix*, No. 10, The Hysell Bill.

32. This was prepared by the writer, quite largely from Prof. Blackmar's *Hist. of Federal and State Aid to Higher Education in United States*, published by the Bureau of Education in 1890, and accidentally coming into the hands of the writer from the waste basket of a state officer. The material so prepared was submitted to the President of the University, and the Secretary of the Board, and it was concluded to put it in the hands of a few members of the House, as a help in preparing their speeches in support of the bill. An abstract was printed by the Alumni Committee, and put in the hands of each member of the House, and later the Trustees published all of it for use in the Senate.

33. Note, *Appendix*, No. 10, House Journal, 1891, p. 160.

34. Note, *Appendix*, No. 10.

35. *Ib.*, Senate Journal, 1891, p. 425.

yet, I believe I stood close enough to the work to say, upon behalf of the Alumni, that to the clear vision, the forcible argument, the unfaltering patience, the unremitting toil, the unabated zeal, and the unalloyed devotion of Dr. Scott and Captain Cope, more than to the efforts of any other persons, is due the success of this great undertaking.

## II.

*The University Idea:* Forty years ago, when the Land Grant Act was passed, the idea of the University in this country was crude except in a few places. For the most part, among the colleges, the study of Greek roots was considered of the very highest intellectual and cultural value; but the study of the roots of plants was considered as having neither.

Secretary Sullivant maintained from the beginning that the act of Congress was never designed to favor the old world idea "once a cobbler, always a cobbler,"<sup>36</sup> compelling the son to follow the occupation of the father. Dr. Orton in his inaugural address in 1874, had said: "The education furnished by the Congressional Grant may be used, if the recipient sees fit, in the way of preparation for the learned professions."<sup>37</sup> So, also, when the name was changed in 1878 to Ohio State University, he said it would be a misnomer, unless the Legislature by this change foreshadowed its purpose to expand the college into a University worthy of the name,—“an institution of large range and varied faculties.”<sup>38</sup> Dr. W. Q. Scott, at his inaugural address, June 21st 1882, on the "State Idea of Education," took still higher ground.<sup>39</sup> Likewise, Dr. W. H. Scott in his inaugural in 1884, said, "What of the boy who comes from the farm or shop with the flush of genius on his brow, or stirrings of a great ambition in his soul? Congress distinctly indicated

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36. Third Rept. of Board, 1874, p. 9.

37. Report, 1874, p. 15.

38. Report, 1878, p. 12.

39. Report of Board, 1882, p. 172.



there should be gateways out to the professions as well as to the pursuits of life.”<sup>40</sup> So, too, both these presidents had quoted with approval Ezra Cornell’s famous words: “I would found an institution where any person can find instruction in any study.”<sup>41</sup> Judge S. N. Owen, while Chief Justice of the Supreme Court in 1887 had said, “The State of Ohio has conferred upon this school her own name, and thereby pledged herself to see to it that an institution worthy a great name and a great State shall flourish here.”<sup>42</sup> In the debate on the Hysell bill, nearly every speaker favoring it, undoubtedly voicing the feelings of his constituents, lamented that the State had no University in fact, and urged, as the main reason why the bill should pass, that Ohio, as so many of her sister States had done, should provide a University, the peer of any. And from all over the State, during this discussion, with scarcely a dissenting voice, the same demand came, clear and distinct. In this way the steady growth for nearly thirty years of the *University Idea* was made manifest.

### III.

*That a Law Department should be established at the University:*

In the founding of this institution much diversity of opinion existed as to the departments to be included. The plan finally adopted was the one devised by Joseph Sullivant

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40. Report of Board, 1884, p. 113.

41. Report, 1882, p. 164; Report, 1885, p. 22.

42. Judge Owen said also: “The State of Ohio has by every token which can proclaim her legitimate maternity, declared the Ohio State University to be her child. \* \* \* Having started this great school upon her march in the ranks of the leading educational institutions of the land, the State of Ohio will dishonor herself,—I measure my words, Mr. President,—the State of Ohio will dishonor herself if she permits this school to lag or loiter in the march. \* \* \* The State bears the same relation to this school that the public sustains to the district schools. The public faith, the public revenues, the public honor, are just as surely pledged to the success of the O. S. U. as they are to our common schools.”

of Columbus, and favored by the Honorable Valentine B. Horton, President of the Board. This provided for ten departments, seven of which related directly to Agriculture and Mechanical Arts; the tenth, to "Political Economy and Civil Polity."<sup>43</sup> When the College opened in 1873 no member of the original faculty was designated to fill this chair. The following year Professor William Colvin was chosen; he organized the work similarly to our present Higher Commercial Education Courses. "Civil Polity" was to include Civil and Political Rights, their Fundamental Guarantees, and the Constitutional Law of the States and Nation, but without technical legal instruction.<sup>44</sup> In June 1877 this chair was abolished to make way for the Department of Mining Engineering, just established by the Legislature, without provision for the salary of any professor.<sup>45</sup>

In 1879 the American Bar Association urged the State Bar Associations to recommend and further in their respective States the maintenance by public authority of schools of Law.<sup>46</sup> In 1881, at the suggestion of Judge Richard Harrison, the Committee on Legal Education of the State Bar Association was directed to report upon the feasibility of founding and endowing a Law College in Ohio, to be under the control of the Bar Association.<sup>47</sup> The Committee, in 1882, reported that it was not only expedient but highly desirable,—in fact, no want was more pressing, than that there should be such a college in the State; that the best place for such would be in connection with a University where science was extensively taught, and that, should the Legislature ever provide for such, they would probably locate it in Columbus.<sup>48</sup>

Dr. W. H. Scott became President in 1883, and in his first report urged the establishment of a chair of Political

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43. First Rept. of Bd., 1872, pp. 70, 71; Hist. O. S. U., 1878, p. 22.

44. Catalogue, 1875-6, pp. 12, 22.

45. Seventh Rept., 1877, pp. 13, 100.

46. Rept. Am. Bar Assn., 1879, p. 235; Appendix, No. 11.

47. Second Report of Ohio Bar Assn., 1881, p. 50. See *Appendix*, No. 12.

48. Third Ohio Bar Assn. Rept., p. 70. *Appendix*, No. 12.

and Social Science,<sup>49</sup> and he, himself, began to give instruction in Cooley's Constitutional Law. This was continued by him till June 23 1885, when Prof. Knight was elected Professor of Political Economy and English Language and Literature;<sup>50</sup> instruction in Constitutional Law was assigned to him and has been given by him ever since. At the same meeting of the Board, June 23d, 1885, upon resolution offered by Peter H. Clark of Cincinnati, a committee was appointed, "to secure the services of legal gentlemen of competent talent who may be willing to give their services free of charge, and by their aid establish a course of lectures upon Law."<sup>51</sup> This was designed to be "a short series of lectures on elementary, common, and international law for the benefit of the advanced classes."<sup>52</sup> The Board, however, at the same time "considered the propriety of providing for a law department in connection with the University," and it was stated that "such a project had the cordial approval and support of a number of eminent jurists and lawyers, who have, at different times, urged its importance and advantages."<sup>53</sup> Confident expectations were entertained of the success of this venture, but only one lecture was delivered by Judge Daugherty, who would have delivered more but for the failure of his colleagues, Judge Johnson, of the Supreme Court, who had to withdraw on account

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49. Report of Board, 1883, p. 28.

50. Report of Board, 1885, p. 107.

51. Report of Board, 1885, p. 108. The resolution was as follows:  
*Resolved*, That the president (T. J. Godfrey) of the Board, the president of the Faculty (Dr. W. H. Scott) and the chairman of the Executive Committee (J. H. Anderson) be appointed a committee to secure the services of legal gentlemen of competent talent, who may be willing to give their services free of charge, and by their aid establish a course of lectures on law, to be given in the course of the ensuing year, and that they make a due announcement thereof." Sept. 3, 1885, (Report, 1885, p. 112), "The committee appointed to consider the feasibility of providing for a course of law lectures at the University reported progress and was continued." The records do not show further report.

52. Report, 1885, pp. 16, 148.

53. Report, 1885, p. 16.

of poor health, and the others because of the pressure of professional duties.<sup>54</sup> In 1887-8 Prof. Knight introduced "International Law and Municipal Government" as electives.<sup>55</sup> No further effort seems to have been made to establish a law department, or to introduce legal instruction in the University till the final and successful effort made in 1891.

The American Bar Association had said many times that the verdict of the best informed was that a law school was the best place to study law.<sup>56</sup> In the winter of 1890-1, through the efforts of Mr. Frank P. Jackson, and Mr. Charles W. Voorheis, now deceased, a law club was organized in the city. Members of the Columbus Bar volunteered, or agreed for a very small remuneration, to deliver lectures to the club. Dr. O. W. Aldrich gave the first series of twelve lectures upon the law of real property. Nearly forty young men, most of them law students or young lawyers, became members. Three or four were also members of the Legislature. The club, as a whole, never took action toward establishing a law school; the matter was talked over to some extent, and the Legislative members of the club, from the beginning, favored the establishment of a law school at the University. The club showed four facts very clearly: (1) That there were about fifty law students regularly reading law in the city; (2) That regular lectures and quizzes were invaluable helps to the study of the law; (3) That many of the leading members of the bar were ready and willing to extend help for a small compensation; and (4) That if a school of law should be established at the University it would have support in the Legislature.<sup>57</sup>

So in the spring of 1891, things stood thus: The State had provided ample endowment for the University. The

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54. Report, 1886, p. 26.

55. Report, 1888, p. 46. Catalogue, 1887-8, p. 40.

56. In 1879, the Report said: "It may be safely asserted that the true instrumentality for improvement in our country now is, as it has always proved to be elsewhere, the School of Law."  
—2 Am. Bar Assn. Report, p. 212.

57. The foregoing facts were within the personal knowledge of the writer who was a member of this class.

desire of the people to have a University had been made plain. The idea that this institution should be made into a University met with the approval of the people and their representatives. The idea that legal instruction should be given here had become familiar. The strength of the Alumni had been made manifest. The liberal co-operation of the Bar of the State and city was almost certain,—and the City of Columbus alone had enough law students to insure a reasonable attendance from the beginning. It seemed nothing more than natural that advantage should be taken of these circumstances.

Soon after the Hysell bill passed, Prof. Sperr, then of the Department of Mining Engineering, which had thirteen years before displaced the Department of Political Economy, urged me to undertake to formulate and push forward a feasible plan for the organization of a law department in connection with the University. April 15, 1891, I submitted to him a general sketch of a plan of organization,<sup>58</sup> substantially the same as that afterward adopted, and suggested that we talk it over with Mr. Paul Jones, Mr. C. P. Sigerfoos, and Mr. W. T. Morrey. This conference concluded that a memorial should be prepared and submitted to the Board, setting forth the desirability and possibility of establishing such a department. The task of preparing such a memorial was assigned to me.

This memorial set forth in considerable detail that Ohio

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58. This proposed that the school should be called the School of Law of the Ohio State University, and the degree of LL. B. be granted by the University; the course to be two years, equal to Ann Arbor, Yale, or Cornell, and better than Cincinnati. The University to pay for advertising, rent of rooms in the city, and the salary of the Secretary, who should take charge of the work of organization, advertising, and looking after the details, and teach some branch of the law. The tuition of the students not to be over \$60 per year. It was stated that four or five of the best lawyers in the city would take charge of the regular course of lectures for the tuition of the students attending; that probably 100 students would attend the first year, if matters could be settled soon,—by June 1, and that \$3,000 would probably cover the expenses asked of the University.

had no real University; that the recent discussion and legislation made it clear that a true University was needed; that the ancient idea of a University was that it must contain a faculty of Jurisprudence; that the modern idea is still broader; that the men who have molded the chaotic elements of the law into a living system, have made up, or have been trained by, these faculties of law and justify their claim to a place in every University; that a broad-minded and profoundly educated bar has been one of the strongest bulwarks of society, and has exercised an overmastering influence, in every age of the world; that the need and demand for such a bar, in every free Commonwealth are greater than ever before; that nearly every civilized country has realized this demand and made governmental provision for the education of lawyers; that nineteen of our States then maintained law departments at their State Universities. That law schools are not only the best place to study law, but have become a necessity; that the best methods of instruction include a liberal use of lectures, text-books, and cases; that the course should be such as to prepare the working lawyer for actual practice in the courts of his county or State; that it should continue through at least two years of nine months each, and consist of about thirteen hundred hours of class and court work; that this would require a faculty of seven persons, each giving instruction one hour per day, five days in the week, for thirty-six weeks,—about one-third as much as the regular college professor devotes to instruction; that for \$10,000 per year or less, a strong, able, law faculty could be secured to give such a course comparing favorably with any in the country, with enough to pay all other expenses; that there were more than three hundred persons annually studying law in the State, two hundred outside of the Cincinnati law school, and fifty of these were in Columbus; that it was reasonable to believe that in a short time an attendance of one hundred students could be expected at a tuition of \$60 each. This was accompanied by a statement showing the number of instructors, number of students, length of course, and fees in fourteen of the leading law schools of the country. It was signed by thirteen members of the Franklin

County Bar<sup>59</sup> (former students of the Ohio State University) and filed with the President of the Board in May, 1891, and at the same time a memorandum was left with the Secretary showing specifically that certain persons therein named could be obtained to do the required work at prices ranging from \$250 for one recitation per week, to \$1,000 for five recitations per week, for the year. A committee of the Board had been appointed May 5, to visit the Northwestern Universities to investigate matters relating to manual training. The memorial was taken by this committee to be considered while on the trip. Other things prevented, and upon the return of the committee, it was ascertained that the memorial had not been considered, and had in fact been mislaid. To meet this emergency the substance of the memorial was printed in the *Lantern*, and a copy was sent to each member of the Board. This *Lantern* article said "A sufficient number of competent lawyers in the City of Columbus (including some of the best) have signified their willingness to do the work necessary in connection with the University for a compensation that would bring the total cost within \$10,000 per year."

On June 23d, 1891, a committee consisting of Messrs. Paul Jones, Florizel Smith, H. L. Wilgus, and John McFadden, of the Alumni Association, and J. D. Karns, an ex-student, appeared before the Board to urge the establishment of the Law Department. This committee gave the same facts in regard to cost, compensation, etc., as set forth in the memorial. After a full discussion of the project, the Hon. Ross J. Alexander, who had the day before taken his place as a member of the Board, moved, "that there be established a law department in the University, and \$10,000 appropriated for its support."<sup>60</sup> No objection was made to

59. These were: Paul Jones, Florizel Smith, H. L. Wilgus, Scott A. Webb, Joseph H. Dyer, E. E. Corwin, John F. McFadden, Frank M. Raymond, J. D. Karns, John W. Wilson, C. C. Shepherd, M. C. Dickey, and W. V. Baker.

60. The writer was present at the Board meeting, and made a note of what transpired there, immediately after it adjourned. The record of the Board of Trustees shows only the resolution in the form it was passed at the suggestion of Pres. Hayes.

the amount by any member of the Board, but as a matter of policy, at the suggestion of President Hayes, it was deemed best to put the resolution in the shape it now stands: "That a Law Department be established in the University, and that the fees received from the students in such department be appropriated to its support."<sup>61</sup> By further resolution a committee composed of Senator Godfrey, President of the Board, Secretary Cope, President Scott, and Paul Jones and H. L. Wilgus, of the Alumni Association, was appointed to examine and report fully as to the details of the management of such department at the next meeting. This committee interviewed Judge Richard Harrison, Judge S. N. Owen, and Judge Marshall J. Williams in regard to the dean-ship; the first two declined, but Judge Williams consented to serve. In considering the selection of a faculty, the members of the Columbus Bar were divided into three classes, in accordance with the committee's views as to their fitness for the work; these were to be interviewed in their order, and the action taken by the Board explained to them. In this way the persons named in the report (given below), were chosen from those in the first class. Drafts of a report to the Board, and of a proposed announcement, were submitted to the committee. The first was approved, and the second was directed to be revised, corrected, and referred to a sub-committee composed of President Scott and myself, with power to act.

At the Board meeting, July 21st, 1891, report <sup>62</sup> was made recommending that the Department be called the School of Law; that the course cover two years of nine months each with fifteen recitations each per week, and include all subjects necessary for admission to the Ohio bar; that the school open October 1st, 1891; that the degree of LL. B. be conferred only on those who would be able to enter the Junior year in one of the four year courses of the University; that the tuition be \$60; that ten thousand announcements be printed and distributed; that the school be

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61. Report of Board, June 23, 1891 (Proceedings of Board, Nov. 18, 1890—June 30, 1900, p. 30.)

62. Proceedings, 1890-1900, p. 37.



located in the Franklin County Court House, if the consent of the Commissioners could be obtained; that the faculty be selected from sixteen members of the Columbus Bar as follows: E. L. DeWitt, R. H. Platt, Benj. Woodbury, O. W. Aldrich, J. H. Collins, George K. Nash (our present Governor), H. J. Booth, J. T. Holmes, Emmett Tompkins, D. F. Pugh, J. J. Stoddart, D. K. Watson, I. N. Abernethy, Cyrus Huling, H. L. Wilgus, and the late Hon. Marshall J. Williams, then Judge of the Supreme Court. This was unanimously adopted, and Judge Williams was elected Dean, and H. L. Wilgus, Instructor in Elementary Law and Secretary of the faculty. The next day the others recommended were elected as the Board of Instruction, and the salary of the Secretary fixed at \$1800, the compensation of all to be paid out of the fees received from the students.<sup>63</sup> The President, Dean, and Secretary were to make the assignment of work. To do this, a meeting was held at the office of Paul Jones and each member was requested to indicate his first, second, and third choice of subjects, and the time he could give. In this way the work was organized.<sup>64</sup> Senator Godfrey brought the matter before the State Bar Association, July 16th.<sup>65</sup> The announcements were printed at once, the first one being received August 15th, 1891. These were immediately widely distributed over this and adjoining States. The

63. Proceedings, 1890-1900, p. 40.

64. The choice of subjects was indicated as follows, the assignment being indicated in italics: Dr. Aldrich, *Real Estate*, Contracts, Pleadings; H. J. Booth, Torts, Evidence, Domestic Relations; J. H. Collins, *Federal Practice* and Appellate Jurisdiction, *Private Corporations*, Torts; E. L. DeWitt, Private Corporations, Insurance, Contracts, Agency and Partnership; R. H. Platt, *Pleading*, Torts, Equity; Judge Pugh, *Equity*, Evidence; J. J. Stoddart, *Municipal Corporations*, Wills and Administrations, Constitutional Law; Mr. Woodbury, *Elementary Law*, Evidence, Torts, Equity; H. L. Wilgus, *Elementary Law*, and *Domestic Relations*. Some of the Board of Instruction were not present and expressed no preference, while two or three never undertook the work. Their places were filled by others. The assignment in full is given in 26 Weekly L. B., Oct. 5, 1891, p. 202.

65. Appendix, No. 13.

course offered 1,080 hours of class work (not including moot court work) making it equal to any then in the country, except that of Harvard. The first year was to include Elementary Law, Contracts, Torts, Criminal Law, Pleading, and Evidence. The second year Agency, Sales, Bailments, Partnerships, Corporations, Real Property, Equity, Code Pleading, and Practice. Soon after the announcement was sent out I received a letter from the venerable R. H. Folger, of Massillon, Ohio, then for fifty years a member of the Ohio bar, in which he said, "I am glad to know that a School of Law is established at Columbus, and with such an able Board of Instruction. I hope that hereafter young gentlemen intending to enter the profession will not find it necessary to go to Ann Arbor to complete their studies,"—a sentiment in which then many others, including myself, concurred. September 1st, T. J. Keating, Esq., and Professors Knight and Kellicott, were added to the Board of Instruction.<sup>67</sup>

On October 1st, 1891, the school was opened in the Franklin County Court House with thirty-three students,<sup>68</sup> including one lady, now Mrs. Bachman of this city. Nineteen of the applicants had, the day before, presented themselves for examination for admission to the Senior class. It was determined to open the school with public exercises in the evening, in the Board of Trade Auditorium. President Scott presided, Dr. Washington Gladden offered prayer, Judge Williams gave a short opening address, and the Hon. Richard Harrison, by common consent standing at the head of the bar of the State, delivered an eloquent address upon the American University of the Future.<sup>69</sup>

It was understood by Judge Williams when he accepted the Deanship that the details of management should devolve upon the Secretary. October 14th, Mr. Stoddard resigned. Paul Jones was elected to fill the vacancy, Florizel Smith was

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67. Report Proceedings, 1890-1900, p. 43.

68. See list 26 Weekly Law Bul., Oct. 5, 1891, p. 202.

69. The proceedings are given in full, 26 Weekly Law Bul., Oct. 5, 1891, pp. 201-12.

made Judge of the Moot Court, and certain rules and regulations printed in the announcement were formally approved by the Board of Trustees.<sup>72</sup> In December, 1891, the nucleus of the library was formed by the gift by Mrs. Noble, of the law library of her husband, the late Hon. Henry C. Noble of this city.<sup>73</sup>

Occasionally during the year, Judge Collins had been unable to meet his classes in Corporations, and when this happened, he called upon his old friend Judge W. F. Hunter, then recently moved to Columbus, to take his place. In this way we all became aware of his pre-eminent capacity as a lawyer and a teacher. In March, 1892, Mr. Platt found it impossible to complete his work in Sales and Bailments, and resigned. Upon the unanimous request of the Senior class, and in full accord with my own views, it became my very great pleasure to recommend Mr. Hunter to fill the vacancy, and he was immediately chosen,<sup>74</sup> and, in this way, was made the most important acquisition the school has ever had.

The work of the first year passed off quietly and satisfactorily with one exception. In the announcement it had been stated that undergraduate students in the University might elect certain studies in the law school, and have them counted toward both the undergraduate and law degrees, so that both degrees could be obtained in five years,<sup>75</sup> as was done at Columbia, Cornell, and elsewhere. As soon as the University Faculty convened in the fall, this was challenged, and after considerable discussion, by a narrow margin, it was voted that such should not be allowed except for that year. Feeling that the rule was wise and had been established and approved by competent authority and should not be abrogated without full consultation with the law faculty, and, in the innocence of inexperience, as "fools rush in where angels fear to tread," I poked fun at the University Faculty in a

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72. Proceedings Board, 1890-1900, pp. 47-52.

73. Proceedings, 1890-1900, p. 62.

74. Proceedings of Board, 1890-1900, p. 69.

75. And in the cases of Dr. O'Brine, and F. L. O. Wadsworth, two degrees involving four year courses each, had been granted by the University, for five years of work.

Lantern article in a somewhat more vigorous than elegant style,<sup>76</sup> and took the matter before the Board,<sup>77</sup> which refused to disturb the action of the University Faculty.<sup>78</sup> I see they still hold to their views as to the wisdom of the policy, and I hold to mine. I have long since forgiven them and hope they have done likewise with me.

During the first year there had been sixty-three students—thirty-three Juniors, twenty-eight Seniors, and two post-graduates; and an income of a little over three thousand dollars. At the end of the year the degree of LL. B. was conferred upon eleven persons, and nine were given certificates of completion of the course. Two of the graduates of this class were Professors Randall and Page, now members of your faculty.

It was confidently expected by the Law Faculty, that if the school showed signs of success during the first year, proper financial support would thereafter be extended. A few adverse criticisms<sup>79</sup> of the Board's action in establishing the school, and the needs of other departments, and an excess of timidity, prevented the Board from doing this. It was argued, even in University circles, that the school had been pre-maturely established, and that if any part of the Hysell fund should be expended in support of it, the whole fund would be imperiled. Partially to meet the emergency and the objections raised, President Hayes offered the following resolution, "That the Board of Trustees will provide a course of law lectures at the University the next academic year, and will pay therefor \$1500; the same to be delivered by the instructors of the law school."<sup>80</sup> This was passed January 11, 1893, and was the last official act of our beloved

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76. *Lantern*, May 22, 1891.

77. Proceedings, 1890-1900, p. 78.

78. Proceedings, 1890-1900, p. 91.

79. The Stockbreeders' and Wool Growers' Association, on motion of Judge William Lawrence, of Bellefontaine, O., passed a resolution to investigate by what authority a law school was established at the University.—*Ohio State Journal*, Jan. 14, 1892.

80. Proceedings, 1890-1900, p. 110.

ex-president. It required the additional burden of doing the work at the University, and was about half enough to guarantee reasonable compensation to the faculty. They were not satisfied, and largely so, because the refusal to extend aid was ostensibly, at least, based upon the idea that it would imperil the Hysell fund. To meet this, the law faculty had introduced into the Legislature the Gayman bill,<sup>81</sup> specifically authorizing the Board to appropriate annually for the period of ten years a sum not exceeding \$5,000 out of the Hysell fund, in addition to the fees received, for the support of the law school. The Trustees and the University faculty neither supported nor opposed this legislation. On April 24th, this bill passed the House by nearly a two-thirds vote, and without a dissenting vote in the Senate. The Board, however, made no further provision,<sup>81a</sup> and it became apparent that many of the faculty would resign at the end of the year. Judge Williams wished to be relieved and tendered his resignation. A committee of the faculty, on June 13, 1893, made known to the Board the condition and needs of the school, and President Scott and Mr. Godfrey were appointed to report upon a reorganization.<sup>82</sup> Report was made and adopted July 12th, making Mr. Hunter Dean, Mr. Wilgus Secretary, and naming the others as members of the faculty. The Dean's salary was made \$600, the Secretary's \$300, and instruction was to be paid for at the rate of \$4 per

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81. House Bill 1508. Appendix, No. 14.

81a. Dr. Scott said: "The chief difficulty still remains. The University is in debt \$100,000. It is bound to pay the Experiment Station \$5000 by the first of September. The Law School is to receive \$1500 next year. The opening of Hayes and Orton Halls will cost \$20,000 or more. The utmost economy will be required to meet the unavoidable demands which will arise out of the conditions already existing." The Law Faculty felt that several of these conditions had been created after the needs of the Law School had been made fully apparent. Senator Godfrey said: "The situation demands assistance or abandonment. The latter would be worse than murder in the first degree, it would be crucifixion. Just how far our board can afford or may wish to go is the question. By 30th of June we will be in the hole \$12,000."

82. Proceedings, 1890-1900, pp. 131-2.

hour, *if the funds permitted*.<sup>83</sup> The Legislature, in 1894, passed a law requiring law students to study law three years before applying for admission to the Bar, to go into effect July, 1895.<sup>84</sup> In April, 1894, Senator Godfrey, President Scott, and Dean Hunter were appointed a committee to report upon the law school.<sup>85</sup> They reported May 3, 1894, recommending that the work be transferred to the University grounds, and that the course be extended to three years to begin with the school year in September, 1895.<sup>86</sup> In June 1894, the salary of the Dean was fixed at one-third the income, on the basis of \$6,000; the Secretary's was fixed at two-thirds that of the Dean; the other members of the faculty to get the balance.<sup>87</sup> The school was accordingly moved to the University in the summer of 1894. In December 1894, through the good offices of Judge D. F. Pugh, a generous gift of \$3,000 for the library was made by Emerson McMillin, Esq., of New York City.<sup>88</sup> The number of students for that year was only sixty-five, and the funds gave very inadequate compensation to the instructors other than the Dean and Secretary. The three years course would require a half more instruction, without the prospect of additional students. In May, 1895, an elaborate memorial of the needs of the school was again presented to the Board, urging increased support. This, because of other demands, was not extended beyond the \$1,500 given each of the two preceding years, but \$200 were authorized to be expended in sending the Secretary over the State to make law students acquainted with the facilities offered by the school. In the two months of July and August, 1895, the Secretary put himself in communication with over seven hundred law students in the State, personally interviewed more than five hundred of them, in over eighty counties of the State. The result was shown by an increase in the attendance from sixty-five to one

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83. Proceedings, 1890-1900, p. 141.

84. No. 91 O. L., p. 125.

85. Proceedings, 1890-1900, p. 155.

86. Proceedings, 1890-1900, p. 157.

87. *Ib.*, p. 175.

88. Proceedings of Board, 1890-1900, pp. 187-8.

hundred and fifteen, and this went a long way toward solving the financial difficulties of the school.

Here my task properly ends. I have traced the origin and history of the school to the time when it had become a recognized department of the University, located upon its grounds, provided with an able Dean devoting his great capacities wholly to the work, an efficient faculty, and a body of students that betokened the financial independence of the school.

When the school was organized the salary of the Secretary, without suggestion by, or consultation with, him, was fixed at \$1,800, which made him the principal beneficiary of the income of the school. For this token of appreciation, he has always been grateful. To those members of the faculty who were so poorly paid for the first four years, and to whose faithful, efficient, and unselfish work the success of the school was largely due, is owed a debt of gratitude yet unpaid. They exemplified more fully than any others I have met, the saying that "it is more blessed to give than to receive."

And so the College of Law began its career in a modest and unassuming way. It encountered its share of obstacles. It fought a good fight. It won its place. It has a course equal to any. Its work stands among the best. It more than pays its way. It adds lustre and treasure to the University. Henceforth, it is to have a home worthy of its history and work. It has become what President Hayes wrote me it would become, "a main spoke in the work of the University, and particularly in its hold upon the support of the people." All hail to the College of Law of the Ohio State University.

H. L. WILGUS.